

**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. 2208, THE NORTH AMERICAN WETLANDS
CONSERVATION EXTENSION ACT; H.R. 2799, THE SPORTSMEN’S HERITAGE
AND RECREATIONAL ENHANCEMENT ACT; AND H.R. 2798, TO AMEND P.L. 106-
206 TO DIRECT THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF
AGRICULTURE TO REQUIRE ANNUAL PERMITS AND ASSESS ANNUAL FEES
FOR COMMERCIAL FILMING ACTIVITIES ON FEDERAL LAND FOR FILM
CREWS OF FIVE PERSONS OR FEWER**

August 2, 2013

Good morning 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), in the Department of the Interior (Department). Thank you for the opportunity to testify on three bills that address multiple conservation responsibilities of the Service: H.R. 2208, the North American Wetlands Conservation Extension Act; H.R. 2799, the Sportsmen’s Heritage and Recreational Enhancement Act; and H.R. 2798, to amend P.L 106-206 to direct the Secretary of the Interior and the Secretary of Agriculture to require annual permits and assess annual fees for commercial filming activities on federal land for film crews of five persons or fewer.

The North American Wetlands Conservation Act

The North American Wetlands Conservation Act (NAWCA) was originally passed by Congress in 1989 to support partnership efforts to protect and restore habitats for wetland-associated migratory birds. NAWCA provides matching grants to organizations, agencies, and individuals to carry out wetlands conservation projects in the United States, Canada, and Mexico. Since its inception, this program has been among the most successful leveraged funding mechanisms for the conservation of wetland habitats that benefit waterfowl and other birds, as well as other wildlife species.

Over the past 23 years we have witnessed remarkable achievements in conservation through this landmark legislation. Partnerships applying NAWCA funds to wetland conservation projects include nationally recognized conservation organizations, State fish and wildlife agencies, local governments, grass-roots organizations, and private landowners. These partnerships have supported thousands of cooperative projects across North America, leveraging billions of partner dollars and affecting more than 27 million acres of bird habitats.

As we stated in testimony before the Subcommittee last year, like the Migratory Bird Joint Ventures (Joint Ventures), NAWCA supports activities under the North American Waterfowl Management Plan. NAWCA also focuses on the conservation of wetlands nationwide for all birds and wildlife dependent upon wetland habitats. NAWCA is widely recognized for its support of other bird conservation plans, including Partners in Flight, the North American

Waterbird Conservation Plan, and the U.S. Shorebird Conservation Plan. The program's connection to these conservation plans was formalized in the 2002 reauthorization of NAWCA.

The maintenance of healthy populations of wetland-associated migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and associated upland habitats in the United States as well as in Canada and Mexico. Many North American migratory birds nest in Canada, including waterfowl species that generate the greatest economic gains for states and local economies in the United States. Many of these migratory species depend on southern United States and Mexican wetlands for wintering habitat. Wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have historically contributed to significant declines in North American birds.

NAWCA projects provide wetland habitat where it is needed across the country and the continent, including in the northern breeding grounds, along widespread migration routes, and in southern areas where some species spend the winter months. In the critical waterfowl breeding grounds of the prairie pothole region in the north-central United States, NAWCA has conserved more than 2.3 million wetland and associated grassland acres by leveraging \$121 million in federal funds to generate another \$201 million in partner contributions since the start of the program in 1991.

NAWCA projects are reviewed by the North American Wetlands Conservation Council (Council), which draws its strength from its diverse membership. It is comprised of the Executive Director of the National Fish and Wildlife Foundation, the Director of the Service, four directors of State fish and wildlife agencies representing each of the four migratory bird Flyways, and three non-profit organizations actively involved in habitat conservation. The Council is widely viewed as a leader in international habitat conservation activities through its implementation of NAWCA.

The key to NAWCA's accomplishments is that it fosters cooperative efforts. Project proposals are developed through local partnerships, basing their objectives on the bird conservation goals and information created on a continental scale through the North American Waterfowl Management Plan and the other continental bird plans, and using the best science available. These proposals are recommended by a council of partners, and they are also shared with the Joint Ventures. The Joint Ventures review the proposals based on how well they reflect the habitat goals of the Joint Ventures in the geographic regions in which they occur.

NAWCA receives funds from appropriations, as authorized by 16 U.S.C. 4401-4412, and from other sources. Additional program funding comes from fines, penalties, and forfeitures collected under the Migratory Bird Treaty Act of 1918; from Federal fuel excise taxes on small gasoline engines, as directed by amendments to the Federal Aid in Sport Fish Restoration Act of 1950, to benefit coastal ecosystem projects; and from interest accrued on the fund established under the Federal Aid in Wildlife Restoration Act of 1937. In FY 2013 these other sources provided almost \$31.5 million in additional grant funds.

Increase in Price of the Duck Stamp

As we have done in the past, the Administration included in its FY 2014 Budget Proposal an increase in the price of the Federal Duck Stamp. The Federal Migratory Bird Hunting and Conservation Stamp, commonly known as the Federal Duck Stamp, plays a critical role in this conservation partnership and its success story. Originally created in 1934, the Federal Duck Stamp represents the permit required by the Migratory Bird Treaty Act of 1918 to hunt waterfowl, and every waterfowl hunter is required to carry one into the field. Ninety-eight percent of the receipts from stamp sales are used to acquire important migratory bird breeding, migration, and wintering habitat, which are added to the National Wildlife Refuge System (Refuge System). Since 1934, sales of the Federal Duck Stamp have helped to acquire more than 5.3 million acres of waterfowl habitat for the Refuge System. These protected lands not only benefit waterfowl, but also countless other wildlife species, as well as increase opportunities for outdoor and wildlife-dependent recreation.

The cost of the Federal Duck Stamp has remained the same since 1991. Based on the Consumer Price Index, the stamp would need to cost more than \$24 today to have the same buying power that \$15 had in 1991. As an example, in 1991, revenue from the Federal Duck Stamp enabled the Service to acquire 89,000 acres of habitat for the Refuge System at an average cost of \$306 per acre. In 2010, the Service was able to acquire significantly less habitat because land values had tripled to an average of \$1,091 per acre.

Federal Duck Stamp revenue is deposited in the Migratory Bird Conservation Fund, through which the Service acquires wetland and associated habitats to support populations of waterfowl and other wetland-dependent wildlife. As the price of real estate and pressure to convert native prairie increases in the Prairie Pothole Region increase, critical duck nesting habitat disappears. An increase in the price of the Federal Duck Stamp would allow the Service to ensure that this “Duck Factory” is protected into the future.

We would welcome the opportunity to discuss this proposal with the Subcommittee during this Congress.

H.R. 2208, the North American Wetlands Conservation Extension Act

The Administration strongly supports S. 2208, which would reauthorize NAWCA through FY 2017. The Administration believes two minor amendments should be considered by the Subcommittee.

The Administration would like to draw the Subcommittee’s attention to a provision in NAWCA that is scheduled to expire at the end of FY 2015. Section 7 of the NAWCA of 1989 (16 U.S.C. 4401-4412) amended the Pittman-Robertson Act (16 USC 669b) (P-R) to provide the Secretary of the Treasury the authority to invest P-R funds in interest-bearing obligations of the United States. The interest, according to the statute, is available for allocation by the Secretary of the Interior for the purposes of NAWCA, which means the interest provides additional funding for NAWCA projects. P-R was amended in 2005 (P.L. 109-75), to extend authorization for this provision through FY 2015. Through this provision, an additional \$7 – \$23 million per year is contributed to NAWCA.

The Administration recommends that H.R. 2208 be amended to extend this provision to FY 2025. We also recommend that the Subcommittee consider a five-year authorization period for NAWCA, bringing the authorization for appropriations in the bill to FY 2018.

In addition, the Service would welcome the opportunity to update the Subcommittee on NAWCA as part of the settlement of the BP Deepwater Horizon oil spill in the Gulf of Mexico.

Again, the Administration strongly supports reauthorization of NAWCA, and we look forward to continuing to administer this outstanding program and to build on its impressive legacy of accomplishment for both the American people and the wildlife it treasures.

H.R. 2799, The Sportsmen's Heritage and Recreational Enhancement Act

H.R. 2799 would abolish the existing Wildlife and Hunting Heritage Conservation Council (WHHCC) and statutorily authorize a new one, making it a permanent advisory committee for the Secretaries of the Interior and Agriculture. While we appreciate the intent of H.R. 2799, the Administration is unable to support the bill for several reasons: it would remove the flexibility to review and revise the Council every two years; it presents a new mandate without additional funding; and it removes from Council membership some important voices for the hunting and wildlife conservation community. We also note that the bill exempts the Advisory Council from the Federal Advisory Committee Act (FACA). FACA provides a framework and assurances for federal agencies, council members, and interested members of the public so that their ideas, advice, and recommendations are considered in decision-making.

There is no question that sportsmen and women have built and continue to champion the nation's commitments to protecting and sustainably managing wildlife resources for all Americans to enjoy. For more than a century, hunters, and anglers have worked tirelessly to ensure an abundance of game species through the establishment and enforcement of conservation laws to protect and conserve sustainable wildlife populations, and they have consistently supported funding for habitat conservation, public education, and enforcement efforts through license fees and the 75-year-old Wildlife and Sport Fish Restoration Program, with funds that are derived from fees placed on the equipment they use in the field. The sporting community continues to dedicate their time, wisdom, and energy to conservation, working side-by-side with a diversity of stakeholders even as the challenges facing wildlife and their habitats, continue to grow.

In addition to supporting the conservation of natural resources, America's hunting and angling tradition is a vital part of the nation's economy. The 2006 National Survey of Fishing, Hunting and Wildlife-Associated Recreation found that in 2006, hunters and anglers spent \$120 billion pursuing their passion. This is an amount equal to Americans' spending on all spectator sports, casinos, motion pictures, golf courses, country clubs, amusement parks, and arcades combined. It is roughly equivalent to one out of every one hundred dollars of goods and services produced in our economy.

The Administration established the WHHCC in 2010 to identify, consider, and incorporate the perspectives and views of the hunting community into agency decisions related to wildlife conservation and hunting programs, and we strongly support the continuation of this effort. We

take very seriously our commitment to hunters and anglers and the provision of opportunities for the diversity of enthusiasts – from waterfowl hunters to upland game hunters to anglers -- to pursue their passion for wildlife and outdoors.

The members of the WHHCC have represented this constituency well. They have made valuable contributions to the Administration's ability to meet its wildlife conservation obligations through this partnership with the hunting and angling community. Each of the specific constituencies represented on the Council was chosen to ensure that all key voices from this community are at the table, including the waterfowl hunting, "hunting at large", and hunting outreach and education perspectives, all of which are removed from the Council in this bill.

The Administration is committed to continuing the WHHCC through the existing FACA-compliant process in which we are currently engaged. We look forward to working with our partners on this valuable team as we face the challenges of the future; and we look forward to working with them to build, evolve, and amend -- as appropriate -- the forums and processes through which this most valued community provides input on the Administration's fulfillment of its obligations to the resources and the American people.

H.R. 2799 would codify a permanent advisory committee, with structure and processes that could only be amended through new legislation. We would welcome the opportunity to work with the subcommittee to help address its concerns while preserving the flexibility that the Administration currently has to tailor this important advisory council to evolving constituent needs and to the availability of resources, and to ensure that all key hunting perspectives are represented.

H.R. 2798, to amend Public Law 106-206 to direct the Secretary of the Interior and the Secretary of Agriculture to require annual permits and assess annual fees for commercial filming activities on Federal land for film crews of 5 persons or fewer.

The Administration opposes H.R. 2798 as it would rescind the Secretary of the Interior's authority to manage certain commercial filming activities on federal lands or waterways managed by the Department of the Interior (DOI). DOI defers to the Department of Agriculture (USDA) for activities occurring on its lands.

Public Law 106-206 (P.L. 106-206) allows the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal lands. P.L. 106-206 requires a permit for all commercial filming. It directs the Secretaries to recover all costs associated with processing permit requests and with monitoring the permitted activities. P.L. 106-206 also ensures that the fee assessed would provide a fair return to the United States for the use of federal lands. H.R. 2798 would amend P.L. 106-206 by requiring the Secretaries of the Interior and Agriculture to allow commercial filming crews of five persons or fewer access to all areas designated for public use on lands and waters under their purview, provided each filming crew pays one, \$200 annual fee, and provided the access is during public hours. No further restrictions could be placed on such film crews, including on the cameras, vehicles, or other equipment they may use on public lands.

While the language of H.R. 2798 is somewhat unclear, it appears it could make changes to existing law that are of great concern to DOI. For example, it appears to allow use of all types of commercial filming equipment without regard to the protections in Section 1(d) of P.L. 106-206 regarding resource damage, unreasonable disruption of public use and enjoyment, and health and safety risks to the public. It also would exempt permitted crews from paying recovery costs for damages they may cause to public resources on federal lands. Finally, the bill is unclear about whether the single annual permit fee would be: (1) one fee applicable for all use on federal lands; (2) a fee that must be paid by each film crew to each agency, depending on the type of land being accessed; or (3) an annual fee to be paid for each federal land unit being accessed.

The Administration is aware of the needs of all of our constituents who use federal lands, and all federal lands are set aside to protect natural resources and provide opportunities for the public to enjoy them. These constituencies include commercial film makers and videographers, and they provide valuable programs that educate, enlighten, and entertain. However, it is important that all commercial filming activities be managed to avoid disruption to visitor activities and damage to natural and cultural resources. Even small film crews can bring and use equipment that is harmful to these resources. We believe it is also important for commercial users of federal lands and resources to provide a fair return to the public for that use. Film crew use of federal lands will vary. The \$200 annual fee may be a fair return for the use of one film crew on one unit, but it is not sufficient to provide fair return to the public for repeated and extensive use, to provide any staffing that may be necessary to ensure that the activity does not unduly disrupt natural processes or visitor experiences, or to prepare or respond as necessary to ensure public health and safety.

Issuing individual permits for each filming activity and for any size group, including five persons or fewer, allows the agencies to include location-specific conditions that protect natural and cultural resources, minimize disruption to other visitors, and ensure public health and safety. These conditions may vary depending on the time of year, weather-related issues, or ongoing resource management project work. Therefore, issuing one permit for the year will not allow the agency to issue permits according to up-to-date conditions on the ground. Each project needs to be evaluated separately to address potential impacts.

We are also concerned that the bill could be interpreted to require authorization of commercial filming involving a crew of five persons or fewer in wilderness areas, notwithstanding the requirements and restrictions in the Wilderness Act. Section 4(d)(6) of the Wilderness Act states that commercial services may be performed in wilderness areas only to the extent necessary for activities that are proper for realizing the recreational or other wilderness purposes of the areas. Under this bill, some of our most pristine lands could be open to commercial filming, regardless of these wilderness factors.

Conclusion

Mr. Chairman and Members of the Subcommittee, thank you again for this opportunity to testify before you today. I would be glad to answer any questions you may have.