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**By John Baughman, Executive Vice President
International Association of Fish and Wildlife Agencies
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TESTIMONY BEFORE THE HOUSE RESOURCES SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS ON HR 3320, THE AMERICAN AQUACULTURE AND FISHERY RESOURCE PROTECTION ACT

Thank you, Mr. Chairman. I am John Baughman, Executive Vice President of International Association of Fish and Wildlife Agencies, and I appreciate the opportunity to share with you the perspectives of the Association on HR 3320, the American Aquaculture and Fishery Resource Protection Act. The Association strongly opposes HR 3320. The bill is neither a necessary legislative remedy nor an appropriate adjustment of NEPA application to certain management activities of USDA-APHIS. Remedies to address the issues ostensibly raised by the bill are available administratively through programs jointly authorized and cooperatively carried out by the USFWS, APHIS-WS, and the state fish and wildlife agencies. The Association respectfully urges that no further Committee action be taken on HR 3320.

The International Association of Fish and Wildlife Agencies was founded in 1902 as a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

As Deputy Director Matt Hogan pointed out, the USFWS has primary federal authority to manage migratory bird populations in the US, deriving from the Migratory Bird Treaty Act of 1918. The implication in HR 3320 that this federal authority to "take and manage" migratory birds should also be vested in USDA is a result that is unnecessary, administratively imprudent, and inconsistent with a comprehensive approach to conservation of migratory birds. The Association strongly opposes such proposed vesting of authority in USDA, and suggests that one simply has to look at the status of our marine fisheries resources being managed by a Department that has strong trade and commodity but only minimal conservation mandates in its portfolio.

As you are also aware, the State fish and wildlife agencies have broad statutory authority and responsibility for the conservation of fish and wildlife resources within their borders. The states are thus legal trustees of these public resources with a responsibility to ensure their vitality and sustainability for their present and future citizens. State authority for fish and resident wildlife remains the comprehensive backdrop applicable in the absence of specific, overriding Federal law. The State fish and wildlife agencies thus have concurrent jurisdiction with the federal agencies for migratory birds. Because of our responsibility for and vital interest in the conservation of fish and wildlife resources, we have a significant vested interest in working to address the management of wildlife resources under circumstances that they are causing depredation, damage or destruction to agriculture, aquaculture, structures, roads or habitat for other fish and wildlife. The state fish and wildlife agencies have extensive experience in remediating depredating wildlife to solve problems while ensuring the sustainability of the species at the cause of the problem. In those endeavors with respect to migratory birds, the state fish and wildlife agencies work closely with both the USFWS and USDA-APHIS-WS in providing remedies to human/wildlife conflicts that are consistent with conservation of the migratory bird species. The USFWS works closely with the state fish and wildlife agencies to cooperatively develop and issue permits for APHIS-WS animal damage management activities relative to migratory birds. Although local problems may exist under local circumstances, the system is functioning well and these local problems are generally satisfactorily resolved. There is no need for the application of a legislative remedy, including the one proposed by HR 3320.

Our further specific comments regarding the provisions of HR 3320 include the following observations.

1. NEPA provides a vital process to ensure that federal agencies are accountable for the effects of federal actions, and it serves essential functions for notice and involvement of the general public, state agencies, local governments, and affected interests. There is no justification to exempt USDA-APHIS activities from environmental impact analysis, public notice, and the coordination requirements of NEPA.
2. Authorizing USDA-APHIS to issue depredation permits, take migratory birds, or manage migratory birds outside of NEPA could allow actions or policies that are counter to conservation objectives, maintenance of migratory bird populations and public perceptions of sound management.
3. The lack of NEPA requirements would reduce the ability of states to become aware of and assess the actions of APHIS in their jurisdictions. Given variable state requirements for environmental analysis, NEPA serves a common purpose to all agencies and public interests. It would not be in the interests of the states to suggest that federal exemption from NEPA might relieve APHIS of obligations under state laws and regulations.

In conclusion Mr. Chairman, the Association believes the intent of HR 3320 is best accomplished by state and federal agencies working cooperatively within existing laws and policies, and we recommend no further Committee action on the bill. Thank you for the opportunity to appear before you and I would be pleased to answer any questions you or the Committee might have.