

**NATIONAL WILDLIFE REFUGE SYSTEM
IMPROVEMENT ACT OF 1997**

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION

ON

S. 1059

A BILL TO AMEND THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 TO IMPROVE THE MANAGEMENT OF THE NATIONAL WILDLIFE REFUGE SYSTEM, AND FOR OTHER PURPOSES

JULY 30, 1997

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NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

WEDNESDAY, JULY 30, 1997

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 406, Dirksen Senate Office Building, Hon. John Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Kempthorne, Allard, Baucus, Graham, and Boxer.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. We have a hearing today before the full committee, and the purpose of it is to solicit view on S. 1059, which is to improve the management of the National Wildlife Refuge System.

S. 1059 is a companion bill to H.R. 1420, which recently passed the House by the remarkable vote of 407-1. Now, that is an extraordinary vote. I'm not sure who the one was, but you don't pass many things by 407-1.

The National Wildlife Refuge System was started in 1903 by President Theodore Roosevelt with the establishment of the first refuge on Pelican's Island in Florida. It has since evolved into a system of Federal lands consisting of 509 refuges in 50 States, covering 93 million acres for the conservation of fish, wildlife, and plants.

Despite 60 years of growth, however, the Refuge System remained without law governing its administration until 1966 when Congress passed the National Wildlife Refuge System Administration Act. Even now, almost a century later, there is no law that identifies a mission or articulates guidance for the refuge management.

The 1966 Act brought the diverse collection of refuges into a unified system of management and authorized the Secretary of the Interior to allow secondary uses on a refuge, provided they are "compatible with the purposes" for which the refuge has been established. The allowance of compatible uses has become a cornerstone of the Refuge System, balancing the needs of the fish, wildlife, and plants for which the refuge was established with our own ability to use and enjoy the refuge for a wide variety of activities.

However, the Refuge System still lacks a true Organic Act, a basic statute that articulates an overall mission for the System and that gives refuge managers guidance in determining what activities are in fact compatible with the purposes of the Refuge.

Most refuges have been established by the Secretary of the Interior over the years under a broad range of statutory authorities, while others have been established by specific Acts of Congress. These disparate sources of authority, along with the lack of general mission and guidance for the Refuge System have led to inconsistency in the management of individual Refuges. This inconsistency, and other problems with secondary uses of refuges, have been the subject of numerous studies over the last two decades, as well as a lawsuit brought by several environmental groups in 1992.

For several years both sides of the aisle and both sides of the Capitol have attempted to enact legislation to rectify this situation. The President has also taken administrative steps for improved Refuge management with an Executive order issued in March 1996.

Earlier this year, after a month of negotiations among a broad range of stakeholders, the House passed H.R. 1420, which I previously referred to. It is incumbent upon us to expeditiously take up this legislation. Last week I, along with Senators Kempthorne and Graham, introduced S. 1059, which virtually mirrors the House bill, H.R. 1420, except for two fairly narrow, but important, changes. Both bills establish the mission of the Refuge System as one to conserve fish, wildlife, plants, and their habitat. Both bills allow compatible uses on refuges, but give priority to wildlife-dependent recreational uses, such as wildlife observation, hunting, and fishing. The bills give substantive guidance and procedures for determining whether uses are compatible with both the mission of the overall system and the purposes of the individual refuge. The bills require comprehensive conservation plans for each refuge.

One difference between these two bills is that the Senate bill clarifies that compatible uses can be both wildlife-dependent and other uses. The other difference is that the Senate bill requires monitoring of the status and trends of fish, wildlife, and plants on refuges.

My hope is to mark up 1059, and have it signed by the President quickly, if possible. With that I look forward to this morning's testimony from our distinguished panelists.

Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS,
U.S. SENATOR FROM THE STATE OF MONTANA**

Senator BAUCUS. Mr. Chairman, my statement pretty much summarizes yours. I have nothing much to add to be in the record, except to underline the need for legislation so we have a solid statutory basis for managing the refuge. I know that Senator Graham has introduced legislation. Actually I think it was S. 823. He has worked very hard to try to get some consistency and some stability in the management of the Refuge System. The House, has come up with a pretty good bill. Anything can be improved upon, but it is incumbent upon us to get this thing passed this year.

I appreciate your efforts, both and the Secretary.

Senator CHAFEE. Senator Kempthorne, do you have anything to say?

**OPENING STATEMENT OF HON. DIRK KEMPTHORNE,
U.S. SENATOR FROM THE STATE OF IDAHO**

Senator KEMPTHORNE. Yes, I do, Mr. Chairman.

I want to applaud you, Mr. Chairman, for moving quickly on the Wildlife Refuge bill. It is indeed a testament to the importance of this legislation that the committee is holding this hearing today, less than 1 week after the chairman's bill was introduced in the Senate. There has been a great deal of interest in this legislation and in moving it quickly.

The original House bill was negotiated between Chairman Don Young and Secretary of the Interior, Bruce Babbitt. Their efforts to work together to develop a consensus bill show once again that we can improve our environmental laws and make them work better. Chairman Young and Secretary Babbitt deserve a great deal of credit for getting this difficult issue to the point where it is today.

The bill that Senator Chafee has introduced, along with myself and Senator Graham is based largely on Chairman Young's work, although it does make a few changes. One of those changes was particularly important to my State of Idaho. When we reviewed the House bill, we discovered an internal ambiguity in the bill, which could have been taken advantage of by those who might want to eliminate many legitimate uses of Wildlife Refuges.

My concern was that the bill's exclusive focus on so-called "wildlife-dependent" activities might be interpreted down the road as a signal that Congress intended only for these kinds of activities to qualify as potentially compatible activities on Federal wildlife refuges, and that the many other uses of refuges that can now be authorized, if they are compatible with the purposes of a refuge, would be left out. That would be a significant problem.

Under the law now, our national wildlife refuges support many uses, including wildlife-dependent uses, such as hunting and fishing, but also important nonwildlife-dependent uses like grazing, oil and gas production, electricity transmission, and even family picnics and weddings. Under the House bill any one of these activities arguably could have been eliminated on Federal refuges simply because they are not wildlife-dependent activities. In Idaho, for example, ranchers who were once promised that they would retain the right to graze their cattle on the Greys Lake Refuge, might have lost that right because an individual refuge manager, already hostile to grazing, interpreted the House language to preclude grazing as a compatible use. This is an important issue for my State because grazing occurs in four of the five Idaho refuges.

So I have included language in our bill to ensure livestock grazing, and other legitimate activities on refuges, can continue to be considered compatible uses on a wildlife refuge. With that change I am pleased to be a cosponsor of this bill, and for the first time it will establish hunting and fishing as priority uses on wildlife refuges, and will ensure that other legitimate and compatible uses can continue in the future.

Of particular interest and importance to me, to Idaho, and to other western States is the provision in the bill that provides

“Nothing in this Act shall create a reserved water right, expressed or implied, in the United States for any purpose.” I strongly support this provision now, as I have in the past.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

Senator Boxer.

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. Thank you very much, Mr. Chairman.

I ask unanimous consent that my full statement be printed in the record, and I will summarize from it.

Senator CHAFEE. It certainly will be. Thank you.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF SENATOR BARBARA BOXER, U.S. SENATOR
FROM THE STATE OF CALIFORNIA

Mr. Chairman, today we will discuss management of the National Wildlife Refuge System. This is a topic of particular interest to me and to millions of Californians who recreate and take spiritual refreshment in the more than thirty refuges that are in my State.

Established in 1906, the National Wildlife Refuge System has been the backbone of our efforts in protecting the quantity and quality of our nation's fish, wildlife and plant species. Our nation has rightfully seen fit to set aside 92 million acres of land and water in all 50 States and territories. Fully one-third of these lands are wetlands, surely one of the more threatened and critical ecosystems in our country. The diversity of these lands is absolutely astounding, ranging from the stark beauty of the Arctic National Wildlife Refuge in Alaska, to the verdant richness of the Cabo Roja National Wildlife Refuge in Puerto Rico.

Equally diverse are the reasons why people visit the refuges. More than 24 million people come to observe and photograph the always fascinating and colorful plant, fish and wildlife. Another five million come to try their hand at landing that big one that will be the basis for umpteen fish stories for years to come. Generations of hunters have enjoyed the solitude and abundance of nature that refuges provide. All in all, more than 37 million people are drawn to our refuges annually.

California is fortunate indeed in having 37 National Wildlife Refuges encompassing more than 400,000 acres. They are equally diverse in their physical nature and why people visit them.

The Don Edwards San Francisco Bay National Wildlife Refuge is situated in the densely populated San Francisco Bay area, which is home to more than six million people. The refuge, with its mudflats, salt marshes, and rich estuarine lands, is a small remnant of a once vast “baylands” that teemed with plant and wildlife. Today less than one-quarter of the salt marshes that made up the bay remain, primarily in protected lands such as the refuge. The refuge provides a welcomed respite from the daily grind for more than 300,000 visitors per year. They come primarily to walk the trails, observe the wildlife, and to learn more about the magic of San Francisco Bay.

Some 300 miles to the north straddling the Oregon-California State line is the Lower Klamath National Wildlife Refuge. The Lower Klamath Refuge was established by President Theodore Roosevelt in 1908, and was our nation's first waterfowl refuge. It is listed in the National Register of Historic Places as both a National Historic Landmark and a National Natural Landmark. The 47,600-acre refuge is a varied mix of shallow marshes, open water, grassy uplands, and croplands that are used by marsh birds and waterfowl. This wonderful place is visited by more than 200,000 people annually.

Mr. Chairman, I cite these two refuges to demonstrate the rich variety and importance of National Wildlife Refuge to the people of my State of California. I am sure that each committee member can cite the importance of refuges to the citizens of their home States.

Mr. Chairman, I want to thank you personally for introducing the National Wildlife Refuge System Improvement Act of 1997. Curiously, the Refuge System has never had a clearly defined mission. Your bill will correct this by clearly establishing the conservation mission of the System, while providing managers clear direc-

tion and procedures for making determinations regarding wildlife conservation and public uses of the System and individual refuges.

Your bill will also require the Secretary of Interior to prepare a comprehensive conservation plan for each refuge. Developed with full public participation, these comprehensive plans will assist managers in clearly articulating the long-term purpose of each refuge, and how activities on the refuge can help realize that purpose.

Mr. Chairman, the value of the National Wildlife Refuge System cannot be measured solely in acres of wetlands, numbers of waterfowl, variety of threatened and endangered species protected, or dollars to the local economy. Perhaps the more important value of the refuges is as a reminder of what America once looked like. A reminder of the diversity of the plants, wildlife, and fish that once blessed every corner and every acre of our wonderful country. A reminder of a time when the wonder of a wind-swept field of royally clad lupines or a lonely cry of a loon could be enjoyed on a daily basis.

Or perhaps the ultimate purpose of our Refuge System is as a harbinger of what our country can once again be, with thoughtful leaders and the perseverance of all people who hold wild things dear and important. I hope that for the sake of future generations of Americans, this ultimate purpose will someday be realized.

Thank you Mr. Chairman.

Senator BOXER. The topic of the National Wildlife Refuge System is of particular interest to me, and to millions of Californians who recreate and take spiritual refreshment in the more than 30 refuges that are in my State. We are indeed very fortunate to have refuges encompassing more than 400,000 acres, Mr. Chairman. They are equally diverse in their physical nature and why people visit them. For example, the Don Edwards—San Francisco Bay National Wildlife Refuge is situated in a densely populated area of San Francisco Bay, which is home to 6 million people. The refuge, with its mud flats and salt marshes, is a small remnant of a once vast phalanx that teamed with plant and wildlife.

Today, less than one quarter of the salt marshes that made up the bay remain, primarily in protected lands, such as the refuge. The refuge provides a welcome respite from the daily grind for more than 300,000 visitors per year. They come primarily to walk the trails, observe the wildlife, and learn more about the magic of San Francisco Bay, and some 300 miles to the northeast, straddling the Oregon-California State line is the Lower Klamath National Wildlife Refuge. The Lower Klamath was established by President Theodore Roosevelt in 1908 and was our Nation's first waterfowl refuge.

Mr. Chairman, I cite these two to demonstrate the rich variety and importance of national wildlife refuges to the people of my State. I'm sure that each committee member can cite the importance of refuges to the citizens of their home States.

I want to thank you personally for introducing the National Wildlife Refuge System Improvement Act of 1997. Curiously the system has never had a clearly defined mission and your bill will correct this by clearly establishing the conservation mission of the system, while providing the managers clear direction and procedures for making determinations regarding wildlife conservation and public uses.

Your bill will also require the Secretary of the Interior to prepare a comprehensive conservation plan for each refuge, develop a full public participation. These comprehensive plans will assist managers in clearly articulating the long range purposes of each Refuge and how activities on the refuge can help realize that purpose.

Mr. Chairman, the value of the National Wildlife Refuge System cannot be measured solely in acres of wetlands, number of waterfowl, variety of threatened and endangered species, or dollars to the local economy, although all of those are very important. But perhaps the more important value of the refuge is as a reminder of what America once looked like, a reminder of the diversity of the plants, wildlife, and fish that once blessed every corner and every acre of our wonderful country, a reminder of a time when the wonder of a windswept field or a lonely cry of a loon could be enjoyed on a daily basis, and I think that this bill is extremely important.

Mr. Chairman, there is one small issue that I don't believe has yet been addressed in the bill, which I hope we can work on, and that's a public health concern. I've heard from some public health advocates in my State, specifically they are fearful of an unintended consequence which is not being aware that we, at some of our reservoirs, could become breeding grounds for mosquitos and other pests, and that could endanger the people, and I'm hoping that we can work together with public health officials to address this issue. I don't think it is that difficult to do, but I do think we should have a section of the bill that recognizes this problem.

With that I want to again thank you and do all I can to work with you to get this through the Senate.

Senator CHAFEE. Thank you very much, Senator. Well said, and we will take a look at that problem you mentioned.

Senator BOXER. Thank you.

Senator CHAFEE. Senator Allard.

**OPENING STATEMENT OF HON. WAYNE ALLARD,
U.S. SENATOR FROM THE STATE OF COLORADO**

Senator ALLARD. Thank you, Mr. Chairman.

I would like to thank you for holding this hearing on this bill, and I am looking forward to testimony from Secretary Babbitt.

Colorado has a wildlife refuge. We don't have the 30 that California has, but I think that—

Senator BOXER. We have 37.

Senator ALLARD. I stand corrected, 37. I appreciate that.

But the thing that I would stress in my comments is that we need to be sure that we do give a lot of flexibility to local managers of this refuge that Senator Boxer pointed out. A lot of these refuges are in different situations, like the one in Colorado has been described as the largest metropolitan wildlife refuge, and it is actually a refuge that was built on a Superfund site, because obviously it's not an area that was ever going to be developed because of the contamination of the groundwater in that area, and the purpose, obviously, is conservation of wildlife. It was a very common sense use of that particular land in the Denver metro area. It provided open space, and it also provided a good educational opportunity because it was close enough to many schools in the area that students could be brought out and learn to appreciate the value of wildlife, to study wildlife, and it has been used for some studies, by the way, to evaluate the interaction of wildlife in a metropolitan area, particularly the wildlife that you would find on the eastern plains of Colorado.

I think that local flexibility is very necessary for these administrators of these wildlife. Again the primary purpose, obviously, is to conserve wildlife. It is a nesting area for eagles. We do have burrowing owls, which are not too common. Many times people, particularly school children, have the first opportunity to see a burrowing owl in that particular area. When you have a confined area, I can visualize down the future there may be some problems of one particular species in that wildlife refuge taking over the refuge, because there are no natural predators there, and there needs to be some local management to take care of that problem if that should happen, and if you allow, for example, too many antelope or too many deer, it could contribute to overgrazing and some erosion of land and maybe have another impact on that species within that confined refuge.

So I really hope that we can move ahead with this legislation. I support—I have a few concerns, but I think they will be easily resolved. Hopefully this piece of legislation will come back soon after the August break, if that's the desire of the chairman, and I look forward to working with the committee on this important piece of legislation.

Senator CHAFEE. Thank you very much, Senator. I have a statement by Senator Inhofe to place in the record.

[The prepared statement of Senator Inhofe follows:]

PREPARED STATEMENT OF SENATOR JAMES M. INHOFE, U.S. SENATOR
FROM THE STATE OF OKLAHOMA

Mr. Chairman, thank you for holding this hearing today. I think S. 1059 begins to solve many problems that may currently exist with usage on our nations refuges. This bill, for the most part, will benefit not only the refuge system as a whole, but the plants and wildlife they protect. There are, however, a couple of concerns that have been raised with regard to uses of refuge land that are currently acceptable, but under S. 1059, may compel Fish and Wildlife Service to change their view.

First and foremost, S. 1059 is conspicuously silent on the issue of utility company usage of refuge land, especially rights-of-way for roads, electric power transmission and distribution lines, oil and gas pipelines, and telecommunications. Under current regulations, permits for these type activities are issued for long periods of time, sometimes up to 50 years. This long-term permit reflects the time and cost of such an endeavor, which can register between \$500,000 and \$1 million per mile of transmission line. Additionally, permits of this length help to maintain a steady and constant stream of utilities needed by the people of this country. My concern is that the language in this bill could effectively limit that permit time to 10 years, subjecting responsible utility providers to unnecessary review, and possible re-routing, based on the lack of compelling science and data. Second, I am concerned about the emergency authority created within this bill. We are granting the Secretary widespread discretion in suspending activities within the refuge, but providing no opportunity for the affected party or parties to respond or appeal the decision. Additionally, the Secretary does not have to consider the potential cost of his action. I am concerned that this could be significant with regard to some activities, especially power lines.

This bill moves us in the right direction. I look forward to addressing the concerns that I have raised with Secretary Babbitt. I feel comfortable that the members of this committee and the Administration can move to solidify the position of FWS as stated in a colloquy on the House floor between Congressmen Young and Saxton. Thank you, Mr. Chairman.

Senator CHAFEE. Our first witness now is the Honorable Bruce Babbitt, Secretary of the Interior. I have had the pleasure of working with Secretary Babbitt on various matters over the last several years, and want to pay tribute to the excellent job you've done, Mr. Secretary, and when you're here testifying on behalf of this legisla-

tion, which you worked so hard on in the House, it reminds us all that the wildlife refuges, as been set up here, are very, very popular in our States, certainly in my State. The great brown sign with the white writing on it saying Fish and Wildlife Refuge is—they are all very popular. As a matter of fact, if anybody else wants to give up any acreage, we'll take everything they got.

So, Mr. Secretary, you're on. Go to it. We welcome you here.

**STATEMENT OF HON. BRUCE BABBITT,
SECRETARY OF THE INTERIOR**

Secretary BABBITT. Mr. Chairman, committee members, thank you very much.

I have submitted written comments, and I will try to be very brief. In fact, Mr. Chairman, I have little to add to your opening statement with respect to the characteristics and the importance of this legislation. It is indeed remarkable, as several committee members have already noted, that the Fish and Wildlife Refuges, the oldest of the designated land management systems in the United States, have remained so long without an organic act, which we have long had for the National Park Service, and we have had since the 1970's for the Forest Service and the Bureau of Land Management.

This legislation is, therefore, I think, an important achievement. At the outset, I would like to acknowledge the extraordinary effort, not only of the House leadership, that is Congressman Young, Congressman Miller, and Congressman Dingell, but also the direct participation of the Wildlife Legislative Fund, the State Game and Fish Managers through the International Association of Fish and Wildlife Agencies, the Audubon Society, and the Wildlife Management Institute, among others.

The principal features that distinguish this legislation, in my judgment, are first an unequivocal declaration of the mission and purpose of the system and of the individual units. We have had a lot of litigation in recent years that is, I think, traceable to the lack of a clear, statutory purpose, which this legislation defines, straight on, as the conservation and restoration of fish, wildlife, and plants.

The real innovation, in my judgment in a political sense, in this legislation was our ability to bring hunters, fisherman, sportsmen, and environmentalists together in a common affirmation of appropriate uses of the wildlife refuge system. I believe that is the glue that binds this legislation together. Of course, the mechanism for that is the definition of wildlife-dependent recreation, specifically affirming the role of hunting, fishing, photography, environmental education, and visitation as the preferred, primary public uses of the refuge system. That is the common ground from which, in my judgment, all the other provisions flow quite logically.

They include, notably, the compatibility standard, which is established for all uses and, as Senator Kempthorne pointed out in his testimony with his changes, it is clear that the entire spectrum of uses are available subject to meeting the compatibility standard mandated in the legislation with a statutory procedure laid out for the determination of compatibility in a public process.

Lastly, as Senator Boxer pointed out, the importance of refuge plans, of having a statutory procedure and deadlines, and a public process for laying out the plans for each refuge.

The changes advocated, in fact, in this draft from Senator Kempthorne and Senator Graham are entirely acceptable to this Administration, and I appreciate their willingness to step forward and discuss those with us to assure that we were not going to have problems. Senator Graham's language goes to a very important and essential process of monitoring as part of a refuge administration.

Lastly, there has been some discussion about the issue of utility rights of way, which normally are granted for long periods, 30–50 years, and questions have been raised as to whether or not the 10-year mandated compatibility review in any way affects the grant of those long-term easements and rights of way.

It is our view that the bill pretty clearly indicates that you do not review the grant of the easements, all you review each 10 years is compliance with the terms of the original contract. There is a colloquy in the House legislation that, I think, makes that very clear. To the extent that that becomes an issue in your deliberations, I would ask only that in the spirit of this entire proceeding try to work out mutually acceptable language, and I will do my best to be available at any time for any of those discussions in hopes that as this bill reaches the goal line and we can continue this consensus-based process.

With that I would be happy to answer any questions or to leave you to your deliberations, as you choose.

Senator CHAFEE. Well, I think what we'll do, Mr. Secretary, is we'll give each Senator 5 minutes to ask you some questions, and if some have longer than that, we can work that out.

Now, as I understand it, one of the major criticisms of the current law is that there is no guidance given to the individual refuge managers to determine whether a secondary use is compatible with the purposes of the refuge. Now, as you establish a refuge for the manatee, or whatever is it, and then that is the primary purpose. But then what are the secondary uses that are compatible with that primary use, and the bill says that these determinations are to be based on "The sound, professional judgment of the manager," which itself is defined as being consistent with the principles of sound fish and wildlife management. Do you think this gives more guidance than the current administrative standards? In other words, have we made some progress here for the individual refuge manager?

Secretary BABBITT. Senator, I believe we have. The important definition is the definition in section 5 of Compatible Use, which makes it clear that any of the uses cannot materially, "materially interfere with or detract from the fulfillment of the mission of the system or the purposes of the refuge."

Now, that was drafted as a legal standard. That is a very explicit, judicially enforceable standard. Against that general standard, we have decided in the discussions that it is very important to retain discretion in the refuge manager for many of the reasons Senator Allard has previously pointed out. There is no way of making these judgments in 520 refuges by a set of detailed prescriptions. So, I think the explicit standard, the generic standard, and

the sound professional judgment standard ought to provide an adequate mix of those two objectives.

Senator CHAFEE. Where do you think we have made a step forward in this bill?

Secretary BABBITT. I think we have made a step forward in the following ways:

First of all, after 100 years we have a definition of the purpose of the system. Interestingly enough, we have never had that. All of the previous statutes are devoid of an explicit, statutory definition of the purpose of the system.

The second important thing is that for the first time, at least in modern history, we have brought sportsmen and environmentalists together in an explicit recognition of wildlife-dependent recreation which includes hunting, fishing, and environmental uses. I do not think it is any secret that among the State game managers and the international sportsmen there is a lot of uneasiness about a system, sort of a collection of statutes, which did not explicitly recognize hunting as a statutory purpose, although implicitly it has been recognized. Indeed the sportsmen are largely responsible for the financing of much of the modern refuge system.

That compromise is glued together by an additional very important concept, wildlife-dependent recreation. These are not exclusive uses, but are preferred uses, and if there are conflicts among users, the wildlife-dependent users have a preference. So I believe that the explicit statutory definition and the hierarchy of uses that are given statutory recognition and tiered downward are really at the heart of this bill.

Plus, I might add, the planning mandates, which have been the subject of a great deal of unnecessary litigation.

Senator CHAFEE. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Secretary, I would be curious as to your assessment of the health of the species and the refuges. Just, how are we doing, holding our own? Are they deteriorating, declining, coming back, generally? Are there some that are doing a lot better than others?

Secretary BABBITT. Senator, there are lots of different ways of approaching that. I suppose from the standpoint of sportsmen, waterfowl would be the primary issue since so much of this refuge system is devoted to the maintenance of the flyways for waterfowl. We've had a spectacular comeback of waterfowl. We are going to have the best duck and goose season in the last 30 years this coming season. Much of that, I think, is due to the Administration and protection of the prairie potholes in the northern Great Plains, and good administration and a lot of good rainfall as well. So from that perspective, we are doing well.

I would say that the principal concern within the service are the pressures of urban use on many of these refuges, and the fact that they are, by contrast with other land management agencies, seriously understaffed to handle public use. Now, let me say that is being addressed in the appropriation side as we speak, and I'm very grateful for that.

Senator BAUCUS. There has been some discussion the last several years about the state of disrepair of some of our national parks; Yellowstone, for example, Glacier is deteriorating, a backlog of

unmet repairs, maintenance needs, and so forth. Do the refuges face a similar situation?

Secretary BABBITT. Oh sure. The answer is yes. I think that any visitor to a wildlife refuge will be impressed at the very primitive nature of the facilities on that refuge. If you go out to Blackwater, here, you can see the difference. The refuges in Montana, a lot of them are being administered out of double-wide trailers and out of kind of Jerry-built facilities that show a lot of ingenuity and very little money in their establishment.

Senator BAUCUS. That's all a matter of appropriations?

Secretary BABBITT. I think that's the basic issue. We're going to get a much better appropriation bill this year. Obviously it's not going to wipe out all that backlog in a short time period.

Senator BAUCUS. What about the parks?

Secretary BABBITT. I think you have stated accurately the condition of the parks. We are making a few small strides; the increase in visitor fees helps. It would be really helpful in this year's appropriation bill for the Senate to accede to the House language allowing us to retain all of the fee increases in the park system. It would make a substantial difference.

We need to make some additional progress on concession reform. There is no silver bullet, but these all add up, I think.

Senator BAUCUS. But one park raised a million dollars in fees voluntarily, is that right? You or someone in the service mentioned to me that one park raised quite a sum of money, the fees, recently.

Secretary BABBITT. There is no question about that. Just take Grand Canyon, 5,000,000 visitors, say an average three to a car, visit a week. We are getting a lot more than \$1 million for the Grand Canyon. I would say it is probably closer to \$3, \$4, \$5 million. Of course, that's in a context of a budget of—Grand Canyon—I think it is now up to \$25 million a year in operating budget. The fee increases are going to be segregated for capital improvements and, in this case, a very exciting plan to put up a mass transit system.

Senator BAUCUS. Thank you.

Senator CHAFEE. Senator Allard.

Senator ALLARD. Thank you, Mr. Chairman.

Just have a couple of questions. On page 10 there in the bill, again we were referring to that section that you referred to, the administration of the system and the flexibility and whatnot the balance that you have. There is a paragraph there that talks about, as a secondary use at least, to assist in the maintenance of adequate water quantity and water quality, fulfill the mission of the system and the purposes of each refuge, and then—that is F and then G—it says, “acquire, under State law, water rights that are needed for refuge purposes.”

So I just want to make it clear for the record that there is an intention there to make the State a part of that effort in maintaining adequate water quantity and water quality, because that can be an issue in an area like the Rocky Mountain Arsenal where we have a lot of contamination with groundwater, and sometimes there are concerns at the local area, and just want to make sure we have the intent where they would be working with the States in that part of the provision.

Secretary BABBITT. Yes, I think that is accurate.

Senator ALLARD. OK. Then the other area I have in the bill is on page 21, subsection 2 there, where it says, "Nothing in this Act shall diminish or affect the ability to join the United States in adjudication of rights to the use of water pursuant to the McCarran Act," and then it has a specific reference. Actually this is something we already have in statutory law now, and the question I have is why is it necessary to repeat it in this particular piece of legislation?

Secretary BABBITT. Senator, I would be happy to delete it. But, I think you will find that most of the "water buffalos" who were circling around this legislation were eager to repeat it, and you will find the one characteristic of the water buffalo crowd is that they cannot repeat this language too many times.

Senator ALLARD. OK. Thank you for your response on that.

I do not have any other concerns in particular. I just had a few minor things that I wanted to bring up. I did not see them as real big issues. But wanted to ask you about those and I appreciate your responses. Thank you.

Senator CHAFEE. Senator Graham.

First I want to say Senator Graham has been very, very active in this as we know on this committee, your legislation passed in the Senate one time, not too long ago, did it not, Senator?

Senator GRAHAM. Almost.

Senator CHAFEE. Almost. All right. Well, we score for close ones. But in any event, this is an area where Senator Graham has been very, very knowledgeable and helpful and interested. So we are delighted that you are here this morning, Senator.

**OPENING STATEMENT OF HON. BOB GRAHAM,
U.S. SENATOR FROM THE STATE OF FLORIDA**

Senator GRAHAM. Mr. Chairman, I appreciate those kind remarks and your typical high standard of generosity.

This issue of the future of the National Wildlife Refuge System has been one of great public and personal concern for many years. We have all read and personally experienced and seen on television instances in which our National Refuge System was being degraded by a number a internal and external forces.

A major source of those forces comes under the heading of incompatible uses. In my own State of Florida, a number of refuges which were established for the protection of specific species have been degraded by activities that made the refuge incompatible for that species. I would like therefore to ask the Secretary some questions about compatibility.

One of the sources of incompatibility has been the use refuges for military purposes. In previous legislation there has been some specific language relative to the utilization for Department of Defence activities, including requirements of a Presidential Finding before they could be used for that purpose. This legislation does not have a provision similar to that. I wonder if the Secretary could discuss how he would anticipate, or what is the current state of use by the Department of Defence of wildlife refuges and what resolution of the conflicts that have existed in the past would he anticipate in the future?

Secretary BABBITT. Senator, the legislation provides that existing uses by Federal agencies, which have been accepted and authorized and permitted under Federal law, will continue. Now, we have had very productive discussions with the military about these issues. There has been some conflict in the past, Gullwater Gunnery Range is one that comes to mind, over which there is a wildlife refuge overlay.

I am satisfied that we have these worked out. I must say that the Department of Defense has been very cooperative in working out these issues, and, I think, rather than sort of digging up all of those old controversies, it is better just to accept this language, and we are comfortable with it.

Senator GRAHAM. Also in the area of compatibility, there is a tendency, when a use in or adjacent to a refuge has gone on for some time, for it to become seen, particularly by people in the local area, as an accepted activity. It takes considerable diplomatic skill and finesse if the goal is to moderate or terminate an activity that is now determined to be incompatible.

How do you see this legislation as affecting the ability of the managers of the system, to make a determination as to whether a use, including uses that have been in place for a considerable number of years, is compatible with the primary purposes of the refuge, and then where the decision is that it is not compatible, to begin the process of backing it out?

Secretary BABBITT. Senator, there is no question it is a difficult business and it comes from all quarters. A public recreational user, jet skis come to mind as one where we have serious issues particularly on the waterfowl refuges, and others have a tendency to think that what has happened in the past should be confirmed for eternity. The fact is that the compatibility standard here, I think, contains a clear direction, and a judicially enforceable direction, to the refuge manager that he has got to make a finding that will not materially interfere with the mission and purposes of the refuge.

Senator Kempthorne discussed at some length with us the issue of the Greys Wildlife Refuge in Idaho where we had a dispute over grazing, which has been resolved quite nicely, because clearly seasonal grazing at the appropriate levels is entirely compatible with the purpose of that refuge and arguably, actually enhances the bird nesting conditions provided you meet the seasonal timeframes for the grazing. We have got that one worked out, and I am not saying it is going to be easy, but we do have a standard and I think it is reasonable and I think it does not preclude by its terms any kinds of uses. It simply sets the standard for how that use should be carried out, and, obviously, some uses may be ruled out completely.

Senator GRAHAM. Thank you, Mr. Chairman.

[The prepared statement of Senator Graham follows:]

PREPARED STATEMENT OF SENATOR BOB GRAHAM, U.S. SENATOR
FROM THE STATE OF FLORIDA

Mr. Chairman, I'm pleased to have the opportunity to discuss the National Wildlife Refuge System Improvement Act of 1997. It is a long-overdue "organic act" for our magnificent Refuge System. In 1991 and again in 1993, as chairman of the Subcommittee on Fish and Wildlife, I introduced the National Wildlife Refuge System

Management and Policy Act—legislation which was very similar to that which is before us today.

My aims then were straightforward. First, to clarify that the purpose of the National Wildlife Refuge System is to conserve our nation's diversity of fish, wildlife, and plants and their habitats. Second, to improve the process used to determine which public uses shall be allowed on the refuges. Third, to require the development of comprehensive conservation plans for each of the refuges and ensure that the public has ample opportunity to participate in the planning process as it does in planning for our national parks and national forests. Fourth, to lay out clear affirmative duties for the Secretary of the Interior to protect the integrity and plan for the appropriate expansion of the Refuge System.

My bill had the strong support of conservation groups like The Wilderness Society, the National Audubon Society, Defenders of Wildlife, and the Sierra Club. Thanks to Senators Chafee, Kempthorne, and Baucus, my bill also enjoyed the support of the International Association of Fish and Wildlife Agencies along with a variety of sportsmen's groups. The Environment and Public Works Committee reported that bill in the 103rd Congress but unfortunately we were not able to bring the bill to the Senate floor because a number of procedural holds were placed on the bill.

In the last Congress, the House introduced and passed a radically different bill that would have harmed our Refuge System. President Clinton indicated that he would veto the House bill but fortunately, it was not acted upon by the Senate.

The bill before us today is not identical to the bill I introduced in prior years. It is not exactly how I would have drafted it, but I am very pleased that it addresses the four major areas that I outlined above: a mission statement for the system, a formal process to assess the compatibility of refuge activities, a planning requirement, and duties for the Interior Secretary.

Of course, even with passage of this bill, the Refuge System will only meet its potential to conserve the nation's fish and wildlife if the Congress appropriates the funds necessary for its proper management. I am pleased that the House has approved a healthy increase for this purpose in its FY 1998 Interior Appropriations bill and will work to ensure that the Senate does as well. Senator Kempthorne and I and 18 of our colleagues have written to the Appropriations Committee to urge such funding.

THEODORE ROOSEVELT'S ENDANGERED SPECIES ACT

Ninety-four years ago, President Theodore Roosevelt established the first national wildlife refuge at Pelican Island in my state of Florida. This bold move protected the last remaining nesting colony of brown pelicans on the Atlantic seaboard. But as critical as this action was for the pelicans, it had much broader importance for the nation's wildlife because it began our only system of national lands dedicated to wildlife conservation.

Before leaving office, Roosevelt went on to establish more than 50 such sanctuaries. Herons, egrets, pelican and other shorebirds, along with all manner of water fowl found sanctuary on Roosevelt's refuges. Barge mammals including bison, elk and antelope were also protected. In this sense, the Refuge was Roosevelt's Endangered Species Act.

Refuges continue to be created to meet the most pressing wildlife conservation challenges of the day. Refuges have been established for endangered fish, birds, mammals, reptiles, frogs, bats, and butterflies. In my state we even have the new bake Wales Ridge Refuge established for endangered plants. And while we have many refuges to protect endangered species, we know that many other species would be headed for the endangered species list were it not for the protections afforded by the National Wildlife Refuge System.

Today the Refuge System includes more than 500 refuges and 92 million acres which makes it larger than the National Parks System. Yet in the lower 48-states, the Refuge System amounts to less than 4 percent of the federal public lands and less than 1 percent of the total land area of those states.

In Florida we have twenty-five refuges encompassing more than a million acres of land and water. These include refuges to protect our manatees, Florida panthers, sea turtles, Key deer, crocodiles and those endangered plants.

PUBLIC SUPPORT AND USE OF THE REFUGE SYSTEM

Our Refuge System has been strongly supported by bird watchers, hunters, and anglers throughout its history—even though there was very little recreation permitted for much of the system's history. For example, hunting was a rarity on refuges until 1949, but hunters and sportsmen's organizations were strong supporters

of the system even in those early years because they realized that without protected habitats, there could be no wildlife.

Today, the Refuge System provides ample opportunities for fish and wildlife related recreation including wildlife observation, nature photography, and hunting and fishing, as well as environmental education. But these public uses are clearly secondary to the long-standing primary purposes of the Refuge System to conserve fish and wildlife and habitats. S. 1059 continues this clear distinction between the purpose of the Refuge System to conserve fish and wildlife, and the priority uses of the system which are those related to learning about or enjoying fish and wildlife.

PROBLEMS IN THE SYSTEM

Unfortunately, public use has not always been carried out in a manner that is consistent with the well-being of our refuges and their wildlife. A 1989 study by the General Accounting Office found that secondary activities considered by refuge managers to be harmful to wildlife resources were occurring on nearly 60 percent on our refuges. Power boating, mining, military air exercises, off-road vehicles, and air boating were cited as the most frequent harmful uses. Oil and gas drilling, timbering, grazing, farming, commercial fishing, and even wildlife related recreation such as hunting, trapping, and wildlife observation in some instances were also found to harm wildlife or habitat. A 1991 study by the U.S. Fish and Wildlife Service confirmed the GAO's findings. The Service found that harmful activities were present at 63 percent of the refuges.

At one time, for example, the Key West National Wildlife Refuge harbored the only known breeding colony of frigatebirds in the United States. The Great White Heron National Wildlife Refuge, also in the Florida Keys, hosted numerous colonies of wading birds. But increased activity within the refuges by jet skiers, power boaters, water skiers, campers, and others was the most likely reason that the frigatebirds abandoned the refuge rookery and the chief culprit behind the fact that other birds have showed signs of declining breeding success.

Refuge managers, despite their best efforts, have often been susceptible to outside pressure to allow these damaging activities because the laws governing the Refuge System are not completely clear. Furthermore, decisions about which activities were compatible with wildlife conservation purposes have often been made without adequate public input or written records. The problem had been compounded in past years by lack of periodic reevaluations of uses.

ACTION TO RESTORE INTEGRITY TO THE REFUGE SYSTEM

Fortunately, the Clinton Administration has taken a number of steps to resolve many of the problems in the National Wildlife Refuge System. I like to believe that the interest and oversight that we provided in a bipartisan fashion in the 102nd and 103rd Congresses set the stage for these improvements.

A number of harmful economic, recreational, and even military activities have been eliminated or appropriately reduced. In Florida, for example, action has been taken by the Fish and Wildlife Service to reduce the number of people allowed to scuba dive along side manatees in the Crystal River refuge that was established to protect the manatee. Likewise, the Service has taken action to reduce public use at the Egmont Key National Wildlife Refuge. And a back-country plan has been implemented in the Florida Keys to greatly reduce conflicts between people and wildlife.

President Clinton has also issued an Executive Order on the management of the Refuge System that specifies that the mission of the refuges is to preserve a national network of lands and waters to conserve our wildlife diversity. The Executive Order also appropriately ensures that recreational pursuits that are related to fish and wildlife will take priority over other activities not so related.

Now, as in the past, I am gratified to be part of the process of updating the laws that govern our magnificent National Wildlife Refuge System. It is my sincerest hope that this new law will improve the Refuge System for the benefit of our nation's fish and wildlife and for generations of Americans to come.

Senator CHAFEE. Thank you, Senator.

One quick question, Mr. Secretary. This planning seems to make sense. I know that they give you plenty of time. I think it's 15 years. I do not know who would do the plan. I suppose that each—let's see, the Secretary shall prepare a comprehensive conservation plan for each refuge. So that's a big task, a big undertaking.

Secretary BABBITT. Senator, it is. But I read Secretary clearly, in the terms of this legislation, to mean refuge manager. I think that's quite clear.

Senator CHAFEE. So then they'll come up with plans, then come before your Department, and then that'll sort of set up guidelines for how each one is going to be run for the ensuing years. Is that correct?

Secretary BABBITT. That is correct. We reckon that with our existing budget projections, we should be able to get through the full cycle in probably about half that time, probably about 8 years, and I also would add that we have had a long round of compatibility work done already under court order that some of the members may be familiar with.

Senator CHAFEE. I have no further questions.

Senator Baucus.

Senator BAUCUS. Neither do I. Thank you.

Senator CHAFEE. Senator Allard.

Senator ALLARD. No, Sir.

Senator CHAFEE. Senator Graham.

Senator GRAHAM. No.

Senator CHAFEE. Well, thank you again, Mr. Secretary. We appreciate your obvious time and are grateful for you coming up today.

Secretary BABBITT. Chairman, committee members, thank you.

Senator CHAFEE. All right, our next panel will be Mr. Gary Taylor, legislative director for the International Association of Fish and Wildlife Agencies; Mr. James Mosher, conservation director of the Izaak Walton League; and Mr. James Waltman, director, Refuges and Wildlife Program of The Wilderness Society.

So we have the environmentalists up before us now, and Mr. Taylor, if you want to proceed, please.

**STATEMENT OF GARY J. TAYLOR, LEGISLATIVE DIRECTOR,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE
AGENCIES, WASHINGTON, DC.**

Mr. TAYLOR. Thank you, Mr. Chairman, and members of the committee, for the opportunity to share with you today the perspectives of the International Association of Fish and Wildlife Agencies on S. 1059. I am Gary Taylor, legislative director of the association, and I bring to you today our enthusiastic support for this bill. As you are aware, Mr. Chairman, all 50 State fish and wildlife agencies are members of our association.

Quite simply, we believe the bill provides a needed and sound underpinning in fish and wildlife conservation for the administration of the National Wildlife Refuge System. It is a bill that is good for fish and wildlife, it is good for the National Wildlife Refuge System, and we believe it's good for our citizens who will appropriately use and enjoy our national wildlife refuges for compatible activities such as hunting, fishing, nature observation and photography, and conservation education. We applaud you and Senator Baucus for having a hearing on this landmark legislation, and urge you to expeditiously report the bill to the Senate floor, protect it from further amendments, and send it back to the House for concurrence, and on to the President for signature.

Secretary Babbitt has shared with you the process which has resulted in the consensus language in the House companion bill, and which the House sent to you, as you observed, with an overwhelming vote of 407-1.

We would again like to recognize and thank Secretary Babbitt, Congressman Young, Congressman Dingell, Congressman Saxton, and Congressman Miller for their leadership role in shaping this consensus. I also would like to recognize that the foundation for the bill, as you pointed out, Mr. Chairman, was laid in the 103d Congress in a bill from Senator Graham, Senator Baucus, and yourself, and we certainly appreciate your pioneering efforts in this endeavor.

Let me quickly now summarize why the International Association strongly supports this bill. First, the bill establishes an overarching mission of the National Wildlife Refuge System to conserve fish and wildlife and their habitats for the use of present and future citizens of the United States.

It also gives the Secretary affirmative responsibilities to manage the system to meet this mission and to protect the ecological integrity of the units within the system. We believe such an overarching objective is necessary to give direction for management of the system in fish and wildlife conservation. Refuges are not junior grade national parks, nor are they glorified national recreation areas. They can and should represent the best examples of the science and practice of fish and wildlife management, where wildlife-dependent recreational uses should be given priority public use considerations so that our citizens can enjoy and learn about the fish and wildlife found on these public lands.

Second, the bill gives the Secretary the authority to permit compatible uses of refuges only after and when the Director of the Fish and Wildlife Service acting through the refuge manager, exercising professional judgment consistent with principles of sound fish and wildlife management, and available science and resources, finds that the use will not materially interfere with or detract from the fulfillment of the mission of the system of the purposes of the individual refuge.

This is the same standard for compatible use that the Fish and Wildlife Service policy has applied to this determination for many years. In giving the Secretary the authority to permit compatible uses, the bill adopts in statute, as a policy of the United States, the provisions of the President's 1996 Executive order which affirms the legitimacy of compatible wildlife-dependent recreation as a priority general public use of the system.

The bill further directs the Secretary to facilitate that use, subject to necessary and appropriate restrictions. The bill does not change the standing of other uses under existing law. The association strongly endorses this perspective because wildlife-dependent recreational use is derived from healthy and robust fish and wildlife populations. These uses are generally minimally intrusive, and they provide opportunities for our citizens—birders, anglers, hunters, educators, and students to enjoy and learn about fish and wildlife conservation on lands dedicated for this purpose.

As you are also aware, Mr. Chairman, sportsmen and women of this Nation have contributed significantly to the support of the Na-

tional Wildlife Refuge System through their purchase and use of Federal waterfowl stamps, their support for the North American Wetlands Conservation Act program, and other Federal-private share programs for acquisition of national wildlife refuges. Giving wildlife-dependent recreational uses priority general use consideration recognizes the contribution of the Nation's sportsmen and women.

Third, the bill recognizes that national wildlife refuges are important components of, and contribute to, the larger ecosystems in which they are found, and, as such, should be managed with appropriate attention to the surrounding land. The bill further recognizes the need for, and directs, cooperation with the State fish and wildlife agencies in meeting objectives for fish and wildlife conservation on the refuge, and in coordinating the role of the refuge in meeting statewide objectives for fish and wildlife.

Finally, we fully support individual refuge conservation planning and involvement of the public as provided for. We appreciate the fact that planning and compatibility processes are not so burdensome that the professionally trained refuge manager is not perpetually engaged in process instead of accomplishing on the ground objectives for fish and wildlife conservation and their habitats and providing appropriate opportunities for compatible wildlife-dependent recreational uses. This is where the managers, we feel, should be spending their time, not on onerous process or in litigation.

Thank you again for the opportunity to appear before you today, Mr. Chairman, and I would be happy to address any questions you might have.

Senator CHAFEE. Thank you very much, Mr. Taylor. I think the points you made were good ones, and we'll have the chance to ask you questions when we finish with the panel.

Mr. Mosher, we welcome you.

STATEMENT OF JAMES A. MOSHER, CONSERVATION DIRECTOR, THE IZAAK WALTON LEAGUE OF AMERICA, GAITHERSBURG, MD

Mr. MOSHER. Thank you, Mr. Chairman and members of the committee.

I'm Jim Mosher, conservation director of the Izaak Walton League of America, and am pleased to have the opportunity to talk with you about the National Wildlife Refuge System Improvement Act of 1997.

The League is celebrating its 75th anniversary this year, having originated just a few years after the birth of the refuge system. Our mission is to conserve, maintain, protect, and restore the soil, forest, water, and other natural resources of the United States and other lands, and to promote means and opportunities for the education of the public with respect to such resources and their enjoyment and wholesome use.

Our support of the National Wildlife Refuge System is more than seven decades old. Following the league's first national convention in 1923, we became the principal driving force in establishing the Upper Mississippi Wildlife and Fish Refuge, which set aside 300,000 acres of bottomland and riparian habitat in the upper Mississippi River basin. Subsequently we played a substantial role in

establishing or expanding the National Elk Refuge in Wyoming, Bear River Migratory Bird Refuge in Utah—that incidentally, I believe, was the first refuge to specifically permit recreational use of the area, setting aside some 60 percent as sanctuary and allowing public hunting on the remaining 40 percent; Horicon National Wildlife Refuge in Wisconsin; Protection Island National Wildlife Refuge in Washington, Edwin B. Forsythe National Wildlife Refuge in New Jersey, Hamden Slough in Minnesota, Patoka in Indiana, and the Great Dismal Swamp National Wildlife Refuge in Virginia.

We are now, incidentally, working to support establishment of the Grand Kankakee Marsh National Wildlife Refuge which lies on the Illinois-Indiana border. This refuge would restore a part of what was originally a half million acres of wetland.

It's unlikely that over the past 75 years any other national conservation group has devoted a higher percentage of its energy and resources to the refuge system. I believe this record is clear evidence of the importance of the refuge system to our members as well as their commitment to our Nation's systems of public lands.

I'm pleased to speak on behalf of our 50,000 members in support of the National Wildlife Refuge System Improvement Act. We believe S. 1059, and its companion, H.R. 1420, provide for reasonable and sound management of the National Wildlife Refuge System, and balance multiple interests in a manner that first protects the integrity of these valuable natural areas.

The League believes refuges should be available to carefully controlled hunting, fishing, and other compatible recreational uses to the extent that these uses do not intrude upon environmental values or primary management purposes. This long established league policy is fully consistent with the President's Executive Order 12996, and I believe the National Wildlife Refuge System Improvement Act will effectively implement the full intent of that Order.

We believe it is important and long overdue that the refuge system be provided a legislatively established mission, and that this mission recognize the overarching importance of the protection of wildlife and other natural resources. There must also be provisions for a process by which compatibility of uses can be determined, with an opportunity for citizen input. It is important that a planning process be established that will identify the fiscal, staff, and program needs of the refuge system. This bill accomplishes these goals, and does so in a manner that provides for an appropriate balance between protection and use. This bill also culminates several years of debate and previously failed attempts to craft legislation that could garner consensus among the very many divergent interests.

We urge the committee to move expeditiously to bring this bill to the full Senate for consideration. It is a good bill. The time is right. Conservation of all our natural resources, and especially our public lands, may be the single most important issue by which future generations measure our success.

Lastly, I take this opportunity to thank Secretary Babbitt and his staff, members and staff of the House of Representatives, and the environmental and conservation groups that participated in the difficult negotiations that produced this bill. The nearly unanimous passage by the House is a measure of that success.

I thank the chairman and members of this committee again for the opportunity to share the League's assessment of the bill, and our views, and continued support of the National Wildlife Refuge System.

Thank you.

Senator CHAFEE. Thank you, Mr. Mosher.

Mr. Waltman, The Wilderness Society.

STATEMENT OF JAMES WALTMAN, DIRECTOR, REFUGES AND WILDLIFE PROGRAM, THE WILDERNESS SOCIETY, WASHINGTON, DC.

Mr. WALTMAN. Thank you, Mr. Chairman, for this opportunity to testify before this committee on behalf of The Wilderness Society and our more than a quarter million members.

I have to say it's a pleasure to testify in support of legislation. I think it's been a while since I have done that personally, perhaps the last time—

Senator CHAFEE. I've noticed that.

Mr. WALTMAN. I think I appeared before this committee—

Senator CHAFEE. Nice to have your support in this.

Mr. WALTMAN [continuing]. Was 3 years ago on behalf of Audubon, The Wilderness Society, Defenders of Wildlife, and Sierra Club, and a bunch of others in support of Mr. Graham's legislation. It's very nice to come back and support legislation again.

As my written testimony explains in some detail, The Wilderness Society has worked as long and as hard as anyone to pass the kind of comprehensive, organic legislation that is now before you. The lack of a clear, comprehensive statute for the system has been at least partly to blame for a myriad of problems, and as Senator Graham indicated, there had been report after report over the years that identified these problems in some detail, there have been TV shows, and the like.

Fortunately, the Clinton administration has been chipping away at those. The problems are not as egregious as they had been, but we still need to pass this bill, and finish the job, and make sure we can prevent some of those from creeping up in the future.

One of the things that has been a particular problem for the refuge system is its lack of a comprehensive law has often left it subject to the bullying of other agencies and all manner of other interests. In particular, there has been no clear affirmative duties for the Secretary of the Interior to protect and provide for the refuge system. This Act, S. 1059, would change that.

Our goals for a refuge organic Act have been pretty straightforward. First, an unambiguous statement that the purpose of the refuge system is to conserve fish and wildlife. Second, a formal process to review compatibility of refuge uses that provides opportunities for public review and comment. Third, again, affirmative duties for the Secretary to protect and provide for these places. Fourth, a requirement that all national wildlife refuges prepare a comprehensive plan and be managed pursuant to that plan. Fifth, a marked improvement in the quality of the science that underpins key refuge management decisions.

Mr. Chairman, S. 1059 is not the exact bill that we would have drafted. It is the obvious product of compromise, but the bottom

line for The Wilderness Society is that we support this bill because it contains each and every one of those major five elements that we've thought important for so long.

We are particularly pleased that this bill includes a provision to improve monitoring of the status and trends of fish and wildlife and plants on the refuges, a provision that was lacking from the House bill.

We also support the straightforward principle that refuges must first be for the conservation of fish and wildlife. Second, where appropriate and compatible, and where funds are available, they should foster wildlife observation, hunting, fishing, and environmental education. These are activities through which the public can understand and appreciate and learn more about fish and wildlife.

Finally, those activities that are unrelated to fish and wildlife must receive the lowest priority. We think this bill clearly sets up that framework and it's more than appropriate.

Our testimony includes some technical amendments that we think would improve the bill, but having said that, the important thing is to move expeditiously toward passage. We urge you to think very closely before accepting any special provisions dealing with specific refuges or specific uses. I understand there has been a fair amount of back and forth in the last week over the question of utility right of ways. I'd be happy to answer some questions on that. We're very concerned as you might imagine about some of what we've heard.

I have to say that we've been somewhat frustrated perhaps, that the debate has centered so much on the single issue of hunting. Hunting is an appropriate use of the refuge system. I think we've kind of established that with absolute certainty in the Congress of late, but there are a lot of other issues that could benefit from review by this committee once we get this bill passed. How is the refuge system doing to conserve endangered species? How is the water quality and quantity on the refuges? What are we doing to preserve wilderness characteristics in refuges? What is the impact of overflights on refuges?

This bill exempts overflights from compatibility. But exempting them from compatibility is not going to make that problem go away, and at some point we are going to have to figure out how to address that issue.

Mr. Chairman, I just want to finish by thanking you, Senator Graham, Senator Baucus, and Senator Kempthorne for your continued interest in the refuge system. It's demonstrated obviously by this hearing today, and by your efforts to increase appropriations for the operations and maintenance of the refuge system. We are very hopeful that this bill—

Senator CHAFEE. Senator Allard. Don't forget Senator Allard—

Mr. WALTMAN. My peripheral vision failed me there. Senator Allard, thank you as well. But we hope this bill—

Senator CHAFEE. His interest in this has been very helpful as we—

Mr. WALTMAN. That's right. We're going to—we've got a new century of challenges facing the refuge system in a few years. We're

hopeful this bill will help the system meet some of those challenges that face it.

Thank you very much.

Senator CHAFEE. Well, thank you very much.

I think it is important that we, as each of you said, that we all remember that these refuges were not set up as areas where people could water ski or jet ski. They were set up for wildlife conservation, preservation, and to preserve the habitat as well. That's the principal reason these were set up.

Now if others come along with what can be called compatible uses, all right. That's what is provided here. But there's no right for a demand. They do not have a demand, a right to water ski. They can water ski if it's compatible. Sometimes that's forgotten. This area is set aside, and there it is, and why can't we, the jet skiers, have our use of it just like the hunters do, or whoever it might be. That's why we have got to bear in mind the whole idea of why these places were set up in the beginning.

Now, I'd like each of you to briefly respond to this question. Some concern has been expressed recently regarding the possible consequences of this law on existing rights of way, such as electric utility lines, pipelines, and refuges. Specifically this law requires that secondary uses be subject to periodic re-evaluation and be eliminated or modified if not compatible. Long standing rights of way maybe threatened in the future.

Now, what do you say to that, Mr. Taylor?

Mr. TAYLOR. Mr. Chairman, I concur with Secretary Babbitt's interpretation of what the bill does and how it would be applied to a review of the compliance with the terms and conditions of the permit, and not the fundamental easement authority to begin with. I think the House colloquy and the report language also affirm that, that was the intent of the language, and I believe that if there was further discussion on that, that characterized the House colloquy and proposed language here, that we would not object to that.

Senator CHAFEE. As I understand it, what it means is that you can't question whether there be a utility line through there that is there, that's got an easement, but you can deal with the so-called "terms and conditions." Is that the way you understand it?

Mr. TAYLOR. That's my understanding, Mr. Chairman. Yes.

Senator CHAFEE. What do you say, Dr. Mosher?

Mr. MOSHER. Well, the League's primary concern with any user activity associated with the refuge always remains and that is that the integrity of the ecosystem must receive first priority. I would clearly defer to the Secretary's evaluation as to whether or not this piece of legislation adequately serves him in that regard.

Senator CHAFEE. Mr. Waltman.

Mr. WALTMAN. I think the important thing to do is think about why we are passing this law. We are passing this law to clarify that the purpose of the refuge system is to conserve fish and wildlife. You know, we understand the interest in the utility industry for some certainty, but our concern, I guess, is if you've got an activity such as the right of way that may have been found to be compatible 10 or 20 or 30 years ago. If the conditions change, say you have a particular species that is in more trouble today than it was

30 years ago, the Fish and Wildlife Service needs to be able to adjust the original terms and conditions, if necessary, to insure that the activity remains compatible.

I think it's highly unlikely that you would go in and remove a power line or a pipeline. That's not what folks have in mind here. But the Fish and Wildlife Service should be able to go back, if necessary, and make some adjustments to the uses that were authorized within those rights of way.

Senator CHAFEE. Well, that's the so-called "terms and conditions."

Mr. WALTMAN. That's right.

Senator CHAFEE. Senator Allard.

Senator ALLARD. Mr. Chairman, I do not have any questions.

Senator CHAFEE. Thank you. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

I want to come back to this issue of compatibility, because I think it is at the heart of the concerns that led to this and previous legislative efforts to strengthen the wildlife refuge system.

In this legislation there is the concept of wildlife-dependent recreation. It's referred to on page 8 in the discussion of the policy that will be utilized in the administration of the system. It is used again on page 15 in discussing the regulations that the Secretary shall issue relative to the compatibility process.

But in the definition of compatible use, which is on page 4, it states the term "compatible use" means a wildlife-dependent recreational use or any other use of a refuge that in the sound professional judgment of the director will not materially interfere with or detract from the fulfillment of the mission of the system or the purpose of the refuge.

I'm concerned about the phrase, any other use of the refuge. It seems as if there's a disconnect here. Throughout the body of the bill there's a lot of focus on this concept of wildlife-dependent recreational use, but in the definition of a compatible use that seems to be shattered by saying any other use, i.e. not wildlife-dependent is also potentially permissible. That disconnect concerns me.

I'd be interested in the panel's discussion of that and how they would see in the administration of this Act, that expansion, to include in the definition of compatible use, any other use would be managed.

Mr. WALTMAN. I'll start out with that. I think that there are two principles at play in the bill here, one being that only those activities that are compatible with the purpose of the refuge and the mission of the refuge system can be allowed. That can include wildlife-dependent activities, and it could include nonwildlife-dependent activities.

But the second principle in this bill is that there is a priority within the uses, such that when an individual refuge is setting out and establishing a management plan that decides what's going to be allowed on that refuge, the first category of activities that will be considered will be those that are dependent on the presence of wildlife: the wildlife observation, fishing, hunting, environmental education. Those activities must be compatible to be permitted, but they are to take priority over other activities that may not be related.

Having said that, if the refuge can sustain it, if there's adequate funding to monitor and oversee, other activities can be permitted on a refuge. Obviously, from the perspective of The Wilderness Society, we would hope that the large majority of activities in the refuge system are the so-called wildlife-dependent activities.

Senator GRAHAM. I'd like to get the comment of the other panelists, but I would like to direct your attention for possible subsequent comment to page 15, lines 3–11, which talk about what will happen after there has been a compatibility determination for wildlife-dependent recreational uses. It seems as if we are in fact putting the wildlife-dependent uses into a subsidiary category to all other uses, because they become subject to this secondary review, and I can't find any place where other than wildlife-dependent uses, which have once been found to be compatible, are subjected to a similar subsequent review.

I ask that as a question, and would be interested in your comment.

Mr. TAYLOR. Senator, I believe the preceding clause to what you referred addresses all other uses, starting on the bottom of page 14. The difference, I believe, is in the timeline called for, a mandated review of activities. Those provisions suggest that either for wildlife-dependent uses or other uses, if conditions change significantly that a review can be made at any time, but certainly not less than for wildlife-dependent uses every 15 years, and for other than wildlife-dependent uses, the bill calls for a 10-year minimum review.

To your first comment, Senator, I believe that the bill never intended, nor contemplated that only wildlife-dependent uses could be found to be compatible, and that as Mr. Waltman pointed out, the intent of the bill was to give a priority to wildlife-dependent uses, so that if everything else were equal, including a compatibility determination, but both could not be accommodated, that the wildlife-dependent uses would be given priority. But I believe the addition of the language in the definition of compatible use does not detract either from the requirement for a compatibility determination of those uses or the prioritization that the bill seeks to give to wildlife-dependent uses. So I think it simply clarifies that there is a universe of more than wildlife-dependent uses that the Secretary can find compatible as long they go through the appropriate process and judgment against the standard.

Senator GRAHAM. Thank you, Mr. Chairman.

Senator CHAFEE. Well, I take it in conclusion that referring to the language that Senator Graham was referring to and—you've got the copies of the Act in front of you? If you turn to page 4, where Senator Graham was discussing line 6 and actually line 7, the term compatible use means a wildlife-dependent recreational use—OK. No one will argue with that—or any other use of a refuge that in the sound professional judgment will not materially interfere with or detract from the fulfillment of the mission.

So you think even though it does not have to be—well, for example, grazing. In this case the—how would this work? Let's say that they do not want grazing, but they can't show that it will materially interfere with or detract from the fulfillment of the mission, and clearly it's not a wildlife-dependent recreational use, but it is

any other use that—and, in fairness, it does not interfere. So you go ahead with the grazing. Is that right?

Suppose that the rancher sues and says I want to be able to graze there?

Mr. WALTMAN. My understanding of this bill is that there's nothing in here that requires the Fish and Wildlife Service to permit a use, even if that use may be compatible. For example, there are unfortunately a number of refuges today that have few or no staff whatsoever. Obviously a refuge with no staff is going to have difficulty overseeing public uses. So whether theoretically a bird-watching activity or a grazing activity may be put together that could be compatible for that refuge, if the Fish and Wildlife Service does not want to allow it for other reasons, it does not have to. That's been the longstanding policy and legal standard that has undergirded the refuge system at least since the 1966 Act.

Senator CHAFEE. The rest of you agree?

Mr. MOSHER. I would concur with what Mr. Waltman has said, and I, reflecting on this, am reminded of Senator Kempthorne's comments and concerns, and I think this addresses those concerns as well, and particularly with respect to the grazing issue. Again, from the League's perspective, our primary concern is the protection of the resource, wildlife, and the habitat that supports that, and the functioning of the ecosystem.

That, to our satisfaction, is dealt with in the compatibility standards.

Mr. TAYLOR. Just one additional observation, Mr. Chairman. I think the definition of the term "sound professional judgment" gives the manager the discretion in exercising that to address circumstances as Mr. Waltman may have suggested where you have a refuge where there is no staff, that while a use may be found to be compatible, it's not consistent with good administration to allow it if it requires some oversight and there's no staff available there.

Senator CHAFEE. OK, gentlemen. I think there are no more questions. We want to thank you very much for coming.

PANEL. Thank you, Mr. Chairman. Thank you, committee members. Thank you.

Senator CHAFEE. That concludes the hearing.

[Whereupon, at 10:50 a.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. BRUCE BABBITT, SECRETARY OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to appear before your Committee to express the Administration's support for S. 1059, the National Wildlife Refuge System Improvement Act of 1997. This Committee has played an important role in the development of this legislation. About 4 years ago, it was this Committee which recognized the need for organic legislation and began the effort which has led us to the threshold of consensus represented in S. 1059.

But this effort has not always been so amicable. During the last Congress, the House of Representatives passed legislation over the strong objections of the Administration. This Congress began essentially in the same way. In March, Chairman Young called me before the House Resources Committee where we had a fairly unproductive hearing—not unlike many others—where we exchanged our respective, seemingly irreconcilable, positions.

But afterward, outside of the hearing room, Chairman Young and I had a brief conversation and he expressed his desire to talk and try to work out a compromise. I decided to take him up on his offer, and we then invited Congressman Miller,

Saxton and Dingell to each commit their respective staff representatives to a process of focused discussion. We also invited the Wildlife Legislative Fund; the Audubon Society; the International Association of Fish and Wildlife Agencies; and the Wildlife Management Institute.

We met once a week, for about 5 weeks. The environmental community wanted an unequivocal statutory declaration that wildlife conservation is the mission of the Refuge System. The hunting and fishing community and the state wildlife managers wanted statutory recognition that their activities constitute an appropriate use of the National Wildlife Refuge System, recognizing that the decision to allow hunting and fishing on any refuge must be predicated by an individual analysis and determination that the specific hunting or fishing program is compatible with the conservation mission of the system and purposes of the refuge. The result is a bill that will strengthen and improve our National Wildlife Refuge System as it heads into the 21st century.

The House of Representatives approved that bill by a vote of 407–1. With a couple of significant variations, S. 1059 is that same bill and I would like to take a few minutes to explain why it is so important for this Committee and this Senate to consider and pass this bill as soon as possible.

The National Wildlife Refuge System is the world's greatest system of lands dedicated to the conservation of fish and wildlife. It is a system founded in faith; a belief that, in a country as bountiful and diverse as ours, there ought to be special places that are set aside exclusively for the conservation of fish and wildlife resources. These special places are National Wildlife Refuges, where appropriately enough, the conservation needs of wildlife are paramount.

S. 1059 keeps this faith, by recognizing that the central, overarching purpose of the National Wildlife Refuge System is, and should remain, the *conservation* of fish, wildlife and their habitat. The bill maintains the crucial distinction between wildlife conservation as the dominant refuge goal and compatible wildlife-dependent recreation as a priority public use. Wildlife conservation is our purpose. The opportunity for compatible recreational uses are the important benefits that flow from this purpose. Appropriately then, the bill recognizes that the use of our refuge lands and waters, to the extent that such use can be allowed, shall be reserved first to those recreational activities which depend and thrive on abundant populations of fish and wildlife. The obligation of the refuge manager is thus clear: wildlife conservation is foremost. Where recreational activity is appropriate, let compatible wildlife-dependent recreation, including hunting and fishing, come first.

This does not mean that other compatible non-wildlife dependent activities cannot also be allowed within a wildlife refuge. Rather, it simply acknowledges that those compatible activities which are truly dependent upon the presence of wildlife should, logically, be accorded a priority within a wildlife refuge over other proposed activities which are not tied to the presence of wildlife. Senator Kempthorne has authored a provision in S. 1059 which clarifies that both wildlife-dependent as well as other uses of refuges—like grazing for instance—can be “compatible uses”, as long as they do not materially interfere with or detract from the fulfillment of the mission of the System or the purpose of the refuge. This proposed change is acceptable to the Administration.

The bill maintains the strict policy that *all* refuge uses must be “compatible”. It sets up a sensible, consistent and public process for the Service's managers to follow in making compatibility determinations, and it adopts the Service's longstanding regulatory standard for compatibility.

S. 1059 appropriately defines the specific categories of wildlife-dependent recreation which are to be considered as the “priority public uses” for the refuge system: hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Where compatible, refuge managers are to provide increased opportunities for these uses and enhance the attention they receive in refuge management and planning.

Finally, the bill maintains the historic Refuge System policy that refuges are “closed until open”. That is, in order to ensure that wildlife needs come first, existing refuge lands and waters are closed to public uses until they are specifically opened for such uses. However, a new process is established for identifying compatible wildlife-dependent recreational activities prior to the acquisition of new refuge areas, thereby avoiding the temporary closure of on-going compatible recreational activities.

Senator Graham has inserted another notable provision, requiring the Secretary to “monitor the status and trends of fish, wildlife, and plants in each refuge.” Improving our biological capability at, and understanding of each refuge is vital to accomplishing our conservation mission. The Fish and Wildlife Service and the Biological Resources Division of the U.S. Geological Survey will be working hand-in-

glove to fulfill this requirement and again, you have the Administration's full support.

Another issue which arose during House consideration of the bill concerns utility rights-of-way and other refuge uses which may be authorized for periods of many years. In the case of utility rights-of-way, authorizations are usually granted for periods of 30 to 50 years. Since the bill requires review of each non-wildlife dependent refuge use, at least every 10 years, the utility industry is concerned that these reviews not be interpreted to require a new permit process at each 10 year interval. This is not the case and during House consideration the Administration supported a colloquy to clarify that, in the case of such long-term authorizations, these reviews would examine compliance with permit terms and conditions and would not require a new permitting process. I understand that some Senate Members may be interested in legislative language to codify this view. Provided language can be drafted that accurately reflects the House colloquy, I believe it would have the Administration's support.

Attached to my written statement is a summary of the key provisions of S. 1059. Mr. Chairman, let me say simply that your bill contains all of the key ingredients that will help improve our refuge system and we should get this legislation enacted as soon as possible.

Mr. Chairman, we have today an opportunity to enact historic legislation that embodies the principle that whether they cast a line, pitch a decoy, or click a shutter, the 30 million Americans who annually visit and enjoy our refuges have one common and enduring interest—the conservation of fish, wildlife and their habitat. Ultimately, that is what the National Wildlife Refuge System is about and that is what this bill will promote and ensure.

I look forward to working with the Committee to enact this legislation as soon as possible. I am happy to answer any questions that you may have.

ATTACHMENT

KEY PROVISIONS OF S. 1059, THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT

The National Wildlife Refuge System Improvement Act represents a consensus among diverse constituencies with interests in the management and use of the Refuge System. Negotiations leading to the development of the nearly-identical bill passed by the House involved Interior Department Secretary Bruce Babbitt; the legislation's sponsors, including Congressmen Don Young, John Dingell, Jim Saxton, and George Miller; and representatives of environmental and sportsmen's groups.

This legislation strengthens protections for individual refuges and for the National Wildlife Refuge System. Its main components improve on the National Wildlife Refuge System Administration Act of 1966 by amending it to include a unifying mission for the Refuge System and a new process for determining compatible wildlife-dependent public uses of refuges.

Key provisions of S. 1059 mirror those found in President Clinton's Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System, signed in March 1996. Provisions coinciding with the Executive Order are the mission statement, priority public uses, and a requirement that the environmental health of the Refuge System be maintained.

Mission

- The legislation establishes a strong and singular conservation mission for the National Wildlife Refuge System:

"To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans."

- The legislation requires the Secretary of the Interior to ensure that the mission of the National Wildlife Refuge System and purposes of the individual refuges are carried out. It also requires the Secretary maintain the biological integrity, diversity, and environmental health of the Refuge System.

Priority Public Uses

- The legislation establishes certain wildlife-dependent recreational uses as priority public uses where compatible with the above mission and the purpose of individual refuges. These uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

- The legislation establishes these wildlife-dependent recreational uses as “legitimate and appropriate” public uses of the Refuge System. It states that these uses should be facilitated where compatible but does not mandate them.
- The legislation retains refuge manager’s authority to use their professional judgment to determine compatible uses and whether or not they will be permitted. It establishes for the first time a statutory process for determining what constitutes a “compatible use,” and retains the regulatory definition of “compatible use” currently used by the U.S. Fish and Wildlife Service, the Interior Department agency responsible for managing the National Wildlife Refuge System.
- The legislation authorizes the Secretary of the Interior to temporarily suspend the compatibility standard to cope with an emergency on a refuge threatening public health and safety or that of any wildlife population.

Public Involvement

- The legislation requires public involvement in any decisions to allow new uses and renew existing uses.
- The legislation requires public involvement in the development of comprehensive refuge management plans and requires that such plans be prepared for every refuge.

Other provisions

- The legislation’s new compatibility process exempts uses by other federal agencies with primary jurisdiction over the land on which a refuge is located and use of airspace over a refuge (which is regulated by the Federal Aviation Administration). The legislation also provides for continuation of existing uses of refuge lands by other agencies under applicable laws and agreements.
- The legislation maintains the status quo with respect to all aspects of water rights.
- The legislation maintains the status quo with respect to state management of resident wildlife outside of refuge lands.

QUESTIONS FROM SENATOR INHOFE TO SECRETARY BABBITT

SECTION 1

I have some concerns about rights-of-way within refuges across the country, so I am glad to see that your testimony is supportive of the Colloquy between Congressmen Young and Saxton. I do, however, still harbor some skepticism about the future interpretation of this legislation.

Question 1. Would it be acceptable to the Administration to exempt utility rights-of-way from the provisions of S. 1059?

Answer. The Administration would not support exempting utility rights-of-way from the compatibility provisions of S. 1059. We are not aware of any valid reasons for doing so. Requests for rights-of-way on refuges are considered under section 4(d) of the existing National Wildlife Refuge System Administration Act (16 U.S.C. 668dd(d)(1)(B)), which is not changed by S. 1059. This point needs to be emphasized—the current statutory provisions and criteria for granting rights-of-way through refuges are not changed by S. 1059 or its companion House bill, H.R. 1420.

S. 1059 does require that each non-wildlife-dependent use be re-evaluated for compatibility not less frequently than every ten years. The Chafee amendment specifies that for long-term uses, such as pipeline rights-of-way, the review will cover compliance by the permit holder with the terms and conditions of the permit, not the existence of the right-of-way. This provision merely requires on a specified, periodic basis something that under current law is done on an ad hoc basis.

Question 2. As part of the compatibility review process, do you anticipate that the question of whether or not pipelines should be allowed in refuges will be an issue?

Answer. I do not anticipate that question being an issue. The review process to which you refer deals with existing authorized uses and will ensure that their compatibility is maintained. It will not address the broader question of allowing rights-of-way generally.

Question 3. Could the result of one of these reviews be a decision not to allow pipelines in refuges?

Answer. No, as noted in the answer to Question 2, the reviews would not be dealing with the broader question of authorization of rights-of-way generally.

Question 4. It concerns me that the compatibility review process could become a mechanism that activists could use to simply stop development, even if there is not

adverse impact on the refuge. Often there may be no practical alternative route available to the pipeline. Are there safeguards here to make sure that the outcome of the review process is decided on the merits and not simply on politics?

Answer. Yes, there are. The review process will be governed by strict procedures and standards that are required by S. 1059 to be adopted as regulations. These regulations will be adopted only after compliance with the Administrative Procedure Act. It would be very difficult to make non-merit-based decisions under this framework.

SECTION 2

S. 1059 will give the Secretary new authority to “temporarily suspend * * * any activity in a refuge * * * if the Secretary determines it is necessary to protect the health and safety of the public or any fish or wildlife population.” I am concerned that this new authority will give the affected parties little opportunity to respond or appeal the decision.

Question 1. What assurances could you give me that abuse of this power will not take place?

Answer. The Secretary would only use the emergency powers clause if an event or set of circumstances demanded immediate action. An example might be temporarily closing access to certain public access roads or trails due to impending flooding which threatened public safety. Another example would be a waterfowl disease outbreak on a refuge. Waterfowl diseases amplify quickly and can threaten large numbers of birds. In a case such as this the Secretary would need to take swift action to stem the spread of the disease to the larger population.

The emergency powers clause is not intended to be used to resolve longer term management issues. These would be dealt with through the planning process and/or compatibility determination process, both of which would require public involvement under S. 1059.

Question 2. Would the Administration consider legislation that would allow an appeals process?

Answer. No, an appeals process would render this section ineffective. This clause would only be invoked when an emergency required immediate but temporary action to protect the health and safety of the public or any fish or wildlife population. An appeals process would eliminate the Secretary’s discretion in reacting to such an emergency. We believe that the requirement to make a specific finding of necessity to protect health and safety precludes abuse.

SECTION 3

Answers 1, 2 and 3. My comments on the Diane Rehm show were not directed at the work of Dr. Christy or Dr. Lindzen, and I have no reason to suspect that the results of their work are influenced by the source of their funding. Both scientists raise important questions over specific aspects of the science of climate modeling and prediction. This sort of debate is an extremely important and healthy aspect of the international scientific process, and it is precisely this type of honest back-and-forth discussion that ultimately results in scientific consensus.

However, it is also clear to me that there are those who wish to cloud the debate, not by engaging in scientific argument, but by changing the subject entirely. They realize that they cannot argue with the well-accepted scientific recognition that atmospheric change of the magnitude that is now occurring must have significant effects on climate and weather, and ultimately on humans as well as plants and animals. Instead, they point to the legitimate scientific debate over whether particular weather events like storms or floods represent unequivocal evidence of the beginnings of climate change, or over particular elements of the climate modeling debate, and assert that there is no scientific consensus over the larger issue. This is simply not true. Continued support for activities that are intended to cloud the issue will not assist the American public in making sound choices about how to respond to this urgent threat.

In this regard, I must commend the actions of those leaders in American industry who have stepped forward to acknowledge the problem and the need to act. Foremost among these is John Browne, Chief Executive of British Petroleum, who acknowledged the scientific consensus and stated that “it would be unwise to ignore the mounting concern.” It is precisely this type of leadership that is required if we are to face the challenge of climate change responsibly.

QUESTIONS FROM SENATOR BOXER TO SECRETARY BABBITT

Question 1. One of the more spectacular and robust refuges is the Arctic National Wildlife Refuge (ANWR) in Alaska. How will this bill affect exploration for oil in ANWR?

Answer. S. 1059 will not result in any changes in Service policy with respect to provisions for oil and gas development and exploration in the Arctic National Wildlife Refuge. Development and exploration will continue to be prohibited by the provisions of the Alaska National Interest Lands Conservation Act (ANILCA).

Question 2. Other federal agencies have extensive experience at developing management plans for their units. Development of these plans have been controversial, time consuming, and costly. Will the comprehensive refuge plan process be as contentious? What are you going to do to ensure that the experiences of other agencies will not be repeated?

Answer. Unlike other agencies that have multiple use mandates for their lands, S. 1059 provides an explicit primary mission for the National Wildlife Refuge System, establishes priorities for use of refuge lands, and reemphasizes current standards and requirements for decisions on allowing such uses. The fact that S. 1059 provides statutory directives for the very issues which often lead to conflicts during multiple-use planning should help us avoid such during our planning process.

We have already done comprehensive conservation plans for all refuges in Alaska, and at a number of refuges elsewhere, often those with existing conflicts. It has been our experience that while the planning process itself can be contentious, the final plans generally resolve, not exacerbate, the controversies. It is our expectation that the more explicit standards in S. 1059 would result in an even more satisfactory planning process than has occurred in the past.

Question 3. How much are the refuge plans going to cost? How long will the refuge plans take to complete?

Answer. S. 1059 requires that the development of conservation plans for all refuges be completed within 15 years of enactment. We estimate that the cost to prepare 250 comprehensive conservation plans for 511 refuges during this time period will be approximately \$2.5 to \$3 million annually.

PREPARED STATEMENT OF GARY J. TAYLOR, LEGISLATIVE DIRECTOR,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Thank you, Mr. Chairman, for the opportunity to share with you the perspectives of the International Association of Fish and Wildlife Agencies (IAFWA) on S. 1059. I am Gary Taylor, Legislative Director of the Association, and I bring to you today the enthusiastic and wholehearted support of the 50 State fish and wildlife agencies for S. 1059. Quite simply, we believe this bill provides a needed and sound underpinning in fish and wildlife conservation for the administration of the National Wildlife Refuge (NWR) System. It is a bill that is good for fish and wildlife, good for the NWR System, and good for our citizens who appropriately use and enjoy our National Wildlife Refuges for compatible activities such as hunting, fishing, nature observation and photography, and conservation education. We applaud you and Senator Baucus for having a hearing on this landmark legislation and urge you to expeditiously report the bill to the Senate floor, assiduously protect it from other amendments and send it back to the House for concurrence and on to the President for signature.

The Association, founded in 1902, is 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.

Secretary Babbitt has shared with you the process which resulted in the consensus language in the House companion bill, H.R. 1420, and which the House sent to you with an overwhelming vote of 407 to 1. We would like to again recognize and thank Secretary Babbitt and Congressmen Young, Dingell, Saxton and Miller for their leadership role in shaping this consensus. Secretary Babbitt's personal involvement in shepherding this bill is reflected in its success and reflects his personal commitment to ensuring the integrity of our National Wildlife Refuges for fish and wildlife conservation, a commitment our State fish and wildlife agencies also share. I would also like to recognize that the foundation for this bill was laid in the 103rd

Congress in a bill from Senators Graham, Baucus and Chafee and we appreciate your pioneering efforts in this endeavor.

Let me now quickly summarize why the 50 State fish and wildlife agencies strongly support S. 1059 and H.R. 1420.

First, the bill establishes an overarching mission of the NWR System to conserve fish and wildlife and their habitats for the use and enjoyment of present and future citizens of the United States. It also gives the Secretary affirmative responsibilities to manage the System to meet this mission and protect the ecological integrity of the units within the System. We believe such an overarching objective in statute is necessary to give and ground direction for management of the many disparate units of the System in fish and wildlife conservation. NWRs aren't junior grade national parks nor glorified national recreation areas—they can and should represent the best examples of the science and practice of fish and wildlife management, where wildlife dependent recreational uses should be given priority public use considerations so our citizens can enjoy and learn about the bountiful fish and wildlife on these public lands.

Second, this bill give the Secretary the authority to permit compatible uses of NWRs only after and when the Director of the Fish and Wildlife Service (FWS) (through the Refuge Manager), exercising professional judgement consistent with principles of sound fish and wildlife management and available science and resources, finds that the use will not materially interfere with or detract from the fulfillment of the mission of the System or purposes of the individual refuge. This is the same standard for compatible use that the FWS policy has applied to this determination for years. The bill further goes on to require the Secretary to establish a process in regulation for compatibility determinations, including providing opportunity for public involvement.

In giving the Secretary the authority to permit compatible uses, the bill adopts in statute as a policy of the United States the provisions of the President's 1996 Executive Order which affirms the legitimacy of compatible wildlife dependent recreation as a priority general public use of the System. S. 1059 further directs the Secretary to facilitate that use, subject to necessary and appropriate restrictions. The bill does not change the standing of other uses under existing law and policy of the USFWS. Further, as you are aware, Mr. Chairman, the bill does not prohibit other uses, as long as they meet the compatibility standard, and in most cases compatible wildlife dependent recreational uses and other compatible uses can be accommodated, but if they are both equally compatible but can't be accommodated, the bill gives a priority to wildlife dependent recreational uses. The Association strongly and wholeheartedly endorses this perspective because wildlife dependent recreational uses derive from healthy and robust fish and wildlife populations, they are generally minimally intrusive, and provide opportunities for our citizens—birders, anglers, hunters, educators and students—to enjoy and learn about fish and wildlife conservation on lands dedicated to this purpose. As you are also aware, Mr. Chairman, sportsmen and women of this Nation have contributed significantly to the support of the NWR System through their purchase and use of federal waterfowl stamp funds, their support for the North American Wetland Conservation Act program (which as you know is funded in part from interest on Pittman-Robertson funds), and other federal-private cost share programs for acquisition of NWRs. This provision giving wildlife dependent recreational uses priority general public use consideration recognizes their contribution.

Third, S. 1059 recognizes that NWRs are important components of and contribute to the larger ecosystems in which they are found and as such should be managed with appropriate attention to the surrounding lands. The bill recognizes that State fish and wildlife agencies are the presumptive front line managers of fish and wildlife within their borders and have the statutory stewardship responsibility to ensure the vitality of fish and wildlife resources for their citizens. This bill further recognizes the need for, and directs cooperation with State fish and wildlife agencies, in meeting objectives for fish and wildlife conservation on the refuge, and in coordinating the role of the refuge in meeting statewide objectives for fish and wildlife. Most State fish and wildlife agencies have developed statewide comprehensive fish and wildlife resource and habitat conservation plans which can be helpful to the USFWS in meeting their refuge objectives. We also appreciate the Federal Advisory Committee Act exemption for the Secretary in coordinating conservation efforts with State agencies.

Finally, we fully support individual refuge conservation planning and involvement of the public, as provided for in the bill. We also appreciate the Act that the planning and compatibility processes are not so burdensome that the professionally trained refuge manager is not perpetually engaged in process, instead of accomplishing on the ground objectives for fish and wildlife conservation and their habitats,

and providing appropriate opportunities for compatible wildlife dependent recreational uses. This is where the NWR managers should spend their time, not in onerous process, or in litigation. We believe that the bill strikes the necessary balance for planning and public involvement but without being burdensome or constraining the exercise and application of sound professional fish and wildlife science and management by the refuge manager.

In conclusion, Mr. Chairman, the 50 State fish and wildlife agencies enthusiastically support S. 1059 and H.R. 1420, and again would like to recognize the efforts of Congressmen Young, Dingell, Saxton, Miller, Secretary Babbitt, Senators Chafee, Graham, Kempthorne, and Baucus for bringing us to this point. We urge expeditious Senate passage without further amendment and are hopeful for quick House concurrence and a Presidential signing ceremony this summer.

Thank you for the opportunity to share the Association's perspectives and I would be happy to address any questions you might have.

PREPARED STATEMENT OF JAMES A. MOSHER, PH.D., CONSERVATION DIRECTOR,
Izaak Walton League of America

Mr. Chairman and Members of the Committee: I am Jim Mosher, conservation director of the Izaak Walton League of America, and I am pleased to have this opportunity to talk with you about the National Wildlife Refuge System Improvement Act of 1997.

The League is celebrating its 75th anniversary this year, having originated just a few years after the birth of the refuge system. Our mission is to conserve, maintain, protect and restore the soil, forest, water and other natural resources of the United States and other lands and to promote means and opportunities for the education of the public with respect to such resources and their enjoyment and wholesome use.

Our support of the National Wildlife Refuge System is more than seven decades old. Following the League's first national convention in 1923, we became the principal driving in establishing the Upper Mississippi Wildlife and Fish Refuge which set aside 300,000 acres of bottomland and riparian habitat in the Upper Mississippi River basin. Subsequently, we played a substantial role in establishing and/or expanding the National Elk Refuge in Jackson Hole, Wyoming, Bear River Migratory Bird Refuge in Utah that I believe was the first refuge to specifically permit human recreational use of the area, setting aside 60% as sanctuary and allowing public hunting on the remaining 40%, the Horicon National Wildlife Refuge in Wisconsin, Protection Island National Wildlife Refuge in Washington, Edwin B. Forsythe National Wildlife Refuge in New Jersey, Hamden Slough National Wildlife Refuge in Minnesota, Patoka National Wildlife Refuge in Indiana, and Great Dismal Swamp National Wildlife Refuge in Virginia. We are now working to support the newest refuge the Grand Kankakee Marsh Wildlife Refuge, which lies on the Illinois and Indiana border and would restore a part of what originally was a 500,000 acre wetland. It is unlikely that over the past 75 years any other national conservation group has devoted a higher percentage of its energy and resources to the refuge system.

I am pleased to speak on behalf of our 50,000 members in support of the National Wildlife Refuge System Improvement Act of 1997. We believe this bill provides for reasonable and sound management of the National Wildlife Refuge System and balances multiple interests in a manner that protects the integrity of these valuable natural areas. The League believes refuges should be available to carefully controlled hunting, fishing and other compatible recreational uses to the extent these uses do not intrude upon environmental values or primary management purposes. This long established League policy is fully consistent with the President's March 1996 Executive Order 12996, and I believe the National Wildlife Refuge System Improvement Act of 1997 will implement the full intent of that order.

We believe it is important and long overdue that the refuge system be provided a legislatively established mission statement and that this mission statement recognize the overarching importance of the protection of wildlife and other natural resources. There also must be provisions for a process by which compatibility of uses can be determined with an opportunity for citizen input. It is important that a planning process be established that will identify the fiscal, staff and program needs of the Refuge System. This bill accomplishes these goals and does so in a manner that provides for an appropriate balance between protection and use.

This bill is the culmination of several years of debate and previously failed attempts to craft legislation that could garner consensus among many divergent interests. We urge the committee to move expeditiously to bring this bill to the full Senate for consideration. It is a good bill, and the time is right. Conservation of all our

natural resources and especially our public lands may be the single most important issue by which future generations measure our success.

Lastly, I take this opportunity to thank Secretary Babbitt and his staff, members and staff of the House of Representatives and the environmental and conservation groups that participated in the difficult negotiations that produced this bill. Its nearly unanimous passage by the House is a measure of their success.

I thank the chairman and members of this committee again for the opportunity to share the Izaak Walton League's assessment of this bill and our views and support of the National Wildlife Refuge System.

PREPARED STATEMENT OF JAMES R. WALTMAN, DIRECTOR,
REFUGES AND WILDLIFE PROGRAM, THE WILDERNESS SOCIETY

Mr. Chairman and members of the Committee, I am pleased to testify on behalf of The Wilderness Society and our more than a quarter of a million members in support of S. 1059, the National Wildlife Refuge System Improvement Act of 1997. Founded in 1935, The Wilderness Society is devoted to preserving wilderness and wildlife, protecting America's national lands, and fostering an American land ethic.

S. 1059 IS LONG OVERDUE

The Wilderness Society has supported "organic" legislation for the National Wildlife Refuge System similar to that under consideration today for close to three decades. Congress made a start towards such a statute when it passed the National Wildlife Refuge System Administration Act as section 4 of the 1966 Endangered Species Preservation Act. But that legislation is far less comprehensive than the laws governing the management of our National Parks, National Forests, and the public lands administered by the Bureau of Land Management.

The lack of a clear, comprehensive statute for the Refuge System has been at least partly to blame for a myriad of problems. The very purpose of the system has often been ambiguous. Political pressures have led to the establishment and continuation of activities that harm wildlife and habitat on the refuges. Planning for the refuges has been haphazard at best. Research and monitoring of fish and wildlife populations has been lacking. Perhaps worst of all, other federal agencies, both within and outside of the Interior Department have often "bullied" the Refuge System. In fact, even the Fish and Wildlife Service has occasionally contributed to the undermining of refuges as this testimony will later point out.

Our goals for a Refuge System organic act have been straightforward:

- An unambiguous statement that the purpose of the National Wildlife Refuge System is to conserve the nation's diversity of fish and wildlife.

Although at least in theory, each national wildlife refuge is established with an individual purpose of set of purposes, there is no Congressionally approved overarching mission statement for the Refuge System.

- A formal process for reviewing the compatibility of refuge activities that provides opportunities for public review and comment.

Over the years, many of the refuges have been subjected to activities that have undermined the purposes for which these areas have been established. (See Appendix I for a partial list of government reports on these problems). During these years, there have been at least three "major thrusts" by the Fish and Wildlife Service to address these problems, the most recent of which by the Clinton Administration. But the endless pattern of broken * * * fixed * * * broken * * * fixed will never end unless a formal process is enacted to review and reevaluate the compatibility of refuge activities

- Affirmative stewardship obligations for the Secretary of the Interior to protect and provide for the Refuge System.

The Refuge System has been a step-child within the federal government at least in part because there are few explicit legal mandates for the Secretary of the Interior to provide for its well-being.

- A requirement that all national wildlife refuges be administered pursuant to a comprehensive conservation plan developed with full public involvement.

Long range planning is essential for the proper and consistent management the national wildlife refuges. Unfortunately, by our estimation fewer than a sixth of the refuges have prepared such plans and some of these are extremely old and out of date.

- A marked improvement in the quality of science upon which refuge management decisions are based.

Earlier this decade, as part of its draft Programmatic Environmental Impact Statement on the Refuge System, the Fish and Wildlife Service indicated that fewer

than a third of the refuges had even rudimentary inventories of their fish and wildlife populations. To ensure that sound decisions are made in the management of the refuges, the Fish and Wildlife Service must have an adequate understanding of the status and trends of their fish and wildlife populations and habitats.

S. 1059 is not the exact bill that we would have drafted. It is the obvious product of compromise. In our view, the bill places too much emphasis on recreation. But we are quite pleased that the bill contains each of these major elements that we have supported for so many years. S. 1059 contains: (1) a clear conservation-based mission statement for the Refuge System; (2) a formal compatibility process; (3) affirmative duties for the Secretary of the Interior; (4) a planning requirement; and (5) improved monitoring of fish, wildlife, and plants in the refuges. The latter provision was wisely added to the House-passed bill to help ensure that refuge management is based on a firm understanding of fish, wildlife, and plant populations.

In addition, S. 1059 would recognize wildlife observation, hunting, fishing, and environmental education as "priority public uses" of the System. This is an appropriate policy that was the centerpiece of President Clinton's Executive Order 12996 on the management of the Refuge System. This policy was also included in Representative George Miller's "Theodore Roosevelt Wildlife Legacy Act" (H.R. 952) which we endorsed. The principle is simple. First and foremost, the Refuge System should be for the conservation of fish and wildlife and habitats. Second, where appropriate and compatible, and when adequate funding is available, those recreational and interpretive activities that are related to learning about or experiencing fish and wildlife should be fostered. Finally, those activities that are not related to fish and wildlife should receive the lowest priority on national wildlife refuges.

While we believe that the technical amendments described later in this testimony would improve the bill, we urge the Senate to move swiftly to pass S. 1059 and not to tinker unnecessarily with this bill. No special amendments for specific refuges or specific activities—such as utility right-of-ways—are appropriate. Any such amendments would cause us to reassess our support of the bill.

THE NATIONAL WILDLIFE REFUGE SYSTEM IS A NATIONAL TREASURE

The National Wildlife Refuge System is the only network of national lands established specifically to conserve fish and wildlife. The System includes more than 92 million acres of the most biologically diverse lands in America. From wetlands to forests, tundra to deserts, prairies to tidal pools, the National Wildlife Refuge System encompasses lands and waters in all 50 states as well as Puerto Rico, the Virgin Islands, and far Pacific islands.

The first refuge was established by President Theodore Roosevelt in 1903 on Florida's Pelican Island to protect wildlife that was being decimated by market hunters. Herons, egrets and pelicans; gulls, terns and other shorebirds; and all manner of waterfowl found sanctuary on Roosevelt's refuges. Large mammals including bison, elk and antelope were also protected. In this sense, the Refuge System was Roosevelt's Endangered Species Act. To this day, refuge management forms the core of recovery efforts for scores of endangered and threatened species—from Key deer to whooping cranes, masked bobwhite quail to Ash Meadows blazing stars, red wolves to Lange's metalmark butterflies. Many other species would be headed for the endangered species list if not for the protections afforded by the National Wildlife Refuge System.

A variety of unique ecosystems have been preserved within the Refuge System. Wetlands like the Great Dismal Swamp in Virginia, Okefenokee in Georgia, Klamath Basin marshes in northern California-southern Oregon, and Mississippi River floodplains are found in the System. Arctic tundra and prairie potholes, tropical Hawaiian forests and Maine woods, Sonoran deserts and high deserts are all found in the Refuge System. It would be difficult to invent a better apparatus to monitor the status and trends of America's fish and wildlife and their habitats than the more than 500 national wildlife refuges.

The vast majority of the Refuge System (about 95 percent) was withdrawn from the public domain. Two million acres (2.3 percent) of the System has been acquired with funds from the Land and Water Conservation Fund and 1.7 million acres (1.8 percent) has been acquired from sales of Duck Stamps to duck hunters and others who purchase the stamps as an entrance pass to refuges. Other areas have been acquired with funds from the Wetlands Loan Act (the "loan" was forgiven by Congress when it passed the 1986 Emergency Wetlands Resources Act) and from donations.

For the first half of its ninety-four year history, the Refuge System was managed almost entirely to provide complete sanctuary for wildlife. The 1929 Migratory Bird Conservation Act continued the standard set by Roosevelt, requiring refuges estab-

lished under its authority to be “inviolable sanctuaries” for migratory birds. A handful of refuges allowed limited hunting. In 1949, an amendment to the Duck Stamp Act permitted migratory bird hunting on up to 25% of new refuges acquired for migratory bird conservation. In 1958, Congress increased this maximum allowable area to 40%.

Today, the Refuge System provides exceptional opportunities for wildlife-related recreation and environmental education. In 1996, over 27 million people visited national wildlife refuges to observe and photograph wildlife. Five million anglers and 1.5 million hunters went to the refuges, and nearly 500,000 students visited the refuges for environmental education programs. But we visit the refuges on the wildlife’s terms. Nearly a third of the refuges contain such sensitive habitats or wildlife populations that public visitation is prohibited because in the Refuge System, wildlife must come first.

S. 1059: YEARS IN THE MAKING

Just a few years after passage of the 1966 Endangered Species Preservation Act and its component National Wildlife Refuge System Administration Act, an esteemed panel of wildlife experts issued a report to Interior Secretary Stewart Udall on the Refuge System. The Leopold Committee, as it came to be known after A. Starker Leopold who led the study, reported that “What is still lacking is a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development.” The Committee recognized that without such an underlying philosophy, the Refuge System would be unable to resist “pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes.” This was the first of numerous such reports on the status of the Refuge System (Appendix I).

In the late 1960’s and early 1970’s, Mr. Harry Crandell, Wildlife Program Director for The Wilderness Society and a former branch chief in the Fish and Wildlife Service’s Division of Refuges, developed a number of ideas for legislation to help address the challenges outlined by the Leopold Committee. Mr. Crandell left The Wilderness Society in 1973 to join the staff of the House Interior and Insular Affairs Committee where he worked closely with Congressman John Dingell. Many of Mr. Crandell’s concepts were included in Congressman Dingell’s “National Wildlife Refuge System Organic Act of 1974.” While that Act did not pass, a number of its provisions became law as the 1976 “Game Range” amendments to the National Wildlife Refuge System Administration Act.

A decade later, after a career which spanned 24 years in the Fish and Wildlife Service and included the position of Chief of the agency’s Division of Refuges, Mr. William Reffalt became the Society’s Program Director for refuges and reinitiated efforts to update Refuge System law. After producing several reports on the widespread problems that the Refuge System was experiencing with incompatible commercial, recreational, and other activities, the Society helped persuade Congressmen Mike Synar and Gerry Studds to direct the General Accounting Office (GAO) to investigate these problems. In 1989, the GAO released its report: *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action*. Between 1989 and 1994, The Wilderness Society and other conservation organizations vigorously supported Refuge System legislation introduced by Senator Bob Graham and Congressmen Studds, Synar, and Sam Gibbons in response to the GAO’s report.

In 1994, we supported the compromise bill developed with the help of staff from Senator Graham, Senator Baucus, Senator Chafee, and Senator Kempthorne and approved by the Environment and Public Works Committee. Notably, that bill had the support not only of The Wilderness Society and other conservation groups, but also the International Association of Fish and Wildlife Agencies, the Wildlife Management Institute, National Rifle Association, Wildlife Legislative Fund of America, and other recreation interests.

During the 104th Congress and first months of the current Congressional session, The Wilderness Society and other conservation groups fought vigorously against the House bill whose title is now shared by S. 1059—all the while expressing frustration that the hard fought compromise of 1994 had been abandoned.

Today, once again we have an opportunity to pass a bill with broad support. Let’s make sure we finish the job this time.

WILDLIFE-DEPENDENT RECREATION IS APPROPRIATE IN THE REFUGE SYSTEM

America’s hunters have made a valuable contribution to the National Wildlife Refuge System. With the purchase of Duck Stamps, waterfowl hunters and others who

purchase the stamps as an entrance pass to refuges have funded the acquisition of 1.7 million acres (1.8 percent) of refuge lands. Many hunters were strong supporters of the Refuge System even in the first forty-six years of the system's history when hunting was a rare exception on refuges.

Although existing law already recognizes hunting as an appropriate use in the Refuge System that may be permitted where determined to be compatible with refuge purposes and when funds are available to administer it, S. 1059 would further declare hunting to be one of several activities to be considered "priority public uses." The House passed its version of this bill by near unanimous vote. If there are any organizations devoted to eliminating hunting from the Refuge System they must be the least persuasive around.

If The Wilderness Society has any lingering disappointment regarding the bill before the Committee, it is that the debate surrounding it has been so dominated by this one issue. Hunting can be an appropriate use of areas within the Refuge System. Having established this with utter certainty, we hope that discussions about the future of the Refuge System will focus more on the conservation issues facing these lands and waters, including endangered species preservation and recovery, wilderness protection and restoration, and water quality and quantity.

ENDANGERED SPECIES CONSERVATION ON THE REFUGES:
ARE WE GETTING THE JOB DONE?

Although we urge the Committee and the Senate to pass this bill as expeditiously as possible, once this bill is enacted, we urge you to review more closely the many important conservation issues facing the Refuge System. For starters, the Refuge System would benefit from a thorough review of the efficacy of its programs to protect and recover threatened and endangered species. This may be an appropriate topic for a hearing in conjunction with your efforts to reauthorize the Endangered Species Act.

Management of the National Wildlife Refuge System represents an important part of the federal government's share in the effort to protect and recover endangered and threatened species. More than 60 national wildlife refuges have been established specifically to conserve endangered and threatened species. In addition, a provision of the 1966 National Wildlife Refuge System Administration Act amended the purposes of all refuges established pursuant to the Migratory Bird Conservation Act so that such refuges are to be administered to "conserve and protect migratory birds in accordance with treaty obligations * * * and [to conserve] other species of wildlife found thereon, *including species that are listed pursuant to [the Endangered Species Act].*" Refuge lands established under the Refuge Recreation Act are also to be administered for endangered or threatened species. All told, 482 refuges provide more than 250 listed species with vital habitats at some point in their life cycle.

One would hope that the Fish and Wildlife Service would place a high priority on the management of threatened and endangered species on refuges—particularly on those refuges established specifically to conserve such species. For a rough assessment of how imperiled species were doing on the refuges and other national lands, we reviewed the Service's 1994 report on the status of recovery efforts and species inventories for each of the four major national lands agencies. As we would have expected (and hoped), according to the Service's 1994 report, species occurring on refuges were fairing better than average: 20% of the endangered and threatened species that occurred on refuges were improving and 37% were stable. This index of success (57% improving or stable) was nearly twice the rate for species that did not occur on refuges. On the 60 refuges established specifically to conserve endangered and threatened species, 25% were improving and 44% were considered to be stable.

For species occurring on U.S. Forest Service lands, 14% were improving and 31% were stable. Numbers for the Bureau of Land Management and National Park Service were most likely artificially high. Ten percent of the listed species on BLM lands were improving and 36% stable, but BLM reported only those species on which they had spent conservation funds in the last four fiscal years. We would expect species that occur on BLM lands but for which the agency has not expended resources to be doing more poorly and thus would bring down these percentages. Twenty percent of listed species occurring on national parks were increasing and 37% stable, but the most recent species lists the National Park Service had was from 1988—species listed more recently are generally in worse shape than those for which the Endangered Species Act has had a number of years to work and we would therefore expect more recently listed species to lower these percentages as well.

While these admittedly rough calculations suggest that, compared to other federal lands, the Refuge System is doing better than average at conserving endangered

species, real problems do exist—even on those areas established specifically to conserve listed species. Unfortunately, the Fish and Wildlife Service sometimes shares accountability for these problems.

- The Cabeza Prieta National Wildlife Refuge (AZ) contains nearly all of the critically endangered Sonoran pronghorns in existence in the United States. Fewer than 150 of these animals exist today. Yet the Fish and Wildlife Service recently issued an incidental take permit for the Marine Corps to harass this endangered species while increasing by fivefold its low level training flights over the refuge. The Marines have several alternative training sites; the pronghorn has no where else to go.

- The Bon Secour National Wildlife Refuge was established by an act of Congress in 1980 “to preserve fragile barrier island habitat along the Alabama Gulf Coast” for a variety of wildlife species including “nationally endangered and threatened species indigenous to this ecosystem.” Yet recently one division of the Fish and Wildlife Service has issued incidental take permits for condominium developers to destroy habitat for the endangered Alabama beach house and kill individuals of this species *within the acquisition boundary of this national wildlife refuge established for their protection.*

Of course, the developments would also destroy habitat for a large number of migratory birds would arrive here from their wintering grounds in Central and South America and the many other species that depend on the rapidly disappearing barrier island ecosystem. In fact the development to be permitted by the Service is to occur within an area designated as “Priority I” lands for acquisition by another unit of the very same agency. If ever there was a case of the right hand not knowing what the left is doing, this is it.

Unfortunately, research that we have conducted over the past several months indicates that a number of the refuges that have been established specifically to conserve endangered species have also been harmed by simple neglect—even as the Fish and Wildlife Service has found the means to increase recreational programs across the Refuge System. Of the 44 endangered species refuges that we have contacted to date, 12 had no staff or budgets and were administered nominally from other refuges sometimes hundreds of miles away; and 7 had very limited staff and no biologists. Ten of the refuges fully acknowledged to us that they have no monitoring programs in place for the species under their care and could not therefore hazard a guess as to whether the species are increasing or declining.

- The Crocodile Lakes NWR (Florida) has no staff based within 2 hours of the refuge. As a result, poaching of this endangered species continues. The staff that are nominally assigned to this refuge has no idea of the population numbers or status of the crocodiles because there are no monitoring programs in place. The refuge is also home to two endangered rodent species and an endangered butterfly.

- Ten of 19 endangered Mississippi sandhill cranes at the Mississippi Sandhill Crane NWR (Mississippi) were killed by predators which broke through a deteriorating holding pen prior to the birds release.

- Piping plover breeding success has dipped at the E.B. Forsythe NWR (New Jersey) after sustained increases, perhaps because the refuge’s seasonal position in charge of monitoring and protecting the birds from disturbance was eliminated.

- Antioch Dunes NWR was created to protect two plant and one butterfly species that are found only on the refuge. Unfortunately, exotic plants and beetles have invaded the refuge and threaten these species. Little has been accomplished to address these threats because there are no staff dedicated to the refuge. The refuge shares one part-time biologist with four other refuges.

- Watercress Darter, Fern Cave, Key Cave and Blowing Winds Cave refuges have been established in Alabama to conserve endangered and threatened species but none of these refuges have any dedicated staff. Staff from the Wheeler refuge visit these four refuges about 2 or 3 times a year.

- Green Cay NWR is home to 98% of the entire population of the St. Croix Ground Lizard. However, non-indigenous rats are killing the trees and seedlings and that make up the forest canopy within which the lizard survives. Plans for a rat control and reforestation project have been developed by the refuge manager, but these have not been implemented because the refuge has no dedicated budget or staff.

Clearly many of these problems are related to funding or the implementation of the Endangered Species Act. It is unclear to what extent S. 1059 will address these concerns. We are hopeful, however that this bill will help raise the stature of the National Wildlife Refuge System and enable it to achieve its great potential to conserve America’s fish and wildlife.

REFUGE SYSTEM OPERATIONS AND MAINTENANCE FUNDING MUST BE INCREASED

As indicated above, many of the problems facing the National Wildlife Refuge System are due to inadequate funding and staffing (see attached cover story from *Memphis Commercial Appeal*). We are pleased that the House-passed Interior Appropriations bill contains a significant increase for this purpose and that the Senate Appropriations Committee has provided most of the increase contained in the House bill. On this point we want to say a special thank you to Senators Kempthorne and Graham for spearheading a letter to the Appropriations Committee in support of the House level and to Senators Chafee, Reid, Lieberman, Moynihan, and the others who signed that letter. We hope the conference will approve the full House amount.

CONCLUSION

In conclusion, The Wilderness Society supports S. 1059 and urges its prompt passage by the U.S. Senate. We are hopeful that this bill will help combat political pressures that have often led to the establishment and continuation of activities that harm wildlife and habitat on the refuges. It will ensure that comprehensive plans are developed for each refuge. It will improve research and monitoring of fish and wildlife populations on the refuges. And perhaps most importantly, this bill should help raise the stature of the National Wildlife Refuge System and help it reach its great conservation potential.

While we believe that the technical amendments described in the attachment to this testimony would improve the bill and would not upset the delicate political balance upon which it is founded, we urge the Senate not to tinker unnecessarily with S. 1059. No special amendments for specific refuges or specific activities—such as utility right-of-ways—are appropriate. Any such amendments would cause us to reassess our support of the legislation. The Wilderness looks forward to working with the Committee to enact the National Wildlife Refuge System Improvement Act.

TECHNICAL AMENDMENTS TO IMPROVE S. 1059

S. 1059 could be improved with the following technical amendments. However we urge the Senate to pass this bill promptly and to refrain from any unnecessary amendments that would slow the bill's passage. In particular, no amendments for specific refuges or specific uses are appropriate at this time.

- S. 1059 contains a definition for the word "compatible" that we believe is overly vague ("a use that will not *materially interfere with* or detract from" refuges purposes). We understand that the definition has been in the Fish and Wildlife Service's policy manual for a number of years but believe that at times it has not been workable. The House Resources Committee clarified in its Committee Report on the bill H.R. 1420 that a compatible use is one that will not have a "tangible adverse impact" on refuge purposes. We suggest that this language is more workable than that provided in the bill and that it may make sense to simply insert this "operational standard" into the bill.

- We have had some concerns that the bill's provision establishing the compatibility process could be construed by some to actually *increase* administration discretion in allowing uses and *decrease* public accountability for those reviews of agency decisions. Specifically, the bill states that compatibility decisions are to be based on the "sound professional judgment" of the Director. The bill subsumes the role of science within the judgment of government officials (definition "3"). The parenthetical phrase ("sound professional judgment") has raised the concern that a court, in evaluating whether an allowed use meets the compatibility standard, would conclude that the decision is "committed to agency discretion by law" within the meaning of the Administrative Procedures Act, and is therefore not reviewable.

To address this concern, the Committee could modify the draft's definition of compatibility so that these decisions are "*based on the best available science and reflect the best professional judgment of the refuge official.*" This is the approach that all active parties agreed to in a negotiated redraft of Senator Bob Graham's bill in the 103rd Congress

This concern was at least partially addressed in the House Committee Report with language ensuring that compatibility reviews will continue to be reviewable, although we'd still prefer the underlined bill text to ensure that too much discretion is not granted to the agency and that science is more clearly the determining factor.

- Section 6 of the bill authorizes the Interior Department to enter agreements that exempt activities "authorized, funded, or conducted" by other federal agencies from the compatibility standard on the several dozen so-called "overlay" refuges. Overlay refuges are those that are managed by the Fish and Wildlife Service as a

refuge but are held in title by another agency. For example, the Corps of Engineers was required to set aside land as a national wildlife refuge to mitigate the impacts of a number of its projects but continues to hold title to a number of these refuges.

We believe that it makes no sense to exempt from the compatibility standard activities of such agencies on lands that were set up to mitigate activities of those same agencies. At the very least, this provision should be limited to only those activities that are directly related to the purpose that the agency is there in the first place. In other words, the Corps could do things that it needed to do in accordance with its projects but couldn't authorize incompatible county road construction, ball fields, or other unrelated activities.

In addition, oversight by the Committee on the status of these "overlay" refuges at some point in the future would be helpful.

Fact Sheet

THE WILDERNESS SOCIETY

Major reports that identified problems in the National Wildlife Refuge System.

In 1966 ... The "National Wildlife Refuge System Advisory Board on Wildlife Management", appointed by Secretary of Interior Stewart L. Udall wrote:

"The proximity of urban masses leads inevitably to pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes."

"What is still lacking is a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenants of its future development." (from *Report on the National Wildlife Refuge System*)

In 1979 ... The "National Wildlife Refuge Study Task Force" appointed by Assistant Secretary of Interior Robert Herbst wrote:

"Local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife... Pressures to develop or degrade refuges for economic gain are growing exponentially" (from *Recommendations on the Management of the National Wildlife Refuge System.*)

In 1961 ... The General Accounting Office wrote:

"The Service is properly operating and maintaining only about 46 percent of the nation's refuges. ... Local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife." (from *National Direction Required for Effective Management of America's Fish and Wildlife.*)

In 1963 ... The U.S. Fish and Wildlife Service wrote:

"Threats associated with pollutants, land uses, public uses, exotic species, individual development projects, etc. ... are currently causing or have the potential to cause significant damage to Service-managed natural resources. ... An average of 18.6 resource problems were reported per refuge." (from *Fish and Wildlife Service Resource Problems, National Wildlife Refuges, National Fish Hatcheries, Research Centers*)

In 1989 ... General Accounting Office wrote:

"National Wildlife Refuges are frequently not the pristine wildlife sanctuaries implied by their name. ... Despite the requirements that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating, oil and gas drilling, mining, jet-skiing, over-grazing, and off-road vehicles) are occurring on nearly 60 percent of the wildlife refuges." (from *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action.*)

In 1991 ... The U.S. Fish and Wildlife Service wrote:

"Incompatible and harmful uses are occurring on many national wildlife refuges. ... Refuge managers reported 836 use occurrences as being harmful to refuge operations. ... The survey results indicated that 63% of refuge units reported [at least one] harmful use." (from *Report of Secondary Uses Occurring on National Wildlife Refuges*)

In 1993 ... The Interior Department's Inspector General wrote:

"We concluded that at all of the refuges we visited, the U.S. Fish and Wildlife Service had not maintained the refuges in a manner that would effectively enhance and protect the wildlife." (from *Maintenance of Wildlife Refuges, U.S. Fish and Wildlife Service*)

Employees at the 155,000-acre White River National Wildlife Refuge in southeastern Arkansas crack for marshiana growing.

Troubles roost at wildlife refuges

Habitat suffers as funds lag added acreage

By Tom Charlter
The Commercial Appeal

WILMOT, Ark. — By all appearances, the landowner in charge of this piece of Delta property has given up.

A lonely strand of gravel fades past a collection of broken-down vehicles, government-surplus trailers and equipment and implements scrounged from local farmers.

Crop fields are overgrown with weeds. Timber is dying from poor drainage. Sheets of brown water pour from broken spillways. Roads have become so washed out that only all-terrain vehicles can use them.

Tumbledown it may be, but this is not a junkyard or an abandoned homestead.

It is a national wildlife refuge. Using a trailer as his part-time office, manager Jim Johnson has watched almost helplessly the decay of the 12,000-acre Overflow National Wildlife Refuge.

"When you operate for years and years on extremely limited funding and extremely limited staffing, the baling wire and duct



INSIDE
■ Lone, mostly self-taught field staffer at Wapanocca Refuge must be a jack-of-all-trades
A11

tape eventually give out. The infrastructure has deteriorated dramatically — that's where we are," he says.

For all its troubles, Overflow is not unusual. America's 92.6 million-acre refuge system — a network of federal lands managed for the benefit of endangered species and other creatures — is dying from within even as it expands from without.

Years of getting by on low operating budgets have sapped life

from refuges, government auditors say. And the system is being strained further because Congress, using special land-acquisition funds, has been adding 300 square miles of new refuge territory a year.

An area bigger than Delaware and Rhode Island combined has been added to the refuge system in the past decade alone, leaving fewer and fewer people to manage and maintain each site. The budget to administer this sprawling network is roughly the same as what the federal government spends on military bands.

More than just inadequate funding ails the refuges. Although it is nearly a century old, the system still has no over-arching law from Congress specifying how it is to be used. This has opened the way for

a scattershot pattern of damaging activities — everything from grazing and military flyovers in the West to private houseboat moorings in the Mid-South to jet-skis on the East Coast.

At refuge after refuge, wildlife habitat requiring careful restoration and management is disappearing. In Mid-South refuges alone, hundreds of acres of timber die each year because of poor drainage. Vast water impoundments and field crops designed to meet the needs of ducks, geese and wading birds have become unusable.

Poaching is rampant because there are too few enforcement officers. Problems ranging from damaging exotic plant invasions to illegal

A cool feeds at Wapanocca National Wildlife Refuge near Turrell, Ark. But all is not well here: The forest within a 300-acre area is dying because of poor drainage.

Please see WILD, Page A10

Spending shortfall

National Wildlife Refuges get much less money than other federal systems, including national parks and forests. The chart below shows how much is spent, per acre, to manage different types of federal lands.



Source: The U.S. Fish and Wildlife Service

From Page A1
Wild

gal dumping to vandalism to pesticide contamination go unchecked, even unnoticed.

At more than two-thirds of the refuges, managers haven't completed biological inventories to see which species are present and monitor their conditions.

Although taxpayers have invested more than \$4 billion in construction on refuges, public access to them is jeopardized by unsafe roads, bridges and boat ramps and neglected visitor centers. The backlog of maintenance work needed just to carry on normal operations has soared past \$500 million.

"We're losing a great deal of the battle out here," said Kandy Cook, who manages a group of West Tennessee refuges.

The problems threaten the system's most fundamental goals of protecting endangered and threatened species and migratory birds.

This is particularly apparent in the Lower Mississippi Valley, home to a string of refuges that offer some of the last remaining wintering grounds available to the millions of ducks and geese migrating along the Mississippi Flyway. With the squeeze on staff and funds, managers worry their facilities soon won't accommodate all the waterfowl that head this way.

The problem, said David Tonn, executive director of the National Wildlife Refuge Association, a private support group, could be condensed to a simple fact of democracy: "Deers and alligators and geese don't vote."

In the decaying conditions at refuges, critics and supporters of the system have found fertile ground for change. Congress and the Clinton administration this spring are battling over legislation that would bring the most significant changes the refuge system has seen in 30 years. And an unprecedented coalition of groups as diverse as the National Rifle Association and the Wilderness Society is promoting a plan calling for refuge funding to be nearly tripled over the next six years.

Area grows, funds tighten

The refuge system's origins can be traced to 1903, when President Theodore Roosevelt

issued an executive order establishing Pelican Island, Fla., as a federal bird sanctuary. Since then, the system has seen breathtaking expansions in its mission and composition.

Today there are 509 refuges scattered from the Virgin Islands to Hawaii to Alaska, where more than 90 percent of the system's acreage lies.

Together, the refuges encompass an area the size of Montana and shelter nearly 100 kinds of birds, 220 mammals, 250 reptile and amphibian species and 200 types of fish.

Unlike parks, which cater to human visitors, the refuges are managed by the U.S. Fish and Wildlife Service primarily to "preserve a national network of lands and waters for the conservation and the management of the fish, wildlife and plants," according to a March 1996 executive order by President Clinton. They nonetheless attract 30 million hunters, fishermen, bird-watchers and sightseers annually.

Through the years, Congress has passed legislation generating revenue for the acquisition of refuge lands and other areas in need of protection. The Migratory Bird Hunting and Conservation Stamp Act of 1934 steers funds from the "duck stamps" bought by hunters to purchases of waterfowl habitat. Another major source is the Land and Water Conservation Fund Act of 1964, which is fed by leases on offshore oil and gas wells.

Appropriations from the two funds totaled \$84.2 million this year, up from \$81.8 million in fiscal 1996.

During the past 10 years, these funds have helped purchase 2.5 million acres and create 67 new refuges. Considering an acre is roughly the size of a football field without end zones, that's about 589 new football fields a day.

While the new land is acquired using dedicated funding sources, day-to-day operation and maintenance of refuges must be paid from the perennially strapped federal operating budget.

The 1997 appropriation for refuge operation and maintenance came to \$178.2 million, a modest 5.4 percent increase from the \$169 million level at which the budget had stayed during the previous two years.

The recent budget levels, according to reports by the Department of Interior inspector general, "have not been adequate to meet even the minimal needs of sustaining the refuges."

The Fish and Wildlife Service reported that current annual funding is less than half



Near the Big Eddy boat ramp along the Hatchie River, refuge officer Glenn Stanley hauls off trout.



Two young hunters at the Hatchie refuge near Brownsville, Tenn., show their licenses. Poaching is a problem, but hunters who buy "duck stamps" help fund the purchase of waterfowl habitat.

the amount needed to meet established objectives for refuges. The General Accounting Office, in a separate report, found that the refuge budget was "insufficient to undertake all the efforts necessary to recover listed species."

The National Park Service, also cash-strapped, gets seven times more money per acre than the refuge system does. The National Forest Service gets nearly four times more.

The funding scarcity has grown in proportion to the refuge system's expansion. The inspector general's report said "new refuges have been acquired with increased service responsibilities, but additional sufficient funding was not obtained to manage the new ref-

uges."

Between 1988 and 1992, the department estimated an additional \$17.2 million would be needed to start operations at the 43 refuges acquired during the period. Only \$4.7 million was appropriated for new and expanded facilities.

More than 200 refuges now have no on-site staff, and the amount of money available to each facility is down 30 percent from a decade ago.

"It's pretty easy to get support to have a refuge established. Funding it is more difficult," said Rolfe Sparrowe, president of the Wildlife Management Institute.

At many refuges, the expansion of the system coupled with the ever-lightening operating

budget has produced an unenviable trend: fewer people responsible for managing large chunks of territory.

Through a federal-private land swap, the White River National Wildlife Refuge in southeastern Arkansas — already one of the largest refuges in the South — recently grew from 113,000 to 155,000 acres. Yet the refuge staff today is nearly 25 percent smaller than it was in the mid-1980s, before the 30 percent increase in acreage.

Marvin Hurdle, who retired as refuge manager at White River this year, said this largely because of the staffing and funding pinch. "In a couple of years have been the most difficult I've ever had," he said.

the more than three decades it

Refuge

abor. We find tracks where people have obviously been out there hunting. It's very popular from the poacher's standpoint," said Stephen Gard, who manages a group of refuges including Tallahatchie.

Tim Wilkins, manager for a group of refuges that includes Yazoo National Wildlife Refuge near Rolling Fort, Miss., often finds the spent casings and tracks left by poachers.

"We know we've got a poaching problem. . . . They kill whatever's there," he said.

St. Catherine Creek National Wildlife Refuge near Natchez, Miss., has no full-time law enforcement officers to halt poachers who enter along the site's 16 miles of Mississippi River frontage, said manager Tom Pruss.

The refuges also can't protect endangered animals from a variety of other threats.

At the Mississippi Sandhill Crane National Wildlife Refuge near Gaucher, Miss., 10 of the extremely rare cranes were killed last year by predators that broke through deteriorating holding pens.

In Sunflower County, Miss., a cropduster last year was discovered dumping pesticide waste onto refuge system land. The aerial dumping had been going on long enough to kill and damage trees in a reforested area and eradicate broadleaf vegetation.

"I suspect that if we had more people and funding, we may have caught it earlier," Gard said.

Cossatot National Wildlife Refuge near De Queen, Ark., has no staff to control the destructive mud-racing involving big-wheel trucks that regularly occurs.

Some residents also find refuges attractive targets for other damaging activities. Bald Knob National Wildlife Refuge near Bald Knob, Ark., is plagued by vandalism and illegal dumping.

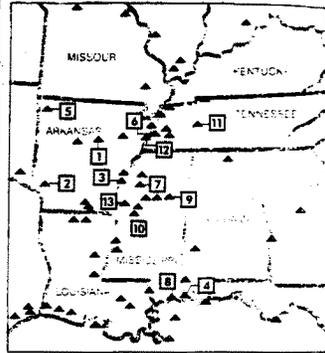
"I'm talking about truckloads, not garbage bags," said manager Dennis Widner.

Land can't be left alone

Even more taxing, from a long-term perspective, is the challenge of habitat management.

Because refuges are islands of habitat surrounded by development, managers say they

Funding and staffing shortages have created numerous maintenance and operational problems at the 13 refuges of the National Wildlife Refuge system. The map below shows a partial list of problems at some Mid-South refuges.



- ▲ Refuges
- 1. Bald Knob — Most of refuge closed to public for lack of funding; frequently plagued by illegal dumping and vandalism.
- 2. Cossatot — No funding; faces damage from uncontrolled off-road vehicle use.
- 3. Dahomey — 200-300 acres of timber died from poor drainage.
- 4. Grand Bay — No funding.
- 5. Logan Cave — No funding for facilities to prevent trespassing and illegal collections of endangered and threatened species from cave.
- 6. Lower Hatchie — Wetland impoundments clogged with willows.
- 7. Maitheas Brake — Frequently looted by nearby illegal dumping.
- 8. Mississippi Sandhill Crane — Deteriorating holding pens allowed predators to kill 10 of the endangered cranes.
- 9. Natchez — Proposed nearby hog-farming operation threatens pollution of stream flowing through refuge.
- 10. Panther Swamp — Has lost about 1,500 acres of bottomland hardwoods to poor drainage and could lose another 4,500 acres within a few years.
- 11. Tennessee — Deteriorating boat ramps closed to public.
- 12. Wapanocca — Observation platform deteriorating; clogged drainage threatens to kill hardwood timber.
- 13. Yazoo — Numerous water-control structures and levees not functioning.

Staff graphic

spent with the Fish and Wildlife Service.

At a complex of refuges in southern Arkansas, 35,000 acres have been added this decade while the staff assigned to manage the facilities dropped from 16 to 13.

Tennessee National Wildlife Refuge, which covers more than 50,000 acres in Middle and West Tennessee, is run by a staff that's 30 percent smaller than it was in the 1970s. The 5,484-acre Wapanocca National Wildlife Refuge near Turrell, Ark., has lost three of its five workers.

"We've added so many refuges, we've sliced the pie thinner and thinner," said Marvin Nichols, refuge manager for the Hatchie National Wildlife Refuge in Brownsville, Tenn., where the staff allotment of eight has been cut in half in recent years.

Ills rise as staff shrinks

Slender staffing has left the refuge system vulnerable to a variety of problems.

Poaching is among the most obvious. Many refuges offer legal hunting seasons, and it's up to the Fish and Wildlife Service to provide the refuges with law enforcement officers to ensure compliance with regulations.

The paucity of those officers runs systemwide. At places like Tallahatchie National Wildlife Refuge southwest of Batesville, Miss. — an unstaffed satellite refuge managed from a headquarters more than 30 miles away — poachers hunt out of season, violate bag limits and stalk protected species with virtual impunity.

"We find deer that have been

Please see REFUGE, Page A11

can't simply let nature take its course. Water levels must be manipulated and food crops cultivated. Beaver dams and drainage impediments must be removed, and exotic plants must be controlled.

This work is especially important considering that refuges essentially fill the void

left by the loss of 80 percent of the 35,000 square miles of wetland habitat once found in the Mississippi Valley. During the winter, a typical Mid-South refuge will be packed with tens of thousands of ducks and geese.

"When it comes to wildlife refuges, you have a public perception (that) you can just put

a fence around them and they take care of themselves," said Ken Grannemann, chief of visitors services with the Fish and Wildlife Service.

But at most refuges, managers are able to do only the most basic maintenance.

The maintenance budget for a complex of refuges near the Mississippi River in West Tennessee dropped from more than \$231,000 in 1993 to less than \$35,000 this year. Not surprisingly, critical "moist-soil" units where ducks feed have become overrun with willow saplings and beaver dams. Water-control structures are clogged and unusable.

At Wapanocca refuge, timber within a 300-acre swath of forest is dying as a result of poor drainage, while Dahomey National Wildlife Refuge in the Mississippi Delta already has lost more than 200 acres of bottomland hardwoods to flooding. Panther Burn National Wildlife Refuge in Mississippi could lose up to 6,000 acres of timber within three years, managers said.

"When you fail to maintain the infrastructure of the system — the roads, the water-control structures, the dikes and dams and that sort of thing — then sooner or later the wildlife habitat starts to suffer," said Phil Morgan, a former refuge manager and system administrator who now is Southeast representative for the National Wildlife Refuge Association.

Johnson, who is in charge of Overflow and three other refuges, said his facilities can accommodate only about 75 percent of the waterfowl they could if well maintained.

"The deterioration . . . directly impacts how many birds we can feed . . . and overwinter."

New refuges hit hardest

The funding crunch has left its biggest imprint on the newest generation of refuges, like Overflow, that have been established during the past two decades. Many of those facilities have yet to receive startup money to develop habitat and make improvements needed so the refuge can serve its mission.

In fact, at least a half-dozen new refuges in the Mid-South have no budgets. Any resources expended on them must be diverted from other sites.

Bald Knob, for instance, has had most of its acreage closed off behind locked gates since its creation in 1993. The nation's 501st refuge — Cossatot — was created primarily on land transferred to the federal government from Weyerhaeuser Co. during a property swap. But it still has no budget or staffing.

All told, the backlog of needed maintenance work, such as repairs to breached levees and washed-out roads, has reached an estimated \$505 million, up from \$338 million in 1994.

The Fish and Wildlife Service also has cataloged \$375 million worth of incomplete construction projects, including visitors centers or levees that haven't been built. Just one refuge in East Arkansas — Cache River — needs more than \$3.8 million worth of work, accord-

ing to service estimates.

Still, acquisition of new refuge land continues. In the Southeast alone, \$10 million is available from the duck-stamp fund each year for land purchases.

Critics in Congress and elsewhere have questioned the continued purchases in light of the maintenance lag.

But federal officials and environmentalists defend the acquisition program as the proper thing to do in the long run.

"One reason we keep buying land is Congress tells us to do it," said Steve Thompson, branch chief for resource operations at refuge system headquarters outside Washington. "In each area and each community, these refuges are very special, very important areas."

Refuge officials and environmentalists say many of the purchases spare important land from imminent development.

Jim Waltman, director of refuges and wildlife at The Wilderness Society, said one of the primary goals of the system is protecting habitat.

Yet, rising concerns about the refuge system likely will yield legislation this year. Interior Secretary Bruce Babbitt has been negotiating with congressional leaders over a proposed bill — which passed the House resource committee late last month — containing a mission statement for the refuges and requiring the government ensure the health of the facilities.

As for funding, the Clinton administration is proposing a \$13.8 million increase for the refuge system for fiscal 1998, which would bring spending to about \$192 million. But this month, 51 members of Congress, including Rep. John Tanner (D-Tenn.), asked the House Appropriations Committee to boost refuge funding by \$8.5 million above President Clinton's request.

A coalition of environmental and outdoor groups, meantime, seeks \$220 million for 1998 and a steady increase to \$495 million by 2003.

Current problems notwithstanding, the refuge system has established a record of success in sheltering species ranging from snails to deer to birds to sea turtles, according to private groups and government studies. Federal officials say threatened and endangered species with refuges set aside for them are twice as likely to be stable or improving as those that don't.

To reach reporter Tom Charlier, call 529-2572.

AMERICAN MOSQUITO CONTROL ASSOCIATION,
July 30, 1997.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: I am writing to you today about a matter of national public health importance. It relates to H.R. 1420, an amendment to the National Wildlife Refuge System Administration Act, that is currently under consideration by the Senate Subcommittee on Drinking Water, Fisheries and Wildlife. As currently written, this legislation clarifies the mission of the refuge system but lacks a provision for protecting certain aspects of the public's health in and around these federal lands.

The American Mosquito Control Association (AMCA) and its 2,000 members from local mosquito and vector control programs, various state and federal agencies, university professors and researchers, and others dedicated to the prevention and control of mosquitoes in all 50 states, does not believe that this bill adequately addresses public health risks that may be created by existing natural conditions or current water management practices on federal refuges. We have enclosed a brief summary expressing our concerns and are submitting recommended amendments that we believe should be incorporated into this legislation.

The AMCA hopes that these amendments can become part of H.R. 1420 as it is revised so that the many visitors and adjacent residents can more fully utilize and enjoy these refuges without danger to their health and well-being. The procedures that we endorse are environmentally compatible with the mission and objectives of the federal wildlife refuge programs.

Members of our Association are available at any time to meet with you or your staff to discuss this situation.

Sincerely,

GARY G. CLARK, PH.D.,
President.

PREPARED STATEMENT OF THE AMERICAN MOSQUITO CONTROL ASSOCIATION
 CONTAINING RECOMMENDED LANGUAGE TO ADDRESS THE PUBLIC HEALTH ISSUES
 ASSOCIATED WITH H.R. 1420

Good day. I would like to thank you, Senator Kempthorne, and other distinguished members of the Senate Subcommittee on Drinking Water, Fisheries and Wildlife for the opportunity to attend your Subcommittee meeting today and discuss an important matter with you. I am Dr. William H. Meredith of the Delaware Department of Natural Resources and Environmental Control, and today I represent the American Mosquito Control Association (AMCA) of which I am a member. I am accompanied today, also in representation of the AMCA, by Ms. Judy A. Mansen, Superintendent of the Cape May County (New Jersey) Mosquito Commission and Past-President of the AMCA; and by Mr. Chester J. Stachecki, Jr., Program Administrator of the Delaware Mosquito Control Section in the Department of Natural Resources and Environmental Control, who is Past-President of the Mid-Atlantic Mosquito Control Association.

On behalf of Dr. Gary G. Clark, President of the AMCA and its members, I will present a position statement from our Association for your consideration and action in regard to the National Wildlife Refuge System Improvement Act of 1997 (H.R. 1420). In association with this position statement, I would like to offer several worthy amendments developed by the AMCA for your consideration, which we hope you will adopt and include in the proposed act.

Before I begin, I would like to give a little background about our Association. The AMCA is a professional association with over 2,000 members from all 50 states, Canada and many other countries. The AMCA's membership is composed of front line, operational mosquito control personnel in state, county or municipal mosquito abatement or vector control programs or in federal military service; federal, state or academic-based scientists in fields of entomology, public health, epidemiology, toxicology, ecology, wildlife management, aquatic biology or other scientific disciplines; and technical representatives from companies that manufacture mosquito control products and equipment or which provide mosquito control services. For over 60 years, since its founding in 1935, the AMCA has promoted safe, responsible, environmentally-sensitive mosquito control practices to safe-guard the public's health, safety and welfare. The legacy of this scientifically-based approach to mosquito control has been the protection of humans and domestic animals from pestiferous and disease-carrying mosquitoes, increased recreational opportunities and tourism, and

enhanced residential and commercial development in urban areas. Benefits of organized mosquito control have been realized by many of the states represented on the Environment and Public Works Committee.

The AMCA believes and actively promotes an Integrated Pest Management (IPM) approach to solving mosquito production problems. The IPM strategy ensures that efficacious, cost effective mosquito control is achieved in a safe and environmentally-compatible manner. The AMCA's recent recognition by the U.S. Environmental Protection Agency (EPA) as an exemplary partner in the EPA's "Pesticide Environmental Stewardship Program" reflects the AMCA's commitment to this approach. The AMCA is one of only a handful of organizations receiving this unique distinction.

The proposed National Wildlife Refuge System Improvement Act of 1997 (H.R. 1420) addresses many of the problems associated with the management of the nation's federal wildlife refuges. However, the proposed act does not address the issue of the health and well-being of refuge visitors and residents living near these federal properties. As background, it is important to understand that many wildlife refuges, by the nature of their existence, produce very large numbers of mosquitoes that affect the health and well-being of human and domestic animal populations. State-operated wildlife refuges, which can create similar mosquito problems, accommodate or routinely pay service fees for mosquito control and strive to develop management plans that reduce mosquito problems and thus their costs for control. In contrast, federal wildlife refuges do not presently have any such incentives, and as a result of existing natural conditions or current water management practices, many continue to produce large numbers of mosquitoes. Many of these mosquitoes are a major pest problem while others pose an increased risk of human disease to people in certain parts of California, Virginia, Florida, Maryland, Oregon, New Jersey, Massachusetts, Michigan, Delaware, Louisiana, North Carolina, Texas, and other states. This problem is exacerbated when refuges are established or exist in proximity to urban population centers.

The specific problems created by the presence of these mosquitoes represent a potentially serious public health threat (that can and must be alleviated). Many of the mosquito species produced on these refuges transmit diseases such as mosquito-borne (arboviral) encephalitis and malaria to humans and equine encephalitis and dog heartworm to animals. Additionally, negative quality-of-life and economic impacts on tourism and local development are created when swarms of mosquitoes produced on these refuges move into residential and recreational areas beyond the refuge boundaries and begin to take blood from children and adults. Some of the mosquitoes produced on refuge property fly up to 20 miles in search of a blood meal. Presently, the control response for the mosquitoes from these federal refuges, in those areas where organized mosquito control exists, is provided by local taxing districts, or state or local control programs. Often these programs do not receive adequate operating funds to abate the problems that originate on federal property, or are hindered by refuge management policies from implementing appropriate control procedures.

Clearly, this is not an isolated problem present on one or two refuges, but one of national dimensions. A problem of this magnitude can only be addressed through statutory reform of the administration of federal wildlife refuge system and by legislation such as H.R. 1420. Developing a statutory charge for the Department of the Interior to provide for or accommodate mosquito control on refuge lands is the best way to promote the resolution of differences between mosquito control programs and refuge managers.

To address this situation, the AMCA offers seven specific amendments for inclusion in the current version of H.R. 1420 that is being considered by the Senate Subcommittee on Drinking Water, Fisheries, and Wildlife (see Appendix 1). The AMCA recommends that these amendments be incorporated as legislation on federal refuge reform is formulated.

The first issue of concern to the AMCA is responsibility for production of mosquitoes. The language in Amendment 1 places responsibility for resolving the problems associated with mosquito production on national wildlife refuges directly with the agency and specific refuge administrator responsible for creating or allowing these problems to occur. Just as importantly, it encourages development of a cooperative and collaborative working relationship with state or local mosquito control programs to implement environmentally-compatible control measures. The recommended changes also provide a significant incentive for refuge administrators to utilize appropriate water management practices to prevent mosquito production.

The second issue (Amendment 2) relates to the recognition that refuge management practices can have an impact on the public health of the surrounding commu-

nity. This impact should be understood, considered and addressed by the refuge administrator.

In Amendment 3, the AMCA reiterates its concern about due consideration of public health problems originating on refuge property, utilization of appropriate management practices to mitigate mosquito production, and consultation with knowledgeable public health officials in the prevention or resolution of these problems.

In paragraph L in Amendment 3, we recommend addition of this public health language requiring that refuge administrators consider the impact of refuge operations on the production of mosquitoes and other organisms that adversely affect the health and well-being of humans and domestic animals that live on or near their refuges, and encourage them to take reasonable steps to reduce these impacts. Clearly, this statutory language is needed to require the System and its refuge administrators to consider and reduce mosquito problems that originate on the property that they manage. Without this statutory language, the AMCA is concerned that some individual administrators within the Refuge System will continue as in the past to allow or accept the creation of mosquito problems without being held accountable for the prevention or resolution of these problems.

The language in paragraph M in Amendment 3 sends a strong message to refuge administrators about the importance of public health, safety and well-being of refuge visitors and in particular refuge neighbors, and encourages administrators to reduce problems by utilizing appropriate water management practices and other measures to prevent and control as much as possible the production of mosquitoes and their movement beyond refuge boundaries.

The language in paragraph N ensures that refuge administrators will consult knowledgeable public health officials on the safest, most effective, environmentally-sensitive, and cost efficient ways to mitigate the threat to public health and safety in and near the System. When properly applied, the abatement practices that the AMCA is advocating are entirely compatible with the mission and goals of the federal wildlife refuge system.

The statutory language in Amendment 4 is needed to ensure that steps are taken to reduce risks to public health, safety and well-being through the establishment of regulations by the Secretary, along with other proposed regulations.

The language in Amendment 5 reinforces the need to take steps to reduce risks to the public health, safety and well-being and that these issues are considered as compatible uses.

Amendment 6 simply adds the words “* * * health and” in an existing phrase in the bill, and reiterates the point that refuge uses are consistent with public health and safety.

The statutory language in Amendment 7 is needed to ensure that state and local health and mosquito control officials are given an opportunity to advise the Secretary or specific refuge administrators on the public health impacts of proposed conservation plans and how to mitigate any negative impact on public health.

In summary, the AMCA offers these amendments in an effort to statutorily ensure that the System and its refuge administrators consider and address the threat to public health that is being created on many of our national wildlife refuges. We believe that once the problems have been identified and responsibility for the resolution of these problems is placed with the administrators of the System, many quality-of-life and public health problems that currently exist will be prevented or mitigated by the use of modern mosquito control practices. This, will make areas nearby or adjacent to national wildlife refuges, and even the refuges themselves, healthier and more enjoyable environments.

The AMCA and its members throughout the United States strongly encourage the adoption of these statutory changes.

APPENDIX 1

AMENDMENTS TO H.R. 1420 (NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997) OFFERED BY THE AMERICAN MOSQUITO CONTROL ASSOCIATION

(1) Amend Section 2 (FINDINGS) by adding a new paragraph (6) and renumbering subsequent paragraphs.

“(6) The System provides for the protection of public health, safety and well-being of the communities in and near refuges by providing for or incorporating appropriate mosquito control activities on refuge land.”

(2) Amend Section 5(a)(4)(C) (ADMINISTRATION OF THE SYSTEM) by adding the following phrase after the words, “the United States,” on line 19.

“(C) * * *, to promote public health within the System and its surrounding communities,”

(3) Amend Section 5 (ADMINISTRATION OF THE SYSTEM) by adding new paragraphs (L), (M), and (N), and renumbering subsequent paragraphs.

“(L) consider the impacts of refuge and System operations on the production of mosquitoes and other organisms that adversely affect the health and well-being of humans who use the refuge and System or who live nearby, as well as domestic animals on or near refuges, and take reasonable steps to reduce these impacts;

(M) promote the public health, safety and well-being of Refuge visitors and neighboring urban and rural communities by using appropriate water management and mosquito control practices to prevent or diminish, as much as possible, the production of pestiferous or disease-carrying mosquitoes and their movement from Refuges;

(N) consult with the Secretary of Health and Human Services, including but not limited to the Centers for Disease Control and Prevention; state and/or local public health departments; and state and/or local mosquito or vector control districts, concerning efforts to mitigate threats to public health and safety in and near the System,”

(4) Amend Section 6 (COMPATIBILITY STANDARDS AND PROCEDURES) by adding a new paragraph (v) to Section 4(d)(3)(B) which reads as follows:

“(v) provide for steps to be taken to reduce any unintended or inadvertent risks to the public health, safety and well-being associated with any use,”

(5) Amend Section 6 (COMPATIBILITY STANDARDS AND PROCEDURES) by adding a new paragraph to Section 4(d)(4) which reads as follows:

“(C) any steps taken to reduce any unintended or inadvertent risks to the public health, safety and well-being associated with management of a refuge.”

(6) Amend Section 6 (COMPATIBILITY STANDARDS AND PROCEDURES) by inserting a new phrase after the word “public” in line 21 in Section 4(d)(3)(A)(I) which reads as follows:

“(I) * * * health and”

(7) Amend Section 7 (REFUGE CONSERVATION PLANNING PROGRAM) by adding a new phrase after the word “governments” on line 24 in Section 4(e)(4)(A) which reads as follows:

“(4)(A) * * * state and local public health officials, state and local mosquito abatement officials,”

PREPARED STATEMENT OF THE AMERICAN PETROLEUM INSTITUTE

S. 1059: THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

The American Petroleum Institute (API) is a trade association with over 350 members engaged in all aspects of the petroleum industry. API respectfully submits this statement of its views for the record in S. 1059, the National Wildlife Refuge Improvement Act of 1997.

According to U.S. Fish and Wildlife Services (FWS) 1995 data, the oil and gas industry produces hydrocarbons from over 1100 wells on 36 federal wildlife refuges in the states of Alaska, Alabama, Arkansas, California, Kansas, Louisiana, Michigan, Mississippi, Montana, North Dakota, New Mexico, Oklahoma, and Texas. Louisiana has 607 wells on wildlife refuges. There are 346 active wells on wildlife refuges in Texas, according to the FWS data. As a result, there are also significant appurtenant oil and gas production facilities on wildlife refuges, as well as numerous oil and gas pipelines that traverse wildlife refuge lands. Oil and gas production has occurred on these lands for many years.

Our industry has an exceptional record as an environmental steward on these refuge lands, conducting its activities in a safe, careful and thoughtful manner fully compatible with wildlife-dependent activities.

For example, Conoco, an API member company, has conducted exploration activities and operated wells in the Aransas National Wildlife Refuge on the Texas Gulf Coast for more than 50 years. Aransas is home to hundreds of wildlife species, including the endangered whooping crane. Wetlands, and native grasses and oaks also thrive along side exploration, production and pipeline transportation in the refuge.

Yet the whooping crane population has increased from a low of 15 birds that wintered in Texas in 1941, to a flock of over 140 birds that wintered on or near Aransas in 1994. This example of the compatibility of oil and gas industry activities on wildlife refuges is not an isolated one.

Another example of our industry's excellent environmental records within wildlife refuges is the case of Chevron's stewardship within the Delta National Wildlife Refuge in Louisiana. The 48,000 acre refuge is located on the southernmost edge of Louisiana where the Mississippi River empties its suspended sediment load into the Gulf of Mexico. Along with 240 species of birds that live in or migrate through the refuge, there are also significant deer and alligator populations. Chevron has operated there since 1949. In 1997 it received the National Health of the Land Award presented by the Bureau of Land Management of the U.S. Department of the Interior for its outstanding environmental practices in managing its Romere Pass field within the Refuge. Chevron has worked not just to preserve, but to enhance the environment within the Refuge by funding the creation of more than 300 acres of new marsh land within the Refuge, resulting in new habitat for many species. Chevron has compatibly produced over 100 million barrels of oil and 445 billion cubic feet of natural gas from about 100 wells within that Refuge.

Kerr-McGee, another API member, has operated in the Breton Sound National Wildlife Refuge since the early 1950's. More than 100 million barrels of oil and 320 billion cubic feet of gas have been produced there. Current production totals 7500 barrels per day. The FWS has also repeatedly honored Kerr-McGee for its outstanding environmental record for production in environmentally sensitive areas.

Since API members engage in substantial activities on wildlife refuges, API is concerned that several provisions in H.R. 1420—the substantially similar wildlife refuge improvement bill passed by the House of Representatives in May 1997—may be misinterpreted by regulators or the courts as signaling a change in the current national policy that oil and gas operations are generally compatible uses in numerous refuges. As a result, periodic compatibility reviews could become permit conditioning exercises, or subject oil industry operations to challenge on the grounds that oil and gas activities are *per se* disfavored because they do not constitute a wildlife-dependent use, as defined in the bill.

The definition of "compatible use" in the Senate bill includes the phrase "other use" in addition to the "wildlife-dependent recreational use" definition passed in H.R. 1420. API believes that this addition clarifies that oil and gas activities are valid, compatible uses within wildlife refuges, and are in no manner subordinate, disfavored or inconsistent with the public safety standard, the mission of the system, or other goals and findings declared in S. 1059.

Development of oil field infrastructure, including wells, pipelines, and rights-of-way are very capital intensive. Activities within environmentally-sensitive areas such as wildlife refuges can increase investments materially. Company engineers, biologists, hydrologists, and other scientists have worked with refuge managers to design environmental safeguards, almost always at significant added cost. API members have demonstrated significant abilities in working with refuge managers to protect and enhance wildlife and habitat while producing domestic oil and gas supplies. API and its members believe that report language, floor statements, and final bill language in S. 1059 should remove any ambiguity that could unintentionally result in a change of national policy that has permitted compatible, environmentally sound oil and gas activities on wildlife refuge lands for many years.

PREPARED STATEMENT OF THE EDISON ELECTRIC INSTITUTE

THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

The Edison Electric Institute (EEI) is pleased to be able to submit written testimony to the Senate Environment and Public Works Committee for consideration during its deliberations on S. 1059, the National Wildlife Refuge System Improvement Act of 1997. It does so on behalf of the 202 shareholder-owned electric utilities that comprise its membership.

S. 1059 and its nearly identical House-passed companion measure, H.R. 1420, is significant legislation. The legislation will strengthen the overall management of the nation's wildlife refuges, welding them from 508 disparate, individual units into a system whole. The proposed administrative and management changes will encourage greater consistency in decision-making among the different refuges and provide minimum procedural steps, including public participation, that should be followed by refuge managers. Most importantly, S. 1059 appears to resolve a long-standing controversy regarding the continuation of hunting, fishing, and other wildlife-

dependent recreation within the refuges in a way that is acceptable to all sides with an interest in the issue.

EEl and its member companies believe that many of these changes will benefit the refuge system, the species they protect, and the American public for whom they are conserved. At the same time, inasmuch as the primary consideration in drafting and negotiating this legislation was a resolution of the wildlife-dependent recreation controversy, EEl believes that it is appropriate for the Committee to look beyond this issue and consider the potential effect of the proposed bill on other significant and important uses within the nation's individual refuges. These uses range from non-wildlife-dependent recreation, such as rock climbing, boating, and hiking, to productive uses, such as oil and gas production, and especially rights-of-way for roads, electric power transmission and distribution lines, oil and gas pipelines, telecommunications and canals. Many of these uses have had a long-standing presence in some refuges and have been regarded as appropriate compatible uses of their respective refuges. Indeed, under current law, the Secretary of the Interior is given explicit authorization to approve rights-of-way where they are compatible with the specific purposes of the refuges where they are located. It is under these determinations that a number of EEl member companies own, operate, and maintain transmission and distribution lines within various refuges.

EEl is concerned that various provisions of the bill, taken together, may compel a change in the current Fish and Wildlife Service view that rights-of-way are generally compatible uses of the refuges, and convert long-term rights-of-way permit periods into de facto 10-year terms. EEl discussions with the House Resources Committee and with key negotiators for Secretary Babbitt, indicate that these results were not the negotiators' intent and would be unintended consequences. These views were expressed in a June 3 colloquy between Resources Committee Chairman Don Young and Rep. Saxton (on behalf of Rep. Goss) during the House floor debate on H.R. 1420. (See attached) Believing that the colloquy cannot and does not wholly address EEl concerns, EEl is pleased that the Committee has a fresh opportunity to evaluate how the bill may affect rights-of-way as a continuing use of the nation's refuges.

Since there are 92 million total acres in the national refuge system, it will not surprise the Committee that in some places in the country, the provision of electricity to rural and urban population centers has required the establishment of utility corridors through refuges for transmission and distribution lines and their related facilities. Some of these rights-of-way are of recent origin. Some existed prior to the creation of a particular refuge and only became subject to refuge restrictions upon incorporation. In other instances, wildlife refuges have been created on land leased by utilities to the Fish and Wildlife Service for that purpose so long as transmission lines and related facilities can continue to be operated, maintained, and, if necessary, expanded to assure a reliable supply of electricity to the given utilities' customer base.

In all of these situations, shareholder-owned utilities have been an important partner in helping refuge managers to fulfill the purposes of the individual refuges. Utilities, as large landowners, have a long tradition of sound and effective management of habitat and wildlife. Utility rights-of-way and related buffer zones, where ever they are located, frequently provide excellent habitats, including valuable edge environments for threatened and endangered plants, birds, and animals. A number of these that are especially good for observing wildlife have been referenced in the Defenders of Wildlife's *Watchable Wildlife Viewing Guides*. Our member companies are therefore justifiably proud of their fish and wildlife expertise, and it is this experience they bring to the table when rights-of-way transverse a refuge system.

Furthermore, unlike other uses within a refuge, which generally operate under year-to-year permits, utility rights-of-way are long-term. By regulation, utility rights-of-way are granted for permit terms that can extend for as long as 50 years. The lengthy term acknowledges that construction of a transmission line is a costly endeavor. An average, rule of the thumb estimate is that it costs \$500,000 to \$1 million per mile to build a transmission line in this country. The lengthy duration of a permit also recognizes that once the transmission line is operational, it is part of a grid that provides power throughout entire regions. The connection is part of a design to assure the reliable transmission of power, avoiding disruptions that could threaten public safety and health. Re-routing of such grid-connected transmission lines can easily run into the millions of dollars—assuming arguing that they can be re-cited and relocated at all in today's world. They should, therefore, not be compelled to move in the absence of clearly convincing site-specific rationale and supporting data.

The benefit of the lengthy permit term for rights-of-way, however, does not flow just one-way. The length allows for the development of a long-term relationship be-

tween the local utility and the refuge, founded on a mutual commitment to problem-solving and cooperation on habitat and wildlife management issues.

In 1994, Baltimore Gas and Electric Company (BG&E) completed construction of a 500 Kilovolt (KV) transmission line through the Patuxent National Wildlife Refuge, which is part of a transmission loop providing power to the Washington, D.C., metropolitan area, Annapolis and Baltimore. The project took 15 years to complete, partially due to litigation on another loop segment. As part of the approval for the Patuxent line, BG&E was required to build a 15-acre wetland as a mitigation measure, but the resulting project has become, according to the Fish and Wildlife Service, the national model for creative wetlands development. BG&E went beyond basic requirements to construct a comprehensive 35 acre project, which include 27 acres of unusual, high-quality wooded wetlands, ponds and nesting areas for migratory water fowl, and an extended viewing area that is now heavily used by Boy Scouts and school systems to educate American children on wildlife and habitat values. BG&E also contributed \$100,000 to the support of the Fish and Wildlife Service's refuge visitors center.

Of perhaps equal interest to this Committee, however, are the opportunities for research and experimentation that the right-of-way corridor provides to the Patuxent Refuge. It is being used for research on enhancing seeding and attraction of wildlife and to evaluate the success of created wooded wetlands, crop experimentation, and other ecological research. These activities are generally precluded on refuge lands. Thus, the presence of the right-of-way is fulfilling critical research needs that ultimately will benefit wildlife management and habitat protection not only in the local area, but also elsewhere in the country. The same type of productive relationship between EEI member companies and the Fish and Wildlife Service occurs through the Avian Power Line Interaction Committee, which focuses on the detection and prevention of bird interactions with power lines. The same group recently held a seminar for federal employees on this subject at the Patuxent Wildlife Refuge.

Thus, EEI's comments are provided today, mindful both of the commitment of our member companies to cooperate in the fulfillment of the purposes of the refuges where they are located and their concern about how this legislation may affect, in the future, important transmission and distribution lines in their grid and are located on land subject to the jurisdiction of this bill.

First, EEI is concerned about how the bill gives priority to wildlife-dependent recreational uses in refuges over other types of uses, appearing to require the subordination of other uses. For example, section 5 of the bill establishes the policy that "compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management." It imposes a duty on the Secretary of the Interior to administer the refuge system in a way that "ensure[s] that priority general public uses (of which wildlife-dependent recreation is the only one) receive enhanced consideration over other general public uses." Furthermore, Section 7 outlines elements that the Secretary must consider in developing the comprehensive plan for each refuge. Most of these relate to the primary wildlife protection purposes of the refuges, except for a requirement to identify the opportunities for compatible wildlife-dependent recreation.

These provisions do not acknowledge or address long-established existing uses, such as rights-of-way that have been determined in the past to be compatible and that provide an important service to the American public and, indeed, to the refuge itself. Although the National Wildlife Refuge System Act being amended by the bill does explicitly authorize grants of easements within the system for such facilities as power, telephone, and other lines, EEI is concerned that the bill's prioritization of uses will lead refuge managers to be less inclined or less able to approve such rights-of-way. Specifically, we are concerned that wildlife-dependent recreational uses will get first and perhaps even exclusive priority, even if utility rights-of-way may be more benign or helpful in fulfilling the purposes of the refuge than those other uses. EEI believes that rights-of-way should also be a general priority use and not merely a subordinate use.

Second, Section 6 of the bill expressly prohibits the Secretary from initiating or permitting uses of a refuge, or the expansion, renewal, or extension of an existing use on a refuge, unless the Secretary determines that the use is "compatible" and "not inconsistent with public safety." The bill requires the Secretary to issue regulations within two years of passage for determining whether a given use of a refuge is compatible. These regulations must require reevaluation of each non-wildlife-dependent use at least every 10 years (or more often if conditions under which the use is permitted change significantly or there is new information regarding the effects of the use). Existing uses appear to be grandfathered until such time as they are modified.

Under current law, the Secretary's authority to allow uses is permissive. H.R. 1420 and S. 1059, however, impose an absolute prohibition into the exercise of the authority, arguably making his determinations more easily subject to legal challenge. The provisions subjecting uses to regular compatibility reviews fail to recognize current policy, which allows certain uses of refuges to be appropriately permitted for extended periods of time (no more than 50 years for power lines and no more than 30 years for oil and gas pipelines). The current policy acknowledges that the longer time frames are needed in order to provide sufficient certainty for those uses to occur. As a consequence, the restrictive provisions in the legislation raise questions about the continued ability of the Fish and Wildlife Service to issue permits for periods longer than 10 years and about the validity of the longer-term permits that already have been issued. EEI has previously provided the Committee with suggested language to attempt to address this concern.

Third, Section 8 of the bill gives the Secretary new and unfettered authority to "temporarily suspend * * * any activity in a refuge * * * if the Secretary determines it is necessary to protect the health and safety of the public or any fish or wildlife population." The bill does not require procedural protections in the exercise of this authority, such as advance notice and an opportunity for the affected parties to respond or appeal the decision. It also does not require the Secretary to weigh the consequences of his or her actions in exercising the new emergency authority, including the public health and safety and economic effects of suspending an activity—which may be quite significant. Where power lines are concerned, since they cannot be casually shut down or easily moved. Inclusion of the new emergency authorities also does not recognize the host of other existing federal statutory and regulatory requirements and authorities that safeguard public health and safety and fish populations.

As a result, we are concerned about the potential for arbitrary or inconsistent exercise of the emergency power authority, in particular as it pertains to utility rights-of-way and other such long-term established, beneficial uses of the refuges. Even though the new grant of emergency powers may be appropriate for some uses, like hunting, it may not be helpful to public health or safety where transmission lines are concerned.

Finally, EEI is concerned that many of the provisions of H.R. 1420 and S. 1059, including the new requirement for compatibility determinations and other administrative and management decisions to be made in light of the new mission of the refuge system, not just the individual purposes of each refuge, work together to change the scope of review regarding these decisions, if not also the actual standard of review. Coupled with the subordination of other uses to wildlife-dependent uses, these provisions may adversely affect how wildlife managers can view rights-of-way, notwithstanding the current stated intentions of the Fish and Wildlife Service to view such rights-of-way favorably.

EEI notes here that S. 1059 makes an important improvement to the basic text of H.R. 1420. That change in the definition of "compatible use" solves a related concern that H.R. 1420 contained an internal ambiguity in the language that could lead to an interpretation that non-wildlife-dependent uses are, by definition, no longer compatible activities in a refuge. EEI supports the change contained in S. 1059.

In conclusion, notwithstanding the concerns raised here, EEI and its member companies believe that S. 1059 makes some important changes in the public interest, even if a close reading of those changes suggest that they may not make complete sense for long-term uses like rights-of-way. EEI believes that the June 3 colloquy that occurred between Resources Committee Chairman Young and Rep. Saxton (on behalf of Mr. Goss) on the House floor, with the concurrence of the Fish and Wildlife Service, was an important step towards laying to rest the utility industry's concerns. The colloquy states the Committee's view and intent that the bill should not impact rights-of-way, nor create a higher standard for rights-of-way than exist at present. Only the process is being changed. Furthermore, as to rights-of-way, the colloquy interprets the requirement for fresh compatibility reviews every 10 years, at a minimum, to mean an examination of the permittee's "compliance with the terms and conditions of the permit," not the existence of the right-of-way.

Because EEI and our member companies are concerned that the Fish and Wildlife Service may not be able to sustain this interpretation, to the extent it may be perceived as in conflict with the plain meaning of the language of the bill, EEI urges the Committee to incorporate language into S. 1059 that reflects the interpretation stated in the House colloquy. Additionally, EEI urges the Committee to use such legislative tools as the Committee report and floor statements related to S. 1059, or other consideration of H.R. 1420, to restate the intent of the authors of the bill that rights-of-way not be adversely affected by the changes made to current law and

should continue to be treated as an important public use and continue to be granted for the permit terms presently prescribed by regulation.

Thank you for the opportunity to submit testimony and for the Committee's consideration of these views.

PREPARED STATEMENT OF THE INTERSTATE NATURAL GAS ASSOCIATION
OF AMERICA

WILDLIFE REFUGE SYSTEM IMPROVEMENTS

Mr. Chairman and Committee Members: The Interstate Natural Gas Association of America (INGAA) thanks you for this opportunity to submit our views on S. 1059, the "National Wildlife Refuge System Improvement Act of 1997." By way of introduction, INGAA is a non-profit national trade association representing the interstate natural gas transmission companies operating in the United States and the interprovincial pipelines in Canada. Our member companies transport and deliver over 90 percent of the nation's natural gas through a nationwide system consisting of 280,000 miles of interstate pipeline.

The legislation before the Committee today, and its companion bill in the House H.R. 1420, focus on the establishment of clear guidelines and goals for the nation's 500 wildlife refuges. INGAA supports the overall ideals behind S. 1059 of continued protection of the refuges and their native species, and increased public enjoyment of these natural resources. INGAA is concerned, however, that the legislation may make it more difficult to site, and maintain, certain pipeline rights-of-way through wildlife refuges even if these rights-of-way are compatible with the primary purpose of protecting wildlife on these federal lands.

The process of siting and building an interstate natural gas pipeline is not an easy one. Pursuant to the Natural Gas Act, the Federal Energy Regulatory Commission (FERC) has the authority to issue construction permits for interstate pipelines that are deemed to meet the public interest, convenience and necessity. As part of this permitting process, FERC works with the various federal, state and local entities with an interest in the proposed project. One of these parties is the U.S. Fish and Wildlife Service.

To the extent possible, FERC and the pipeline operator attempt to avoid crossing wildlife refuges and other environmentally sensitive areas. When such crossings are necessary, however, FERC and the USFWS work to ensure that the pipeline crossings are accomplished with a minimum impact to the wildlife refuge. Since pipelines are typically buried several feet underground, the right-of-way can usually be returned to its natural condition within a short time and without any major impact to the native species of the refuge. When a construction permit is issued, it usually grants the pipeline the use of the approved right-of-way for a 30-year period.

The pipeline operator may need access to the right-of-way from time to time in order to ensure that trees or other vegetation do not pose a threat to the safe operation of the pipeline. Other than a periodic inspection and/or maintenance, however, the pipeline operator does not need access to the wildlife refuge. Where ever possible, and usually pursuant to the construction permit, the pipeline operator works to ensure that impacts to the refuge and its wildlife are kept at a minimum.

This process has worked well, protecting wildlife refuges while ensuring that natural gas pipeline projects that meet the public interest on a national level can be built. INGAA believes that pipeline rights-of-way, when constructed according to the permit issued by the FERC and approved by the USFWS, constitute a compatible use within a refuge. For this reason, we are concerned about the possible unintended consequences that could arise as a result of Section 6 of S. 1059, new paragraph (3)(B)(vii), which would require a compatibility review of each existing use at least every 10 years.

INGAA believes questions relating to compatibility are addressed during the permitting process, and only those uses that are deemed to be compatible over a 30-year period are approved. Pipeline projects are, by their very nature, capital intensive. A pipeline operator needs to know that, once approved, a pipeline will be able to continue operation so long as the terms of the permit continue to be met. If, however, compatibility reviews are required at least every 10 years, the opportunity is created for those who oppose a given pipeline for competitive or other reasons to use the new compatibility process as a way to overturn a previously approved permit.

In its Report to accompany H.R. 1420, the House Resources Committee noted that "[t]here are numerous existing rights-of-way on National Wildlife Refuge Systems lands for roads, oil and gas pipelines," and that "[t]he Committee does not intend

for this Act to in any way change, restrict, or eliminate these existing rights-of-way." The Resources Committee suggested that an expedited process for consideration of compatibility reviews created in new paragraph (3)(B)(v) be used to review these right-of-way uses in wildlife refuges. While INGAA appreciates the intent of the Committee, we continue to believe that, unamended, S. 1059 and H.R. 1420 could create unintended consequences which could detrimentally impact the continued operation of facilities which operate in the public interest.

INGAA believes S. 1059 should recognize that pipelines, electric transmission facilities, and communications facilities, to name a few, are compatible uses within a wildlife refuge when these facilities are built and managed responsibly. We also support language which would, in the case of natural gas pipelines, require a compatibility review only when an operating permit expires. Questions regarding compatibility are dealt with in detail during the permitting process, and the USFWS is an integral part of that process when a refuge is impacted. Additional reviews do not add substantively to that process, and may create an opportunity for certain project opponents to continually tie up the process with endless requirements for reconsideration. INGAA does not believe this is the intent of the sponsors of this legislation.

Finally, INGAA notes that Section 6, new paragraph (3)(A)(i) states that the Secretary of the Interior shall not approve a new use, or extend an existing use of a refuge "unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety." While INGAA supports the overall goal of that section, it should be noted that in the case of interstate natural gas and hazardous liquid pipelines, the Department of Transportation (DOT) regulates safety-related matters. In addition, many state governments regulate the safety of intrastate and gas distribution facilities. We want to ensure that the Secretary of the Interior would work in conjunction with the relevant federal and state officials on any matters related to the safe operation of pipelines in wildlife refuges, in order to avoid confusion and misunderstanding.

In closing, INGAA once again appreciates the opportunity to comment on this important issue. We support passage of S. 1059 with the aforementioned changes, and would like to work with the Committee in perfecting this legislation.

NATIONAL RIFLE ASSOCIATION OF AMERICA,
Institute for Legislative Action.

Hon. JOHN H. CHAFEE,
*Chairman, Environment and Public Works Committee,
Hart Building, Washington, DC.*

DEAR CHAIRMAN CHAFEE: I would appreciate having this letter included in the record for the hearing held July 29, 1997 on S. 1059, the National Wildlife Refuge System Improvement Act. The National Rifle Association of America (NRA) compliments the Committee for taking expeditious action on this bill.

The NRA wholeheartedly supports S. 1059 for it recognizes the important role of the hunting community to the conservation mission of the Refuge System. Hunters' dollars have contributed to the expansion of the System from a 3-acre island created in 1903 to a network of lands and waters that today comprise more than 92 million acres. In fact, America's hunters helped to buy three-fourths of the lands that have been purchased for the Refuge System. We have a special interest in all legislation affecting the Refuge System, including legislation that improves upon the original Refuge Administration Act which this "organic" legislation does. The NRA has been involved in the development of an "organic act" for the Refuge System for the past three Congresses.

The NRA fully supported H.R. 511 introduced earlier this year, as well as its predecessor which passed the House by a large margin in the 104th Congress. Recognizing the importance to our hunter/conservationist members of ensuring that compatible wildlife dependent activities are allowed in the Refuge System, the NRA strongly supported a provision of H.R. 511 that would have made opportunities for these activities a purpose of the System. Although H.R. 511 ensured that these activities would have to be found compatible with the other purposes of the Refuge System and the purposes of the individual refuge before being allowed, the provision became the focal point of the Administration's opposition to the bill.

During the negotiation sessions held by the Secretary of the Interior with the sponsors of the bill and representatives of the hunting, conservation, and environmental communities, language was agreed to which elevates wildlife dependent activities to a priority public use, rather than a purpose of the System. Although we had strongly advocated for the language of H.R. 511, the revised bill, introduced as

H.R. 1420, achieves our objective of shielding the Refuge System from anti-hunting lawsuits such as the one filed in the 1980's claiming that hunting violated the "refuge" concept of the System.

All interests at the negotiating table compromised in some measure on their original positions in order to create a bill that all could agree upon. Achievement of a consensus bill was reflected in the nearly unanimous vote in the House of Representatives last month on passage of H.R. 1420. The NRA joins with numerous and diverse organizations in strongly recommending that the Committee's action on S. 1059 be sensitive to the level of effort and commitment that has been invested to date and mirrored in the introduction of S. 1059. We urge the Committee to bring a bill to the Senate Floor without amendment or with only technical changes that maintain this hard won consensus.

A strong and healthy system of lands that meets the needs of our wildlife resources and the community of people who have helped to create and perpetuate the System is a legacy for all of us to safeguard. Again, we appreciate the timeliness in holding a hearing and trust that the Committee will take action as soon as possible to help pass this legislation into law.

Sincerely,

SUSAN LAMSON,
Director, Conservation, Wildlife and Natural Resources.

