

**H.R. 1054, H.R. 2213, H.R. 3433,
AND H.R. 3537**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON INSULAR AFFAIRS,
OCEANS AND WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**LEGISLATIVE HEARING ON H.R. 1054, TO
AMEND THE MARINE MAMMAL PROTEC-
TION ACT OF 1972 TO ALLOW IMPORTATION
OF POLAR BEAR TROPHIES TAKEN IN
SPORT HUNTS IN CANADA BEFORE THE
DATE THE POLAR BEAR WAS DETERMINED
TO BE A THREATENED SPECIES UNDER
THE ENDANGERED SPECIES ACT OF 1973;
H.R. 2213, TO REAUTHORIZE THE NEO-
TROPICAL MIGRATORY BIRD CONSERVA-
TION ACT; H.R. 3433, TO AMEND THE
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REGARDING PAYMENT OF THE NON-
FEDERAL SHARE OF THE COSTS OF
WETLANDS CONSERVATION PROJECTS IN
CANADA; AND H.R. 3537, THE JUNIOR DUCK
STAMP CONSERVATION AND DESIGN
PROGRAM REAUTHORIZATION ACT OF 2009.**

**Tuesday, September 22, 2009
U.S. House of Representatives
Subcommittee on Insular Affairs, Oceans and Wildlife
Committee on Natural Resources
Washington, D.C.**

The Subcommittee met, pursuant to call, at 10:02 a.m. in Room 1324, Longworth House Office Building, Hon. Madeleine Z. Bordallo [Chairwoman of the Subcommittee] presiding.

Present: Representatives Bordallo, Christensen, Kratovil, Young, Wittman and Chaffetz.

Also Present: Representative Broun of Georgia.

**STATEMENT OF HON. MADELEINE Z. BORDALLO, A DELEGATE
IN CONGRESS FROM GUAM**

Ms. BORDALLO. Good morning, everyone. The legislative hearing by the Subcommittee on Insular Affairs, Oceans and Wildlife will now come to order.

The House Subcommittee on Insular Affairs, Oceans and Wildlife meets today to hear testimony on four bills. Our first panel will focus on H.R. 1054.

H.R. 1054 is legislation to amend the Marine Mammal Protection Act of 1972 to allow individuals who hunted polar bears in

Canada prior to the listing of those bears under the Endangered Species Act to import their trophies to the United States.

In response to a Court ordered deadline on May 15, 2008, the U.S. Department of the Interior listed polar bears as threatened under the ESA, triggering an automatic designation as a depleted species under the MMPA and preventing any further importation of polar bear products into the United States.

After the polar bear was first proposed for listing under the ESA in January of 2007, the Fish and Wildlife Service began an outreach and education campaign to alert hunters that a prohibition would be placed on trophy imports should a listing occur. Still, approximately 40 hunters were apparently unable to import their bears prior to the May 15 deadline. At issue is whether that importation should now be allowed.

Our second panel will testify on three bird conservation bills, H.R. 2213, to reauthorize the Neotropical Migratory Bird Conservation Act; H.R. 3433, to amend the North American Wetlands Conservation Act; and H.R. 3537, the Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2009.

Although the health status of several important migratory bird populations continues to decline, some bird populations, especially waterfowl and other wetland-dependent bird species, appear to be stable, if not growing. While not all credit for this achievement can be directed to these bird habitat conservation programs alone, it is safe to say that, in their absence, our ongoing efforts to recover and conserve migratory bird populations in North America would be much more challenging.

I look forward to hearing from our witnesses concerning these bills. Moreover, I would like to hear what we in the Congress should do to ensure that these three programs remain vital elements in our strategy to conserve the diversity and abundance of our migratory bird resources.

The Chairwoman now recognizes Mr. Young, who is Ranking Member from Alaska, for his opening statement.

[The prepared statement of Ms. Bordallo follows:]

**Statement of The Honorable Madeleine Z. Bordallo, Chairwoman,
Subcommittee on Insular Affairs, Oceans and Wildlife**

The House Subcommittee on Insular Affairs, Oceans and Wildlife meets today to hear testimony on four bills.

Our first panel will focus on H.R. 1054, legislation that amends the Marine Mammal Protection Act to allow individuals who hunted polar bears in Canada prior to the listing of those bears under the Endangered Species Act, to import their trophies to the United States. In response to a court-ordered deadline, on May 15, 2008, the U.S. Department of Interior listed polar bears as threatened under the ESA, triggering an automatic designation as a depleted species under the MMPA and preventing any further importation of polar bear products into the United States.

After the polar bear was first proposed for listing under the ESA in January 2007, the Fish and Wildlife Service began an outreach and education campaign to alert hunters that a prohibition would be placed on trophy imports should a listing occur. Still, approximately 40 hunters were apparently unable to import their bears prior to the May 15th deadline. At issue, is whether that importation should now be allowed.

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Although the health status of several important migratory bird populations continues to decline, some bird populations, especially waterfowl and other wetland-dependent bird species, appear to be stable, if not growing. While not all credit for this achievement can be directed to these bird habitat conservation programs alone, it is safe to say that in their absence our ongoing efforts to recover and conserve migratory bird populations in North America would be much more challenging.

I will look forward to hearing from our witnesses concerning these bills. Moreover, I would like to hear what we in the Congress should do to ensure that these three programs remain vital elements in our strategy to conserve the diversity and abundance of our migratory bird resource.

**STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ALASKA**

Mr. YOUNG. Madam Chairwoman, thank you for scheduling this hearing today on H.R. 1054, which would allow 41 hunters with legally taken polar bear trophies in Canada to import their trophies into the U.S. after paying the required permit fee, which is approximately \$1,000 per bear. The intent of this bill is very specific; to allow only those 41 hunters with legally taken polar bear trophies taken prior to the May 15, 2008, listing to bring those trophies into the United States.

Congress amended the Marine Mammal Protection Act of 1994 to allow U.S. hunters to import polar bear trophies from Canada. We did that. This Committee did it. The Act requires the Fish and Wildlife Service to review the status of polar bear populations in Canada and, after conducting their review, to create a list of approved, stable and healthy polar bear populations. Following this process, U.S. hunters would only be allowed to import trophies from those approved populations.

Thirteen of the 19 polar bear populations are under the jurisdiction of Canada. Canada has one of the best management programs, using state-of-the-art scientific practices to manage its populations. Out of those 13 populations, only six are considered to be approved populations by the Fish and Wildlife Service.

The worldwide population of polar bears, Madam Chairwoman, is currently estimated at 23,000 bears. I have a press release from the 1970s where the U.S. Fish and Wildlife Service is heralding the stability of the polar bear population with an estimate of 20,000 bears. That was 1970. Now we have 23,000.

Here we are 32 years later, and the population is still above 20,000 polar bears. Given the dire prediction for polar bears over the next 100 years, one might be surprised that the polar bear has weathered ever-warming trends, including the most recent one in the last 50 years. Instead of seeing a huge decline in population as is predicted for the population over the next 100 years, the polar bear population has stayed stable since 1970.

I do not want to digress into reasons why the Endangered Species Act listing of the polar bear was wrong. That is not the focus of this hearing. However, I do want to stress that the prohibition of bringing these trophies in the U.S. is not providing any conservation value to the Canadian polar bear population. In fact, if we allow these trophies to be imported, we can raise much needed funds for conservation activities for the shared U.S.-Russian polar bear population.

There will be detractors today, as there were in 1994, who are opposed to amending the MMPA to allow the importation of polar bear trophies from Canada, referring to the language as a loophole. I have seen the ads. I think they are terribly misleading and, frankly, dishonest.

In 1970, many marine mammal populations faced numerous threats. The MMPA was very effective in restoring those many marine mammal populations to healthy or historic levels. Unfortunately, the Act does not discriminate between healthy marine mammal populations and those still in need of rebuilding. Robust populations of marine mammals are treated like they are on the verge of extinction.

While the 1994 amendments did not address this issue, the Democrats controlled Congress, specifically those enlightened Members of the Merchant Marine and Fisheries Committee, had the foresight to understand a sustainable use of resources and conservation activities were not mutually exclusive. The Committee developed strict requirements to ensure the protection of the polar bear populations in Canada, while allowing for the importation of sport-hunted polar bear trophies.

The idea of incentives to give value to a natural resource was very new at the time. A similar program was developed for African communities to protect big game resources in Africa using the same incentive structure. These programs have proven their worth and have been very successful.

There will always be a sector of our population that believes we should not kill animals. However, we need to keep in mind that there are still areas in the world that rely on natural resources around them and still subsist on these resources. Some may like to believe that if U.S. hunters are prohibited from importing their trophies, U.S. polar bear hunting will end. That is far from the truth.

In addition, it is important to remember that these polar bear sport hunts in Canada support small, remote native villages in Canada. Hunters pay up to \$50,000 for a hunt itself and will leave with only the hide of the bear. The native village benefits again from the hunt by retaining all the meat and the monetary value that is taken. Most of the Canadian polar bear populations are healthy and well managed. Sport hunting activities provide important incentives to support remote native villages and important conservation programs in Canada, the U.S. and Russia.

Finally, let me again be clear. There is no conservation value in a dead bear that is held in cold storage in Canada for over a year. Those who legally hunted and harvested these polar bears fully complied with U.S. and Canadian laws in place at the time. In most instances, these hunts were years in planning, and savings were set aside to book this once-in-a-lifetime experience.

You will hear today from one of our witnesses, Major Roger Oerter of Vail, Arizona. Major Oerter is a veteran; not one, but 10 military deployments during his Air Force career. During his distinguished service, the Major time and again risked his life for the security of this nation. He is now asking this Subcommittee for the right to import his legally obtained polar bear trophy into the U.S. It seems to me that this is the least we can do for this hero warrior

who has sacrificed for his country. He ought to be allowed to bring his trophy in.

Madam Chairwoman, I have a number of letters from those hunters affected by the May 15 listings who have their polar bear trophies in Canada, and I am requesting action on H.R. 1054 to allow them to import their property. I ask unanimous consent to submit these letters at the hearing and any additional letters I receive prior to the hearing record close.

Thank you, Madam Chairwoman, for having this hearing.

Ms. BORDALLO. No objection. So ordered.

[The information submitted for the record can be found at the end of this hearing.]

Ms. BORDALLO. I thank the gentleman from Alaska for his opening remarks, and I would now like to recognize our first panel of witnesses to testify.

But before I do that, those standing in the back, we have chairs all around on the lower level here if you would like to be seated. It may be a long hearing.

Mr. YOUNG. Madam Chairwoman, if I may at this time? Could I submit Mr. Brown's statement for the record at this time too?

Ms. BORDALLO. No objection. So ordered.

[The prepared statement of Mr. Brown follows:]

**Statement of The Honorable Henry E. Brown, Jr.,
Ranking Republican Member, Committee on Natural Resources**

Madam Chairwoman, today, our Subcommittee will conduct a hearing on several legislative measures affecting Canadian polar bears, neotropical migrants and migratory waterfowl.

The first bill was introduced by the distinguished former Chairman of the House Resources Committee, The Honorable Don Young of Alaska. It is my understanding that this bill, H.R. 1054, would allow 44 Americans to import their polar bear trophies into the United States which were legally harvested prior to the listing of this species as threatened under the Endangered Species Act.

The second bill, H.R. 2213, would extend and more than triple the authorization for the Neotropical Migratory Bird Conservation Act. During the past nine years, this Act has been remarkably successful. In fact, the Fish and Wildlife Service has approved nearly 1,200 grant proposals to assist some of the 341 neotropical bird species. The Congress has already appropriated over \$30 million for neotropical grants which compares quite favorably with the \$64 million that has been provided to the other five Multinational Species Conservation Funds over the past twenty years. Nevertheless, this Act has earned an extension beyond September 30, 2012.

The third bill, H.R. 3433, has been introduced by our distinguished colleague Congressman Rob Wittman of Virginia. It will amend the North American Wetlands Conservation Act to require that at least 50 percent of the non-federal share of projects in Canada be paid for by Canadian non-governmental entities. I believe this is an appropriate change in our federal law.

Finally, we will hear testimony on H.R. 3537, a bill to extend the extremely popular Junior Duck Stamp Conservation and Design Program Act. I was pleased to join with Congressman Solomon Ortiz in introducing this measure.

The Junior Duck Stamp Program was developed twenty years ago, it was first authorized sixteen years ago and thousands of students have benefitted from the conservation curriculum and the opportunity to participate in the nationwide art contest. I am pleased to report that Mr. Weston DeWolff a 15-year old student at the Charleston County School of the Arts was this year's "Best of Show" winner for the State of South Carolina.

I congratulate him for his artistic efforts in drawing such a beautiful picture of a male and female mallard duck and strongly support extending this program so that thousands of additional students can participate in this contest in the future.

Madam Chairwoman, I want to join with you in welcoming our distinguished witnesses and I look forward to hearing their testimony.

Thank you, Madam Chairwoman.

Before we introduce the witnesses, I would like to thank my colleagues, Donna Christensen from the Virgin Islands seated down there. She has another appointment, so she has joined us for a few minutes. From the Virgin Islands.

We also have Congressman Chaffetz from Utah and Mr. Wittman from Virginia. Thank you, gentlemen.

Our first group of witnesses, Dr. Rowan Gould, Deputy Director for Operations, United States Fish and Wildlife Service; Mr. Howard M. Crystal, Meyer Glitzenstein and Crystal; Mr. Michael Markarian, Chief Operating Officer, Humane Society of the United States; Mr. Roger Oerter; and Dr. William Moritz, Director, Department of Science-Based Conservation Programs and Research, Safari Club International.

I want to thank you all for coming this morning, and as we begin, gentlemen, we are on a time constraint here with the Committee, and I would note for the witnesses that the red timing light on the table will indicate when five minutes have passed and your time has concluded. We would appreciate your cooperation in complying with these limits, but be assured that your full written statement will be included for the record.

So we will begin with Dr. Gould. Please begin.

STATEMENT OF DR. ROWAN GOULD, DEPUTY DIRECTOR FOR OPERATIONS, UNITED STATES FISH AND WILDLIFE SERVICE

Dr. GOULD. Chairwoman Bordallo and Members of the Subcommittee, I am Rowan Gould, Deputy Director of the U.S. Fish and Wildlife Service. I appreciate the opportunity to appear before the Subcommittee to testify on H.R. 1054.

My testimony will focus on the legal framework that has guided the Service regarding the importation of the polar bear under the Marine Mammal Protection Act and effects of the Endangered Species Act listing. In addition, I will highlight outreach the Service conducted to inform hunters of the potential impact of the ESA listing on their ability to import sport-hunted polar bear trophies.

The polar bear was listed as threatened under the ESA on May 15, 2008, primarily due to loss of sea ice habitat caused by climate change. If the polar bear was protected only under the ESA, the Service would have continued to allow the import of sport-hunted polar bear trophies from Canada. However, the polar bear is also protected under the MMPA, which has its own legal requirements for the importation of marine mammals.

Until the polar bear was listed under the ESA, the MMPA provided for the import of certain polar bear trophies from approved populations in Canada. However, any marine mammal listed as threatened or endangered under the ESA is considered depleted under the MMPA, and consequently the MMPA prevents the import of sport-hunted polar bear trophies.

The Service conducted outreach efforts on the potential impact of an ESA listing on the import of sport-hunted polar bear trophies. We attempted to inform all potential applicants that a decision on the listing was imminent and that if the species was listed further imports would be prohibited. Given that the permitting process can take between 50 and 90 days, the Service attempted to provide as

much information as possible to potential hunters as quickly as possible.

The Service also worked closely with the Canadian Management Authority for importation of the Convention on International Trade of Endangered Species, CITES, to ensure permittees had accurate information about obtaining the required Canadian CITES export permit.

On the day the polar bear was listed under the ESA, the Service had 43 permit applications for trophies from approved populations for which a final decision had not been made on whether or not to issue a permit. Many of these applications had already been published in the Federal Register, but the required 30-day comment period was still open or just recently closed.

Other applications had only recently been received and the notice had either not been published or had been only recently published in the Federal Register. In addition to these individuals, it is possible that other U.S. hunters had taken bears from approved populations prior to the listing date, but had not yet applied to the Service for the required import permits.

Prior to the listing of the polar bear under the ESA, the Service applied the provisions of the MMPA to allow the import of sport-hunted polar bear trophies legally harvested from approved populations in Canada. Following the ESA listing of the species, the Service has likewise adhered to the MMPA provisions, thereby prohibiting additional imports of sport-hunted polar bear trophies from Canada.

We recognize that there were a number of hunters who both applied for permits and successfully completed their polar bear hunts prior to the May 15, 2008, listing. We also recognize that by Court order the Service's final decision to list the polar bear under the ESA went into effect immediately whereas such decisions normally take effect 30 days after the publication date of the final listing decisions. The ESA listing triggered an immediate change in the status of the polar bear under the MMPA such that polar bear trophies could no longer be imported into the United States.

The Administration does not oppose legislation allowing those hunters who both applied for a permit and completed their legal hunt within an approved polar bear population prior to the ESA listing to import their polar bear trophies, provided that the hunter is required to submit proof that the bear was legally harvested in Canada from an approved population.

The Department does not support any broader change to the MMPA that would allow additional sport-hunted polar bear trophies to be supported beyond those where hunters submitted their import permit applications and completed their hunt prior to the ESA listing. Therefore, the Department does not support H.R. 1054 as currently written because it would allow the import of polar bear trophies regardless of whether the hunter had applied for the permit prior to the ESA listing.

Madam Chairwoman and Members of the Subcommittee, thank you for the opportunity to testify on H.R. 1054. We look forward to continuing to work with the Subcommittee on this issue, and I would be happy to answer any questions.

[The prepared statement of Dr. Gould follows:]

**Statement of Rowan Gould, Deputy Director, U.S. Fish and Wildlife Service,
U.S. Department of the Interior, on H.R. 1054**

Introduction

Chairwoman Bordallo and Members of the Subcommittee, I am Rowan Gould, Deputy Director of the U.S. Fish and Wildlife Service (Service), within the U.S. Department of the Interior (Department). I appreciate the opportunity to appear before the Subcommittee today to testify on H.R. 1054, which would amend the Marine Mammal Protection Act (MMPA) of 1972 to allow importation into the United States of polar bear trophies taken in sport hunts in Canada before May 15, 2008, the effective date of listing the polar bear as a threatened species under the Endangered Species Act (ESA) of 1973.

Today my testimony will focus on the legal framework that has guided the Department and the Service regarding the importation of the polar bear under the MMPA and effects of the ESA listing. In addition, I will highlight the outreach that the Service conducted to inform hunters of the potential impact of an ESA listing on their ability to import sport hunted polar bear trophies.

The Department recognizes that there were a number of hunters who both applied for permits and successfully completed their polar bear hunts prior to the May 15, 2008 listing. We also recognize that, by court order, the Service's final decision to list the polar bear under the ESA went into effect immediately, whereas such decisions normally take effect 30 days after the publication date of the final listing decision. The ESA listing triggered an immediate change in the status of the polar bear under the MMPA such that polar bear trophies could no longer be imported into the United States. If the ESA listing had taken effect 30 days after the publication date, as is normally the case, some of these hunters may have had the opportunity to import their trophies before the listing took effect.

The Administration does not oppose legislation allowing those hunters who both applied for a permit and completed their legal hunt of a polar bear from an approved population prior to the ESA listing to import their polar bear trophies, provided that the hunter is required to submit proof that the bear was legally harvested in Canada from an approved population prior to the effective date of the ESA listing. The Department does not support any broader changes to the MMPA that would allow additional sport-hunted polar bear trophies to be imported beyond those where hunters submitted their import permit application and completed their hunt prior to the ESA listing. Therefore, the Department does not support H.R. 1054 as currently written because it would allow the import of polar bear trophies regardless of whether the hunter had applied for the permit prior to the ESA listing.

Legal Framework for Importing Sport-hunted Polar Bear Trophies

The polar bear was listed as threatened under the ESA on May 15, 2008, primarily due to ongoing and predicted loss of sea-ice habitat caused by climate change. If the polar bear was protected only under the ESA, the Service could have continued to allow the import of sport-hunted polar bear trophies from Canada. This could have been accomplished either by including a provision in the special rule issued for this species under section 4(d) of the ESA authorizing such imports or by applying the provisions of section 9(c)(2) of the ESA, which would have allowed sport-hunted polar bear trophies to be imported for personal use by the hunter without additional ESA authorization (as long as the trophy was imported with a Canadian export permit issued under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and all other requirements of law were met).

However, the polar bear is also protected under the MMPA, which has its own legal requirements, separate and distinct from those of the ESA, relative to the importation of marine mammals. The MMPA establishes a federal responsibility, shared by the Secretaries of the Interior and Commerce, for the management and conservation of marine mammals. The Secretary of the Interior, through the Service, protects and manages polar bears, sea and marine otters, walruses, three species of manatees, and dugongs.

Until the polar bear was listed under the ESA, section 104(c)(5) of the MMPA had provided for the import of certain polar bear trophies from approved populations in Canada. However, any marine mammal listed as threatened or endangered under the ESA is considered "depleted" under section 3(1)(C) of the MMPA, and consequently, sections 101(a)(3)(B) and 102(b)(3) of the MMPA prevent the import of sport-hunted polar bear trophies.

The Service has interpreted the existing grandfather clause (section 104(c)(5)(D) of the MMPA), as continuing to authorize the issuance and use of permits that allow the import of polar bears legally harvested in Canada prior to February 18, 1997.

As of May 15, 2008, when the ESA listing took effect, except for those trophies that qualify under this grandfather clause, any permit previously issued under section 104(c)(5) could no longer be used to import a sport-hunted polar bear trophy, and no new permits could be issued or additional imports allowed under that section.

Outreach to Polar Bear Hunters on the Potential Impact of an ESA Listing

Once the proposed rule to list the polar bear as threatened was published in January 2007, the Service conducted extensive outreach efforts on the potential impact of an ESA listing on the import of sport-hunted trophies. Hunters were advised that, although the Service was able to authorize the importation of polar bear trophies taken in Canada under the provisions of section 104(c)(5) of the MMPA while the species was proposed for listing, the Service would not be able to continue to authorize imports under this section of the MMPA if and when the listing became final. The Service wanted hunters to be fully aware of the fact that if the polar bear were listed, then hunters would no longer be able to import their sport-hunted trophies.

Beginning in January 2008, the Service addressed a large number of telephone and e-mail communications on this issue, including inquiries from hunters, Canadian outfitters and taxidermists, and the media. The Service attempted to inform all potential applicants that a decision on the listing was imminent and that, if the species was listed, further imports would be prohibited. During the 2008 Convention of Safari Club International, the Service also provided information at the Convention regarding the impacts of a potential listing on the importation of sport-hunted polar bear trophies.

Under the MMPA, the process for reviewing applications for the issuance of import permits requires publication of a notice of receipt of an application in the Federal Register and allowance of a 30-day public comment period. In addition, once a U.S. import permit is issued, the Canadian Management Authority must issue a CITES export permit. Given that the permitting process can take between 50 and 90 days, the Service attempted to provide as much information as possible to potential hunters, as quickly as possible. The Service also worked closely with the Canadian CITES Management Authority to ensure permittees had accurate information about obtaining the required Canadian CITES export permit.

On May 5, 2008, the Service attempted to contact those individuals who had already been issued a permit to import a trophy, but had not already done so, to inform them of a court decision and the potential that an ESA listing might go into effect on or before May 15. Permittees were informed that trophies must be imported before the listing's effective date.

Status of Pending Polar Bear Trophy Import Permit Applications

On the day the polar bear was listed under the ESA, the Service had 44 permit applications pending for which a final decision had not been made on whether or not to issue a permit. Notice of many of these applications had already been published in the Federal Register, but the required 30-day comment period was still open or just recently closed. Other applications had only recently been received and the notice had not yet been published in the Federal Register. In addition to these individuals, it is possible that other U.S. hunters had taken bears from an approved population prior to the listing date, but had not yet applied to the Service for the required import permits; in the absence of applications for them, the Service cannot state how many additional bears were taken by U.S. hunters prior to the effective date of the ESA listing.

With the exception of one permit application that qualified for import under the grandfather clause, all applications that were received prior to the listing of the polar bear under the ESA were for bears taken from populations that had previously been approved for importation.

Conclusion

In summary, prior to the listing of the polar bear under the ESA, the Service applied the provisions of the MMPA to allow the import of sport-hunted polar bear trophies legally harvested from approved populations in Canada. Following the ESA listing of the species, the Service has likewise adhered to the MMPA provisions thereby prohibiting additional imports of sport-hunted polar bear trophies from Canada.

Madame Chairwoman and Members of the Subcommittee, thank you for the opportunity to testify on H.R. 1054. We look forward to continuing to work with the Subcommittee on this issue. I would be happy to answer any questions.

Response to questions submitted for the record by Dr. Rowan Gould

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

- 1. One of the findings that must be made under section 104(c)(5)(A) of the Marine Mammal Protection Act (MMPA) before the import of polar bears from Canada can be authorized is that “Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level.”**

If polar bear stocks in Canada are declining for reasons independent of sport hunting, which appears to be the case for at least some of the approved populations, and these declines are expected to continue and worsen in the foreseeable future, how can the U.S. Fish and Wildlife Service (Service) support a determination that any additional removals from these populations are sustainable?

With the listing of the polar bear under the Endangered Species Act (ESA), the status of the species changed to “depleted” under the Marine Mammal Protection Act (MMPA). As a depleted species, the provisions of section 104(c)(5)(A) can no longer be used to import sport hunted trophies. The Service, therefore, is no longer required to make the finding under section 104(c)(5)(A) of whether Canada has a sport hunting program that is based on scientifically sound quotas. If, in the future, there is a change in the MMPA that would allow trophies from a depleted population to be imported under section 104(c)(5)(A), the Service would need to re-evaluate its previous findings to determine how the ongoing and anticipated declines in polar bear populations are being addressed by the Canadian authorities in the development of hunting quotas.

- 2. Section 104(c)(5)(C) of the MMPA directed the Service to conduct a “scientific review” of the impact of allowing polar bear imports from Canada within two years of enactment of the 1994 Amendments and to cease issuing such permits if the Service determined that such a permit “is having a significant adverse impact on polar bear stocks. When it published regulations implementing section 104(c)(5) in 1997, the Service indicated that it would conduct this review once the regulations had been in place for two years.**

Has the Service ever conducted such a review? If so, we would appreciate receiving a copy of the report. If not, does the agency ever intend to conduct the required review? Given that these polar bear populations are facing significant threats from climate change, wouldn’t such a review would be particularly timely?

The report, required under the MMPA, was intended to evaluate the impact of sport hunting on polar bear populations and, if the Service determines that there is an adverse impact, to suspend importations of hunting trophies. Prior to the ESA listing, the Service began the process of drafting a report. While an initial draft of the report was completed, the Service did not finalize it due to ongoing work on the review of populations from which polar bear trophies could be imported under 104(c)(5)(A). With the listing of the polar bear under the ESA and the subsequent change of the species status to “depleted” under the MMPA, the Service can no longer allow the import of trophies under section 104(c)(5)(A). Therefore, the value of completing the report is significantly reduced and for this reason, is a low priority for the FWS at this time. In addition, the evaluation that was conducted when considering whether the species should be listed has generated a significant volume of information that would need to be evaluated in light of the report’s requirements. If, in the future, there is a change in the MMPA that would allow trophies from a depleted population to be imported under section 104(c)(5)(A), finalizing the report could become a higher priority. At that time, the Service would need to reconsider the draft report as written and incorporate the new information obtained during the listing process and most current information available, before the report could be finalized.

- 3. If H.R. 1054 is enacted, this would be the second time that the statute has been amended to allow the importation of polar bear trophies from Canada that otherwise did not meet the requirements of section 104(c)(5) of the MMPA. Each time, the proponents of the legislation have argued that it does not make any difference from a conservation perspective because the bears are already dead. While this might be true at any given instant, doesn’t passing these bills repeatedly give U.S. hunters an incentive to take additional bears despite import prohibitions with the expectation that they will be allowed to import their trophies at a later date, because it does not make any difference—the bears are already dead?**

What assurance do we have that if we allow the imports that would be approved by this bill, that other hunters will not be encouraged to engage in sport hunting in Canada despite the current import ban with the expectation that they will receive similar treatment in the future? Has the Service taken any actions to make it clear that additional imports would not be allowed or supported by the agency?

The Service has repeatedly stated that with the listing of the polar bear under the ESA and the change in the status of the species under the MMPA, permits would not be issued for the importation of trophies that were taken on or after May 15, 2008. In addition, as indicated at the September 22 hearing, the Service does not support amending the MMPA to allow imports of polar bears from Canada other than those that were legally taken and for which a permit application had been submitted prior to May 15, 2008. The Service will continue to inform the public, in writing or in public forums like the Safari Club International annual convention, that permits cannot be issued for the import of trophies.

- 4. The statutory deadline for publishing the final Endangered Species Act (ESA) rule was January 9, 2008. Assuming that the Service had made a final decision in accordance with the law and had published the final rule on January 9, 2008, wouldn't the typical thirty-day notice period have expired on February 10, 2008? Would all hunters have been required to import their trophies by that date?**

Yes. If the Service had published a final rule listing the polar bear under the ESA on January 9, 2008, with an effective date of February 10, 2008, trophies would have had to be imported by February 10, 2008 to be in compliance with the MMPA.

- 5. On January 7, 2008 the Service announced that final rule would be published no later than February 7, 2008. After failing to comply with the statutory deadline, the Service then failed to comply with the February deadline the agency itself had set. How many of the 40+ permit applications that were pending on the day the listing was finalized—May 15th—were submitted after the February deadline for a listing decision that had been set by the Service?**

All of the permit applications that were pending on the day the listing was finalized were received by the Service after February 7, 2008.

- 6. When Judge Wilken ordered the Department of Interior to publish the final listing rule by May 15, 2008, she waived the thirty-day notice or "grace period" under the Administrative Procedure Act because, in her opinion, "affected parties will have had adequate notice that publication was forthcoming," particularly given the Service's announcement on January 7, 2008 that a listing would be coming within 30 days. Do you agree with the judge that affected parties had adequate notice? If not, what more should the Service have done?**

The Service did not file any objection or appeal the judge's decision and, of course, complied with her decision. The Service made significant efforts to inform interested parties of the consequences of a listing decision, if the Service made such a determination, well in advance of the listing.

- 7. According to your testimony, if the ESA listing had taken effect 30 days after the May 15, 2008 publication date, some of the 40+ permit applications that were pending may have been approved and the hunters may have had the opportunity to import their trophies before the listing took effect. You also testified that the permitting process can take between 50 and 90 days. Given that time line, how many of the pending applications could actually have been approved with an extra 30 days? Please explain based on the dates that permits were submitted.**

For instance, would any permit applications submitted after April 28th—the date that the Court required you to make a final decision by May 15th—have had enough time to be approved?

If the ESA listing had taken effect 30 days after the May 15, 2008, publication date, the Service would have been able to issue 20 of the pending permits. Of these 20 permits, seven hunters would have had approximately three weeks to import their trophies; five hunters would have had about two weeks; and eight hunters would only have had two days to import their trophies. However, the issuance of a U.S. permit would not have guaranteed that the trophies could have been imported in time. In addition to the U.S. import permit, the hunters would also have had to have a valid Canadian Convention on International Trade in Endangered

Species (CITES) export permit, which has taken up to six weeks to process. None of the permit applications submitted after April 28, 2008, would have had time to be approved, and the trophies imported, with an extra 30 days.

8. The Service administers several statutes that have bans on imports under certain circumstances, such as the Lacey Act. Under those statutes, doesn't the ban on imports generally apply regardless of when the animal was killed?

Yes, if there were a prohibition to import under a statute, the prohibition would not be affected based upon when the specimen was removed from the wild.

9. Did the Service conduct outreach to individual hunters and the hunting community to inform them about the possible ESA listing? Please describe these efforts.

Once the proposed rule to list the polar bear as threatened was published in January 2007, the Service conducted extensive outreach efforts on the potential impact of an ESA listing on the import of sport-hunted trophies. At the 2007 Convention of Safari Club International, hunters were advised that, although the Service was able to authorize the importation of polar bear trophies taken in Canada under the provisions of section 104(c)(5) of the MMPA while the species was proposed for listing, we would not be able to continue to authorize imports under this section of the MMPA if and when the listing became final. The Service wanted hunters to be aware of the risk that they would not be able to import their trophies if the polar bear was listed under the ESA.

Beginning in January 2008, the Service received and responded to a large number of telephone and e-mail communications on this issue, including inquiries we received from hunters, Canadian outfitters and taxidermists, and the media. We informed potential applicants that a decision on the listing was probably imminent and that, if the species was listed, further imports could not be authorized under the MMPA. The Service also provided this outreach during the 2008 Convention of Safari Club International. Interested individuals, such as potential hunters and the media, were informed that under the MMPA, the process for reviewing applications for the issuance of import permits requires publication of a notice of receipt of an application in the Federal Register and allowing a 30-day public comment period. In addition, once a U.S. import permit is issued, the Canadian Management Authority must issue a CITES export permit. The permitting process can take between 50 and 90 days, depending on whether any complications arise. Given these requirements, the Service provided as much information to potential hunters as possible, so that they would be aware of the possibility of being unable to import their trophies if and when the species became listed under the ESA. We also worked closely with the Canadian CITES Management Authority to ensure permittees had accurate information about obtaining the required Canadian CITES export permit.

10. Was the process for this ESA listing longer than required by law, even given the fact that there was no thirty-day notice period? How much longer was the process to list the polar bear?

The proposed rule to list the polar bear as a threatened species under the ESA was published in the Federal Register on January 9, 2007 (72 FR 1064). The final rule to list the polar bear was published in the Federal Register on May 15, 2008 (73 FR 28212). The time to complete the final rule was a little over 16 months. The statutory time frame for completing a final rule under the ESA is 12 months. The polar bear final listing rule was delayed due to the complexity of the data and the analyses required to ensure that the ultimate decision was based on the best available scientific and commercial data. The time that it took to complete the final rule to list the polar bear was not influenced by the ultimate effective date of the rule-making. The completion of the final rule and the resulting effective date were directed by a court order.

11. If there are species listed under the ESA in other parts of the world which sustain sport hunts, and for which trophies can be imported into the U.S., are any of them also species protected by the MMPA?

Other trophy species listed under the ESA are not protected under the MMPA.

12. During the September 22nd hearing, Representative Don Young stated that "Fifteen years ago there were 20,000 polar bears and now there are 23,000." Is this correct? What is the official estimate of the IUCN Polar Bear Specialist Group (PBSG)?

The IUCN's Polar Bear Specialist Group (PBSG) reported a worldwide population of polar bears to be between 21,470 and 28,370 in 1993 (Proceedings of the Eleventh

Working Meeting of the IUCN/SSC Polar Bear Specialist Group, 1995), the current worldwide estimate reported by the PBSG is thought to be between 20,000 and 25,000 animals (<http://pbsg.npolar.no/en/status>).

- 13. Section 104(c)(5)(A)(i) of the MMPA requires the Service to find that Canada's sport hunting program is consistent with the Agreement on the Conservation of Polar Bears. Under Article III of the Agreement, polar bears may be taken for various purposes, including" (d) by local people using traditional methods in the exercise of their traditional rights and in accordance with the laws of that Party," and "(e) whenever polar bears have or might have been subject to taking by traditional means by its nationals." Upon signing the Agreement, Canada issued a declaration stating that it interpreted those provisions" as permitting a token sports hunt based on scientifically sound settlement quotas as an exercise of the traditional rights of the local people."**

In the final rule published in 1997, the Service declined to specify what portion of the overall hunt of polar bears in Canada it would consider to be a "token" sport hunt. The Subcommittee would appreciate having the following information so that we can make our own assessment of whether Canada is living up to its declaration that only a token sport hunt would be authorized.

For each of the management units from which trophy imports have been approved by the Service under section 104(c)(5) of the MMPA, please provide the total number of polar bears taken by native or sport hunters during each calendar year since 1994, and the proportion that was taken by sport hunters.

Currently, the Service does not have this information available in its files. The Canadian government, either at the Federal or Provincial level, would most likely collect this information as part of its management program. We have sent an inquiry to the Canadian authorities requesting this information, but have not received a response from them at this time.

Questions from Ranking Republican Member Henry E. Brown, Jr. (R-SC)

- 1. Does the Service believe the Canadian government conducts a scientifically sound polar bear management program?**

Under 104(c)(5)(A), the Service must determine that Canada has a sport hunting program that is based on scientifically sound quotas that ensures the maintenance of sustainable populations. With the listing, the Service is no longer issuing permits under this section and therefore does not need to make a determination on whether Canada has a scientifically sound polar bear management program. In the final ESA listing rule, the Service expressed some concerns about the current harvest levels for some polar bear populations, but found that the impacts from sport hunting or harvest were not threats to the species throughout its range. We concluded that, in general, national and local management regimes established for the sustainable harvest of polar bears are adequate. However, one concern with Canada's management program is the interval between surveys of each management unit, which is on the order of 15-20 years. The scientific soundness of the program could be undermined when it is based on dated information, particularly given the ongoing and predicted habitat changes, within the polar bear's range. We recognize that the management of polar bears in Canada is evolving and applaud them in their efforts in working with other range countries to address quota levels of shared stock.

- 2. While the Marine Mammal Protection Act does not allow the Service to use the import authority any more due to the ESA listing, has that changed the status of any of the approved polar bear populations in Canada? Are the 6 populations that were approved populations prior to the May 15th listing still considered to be approved populations by the USFWS?**

The populations listed under the Service's regulations at 50 CFR 18.30 are still approved populations under that section of our regulations. However, these regulations are not operative because section 104(c)(5)(A) of the MMPA is no longer available to allow for the import of sport hunted trophies from Canada.

- 3. Did the Service at any time tell hunters that they should not go on a hunt due to an imminent ESA listing?**

The Service did not explicitly tell U.S. hunters that they should not hunt bears in Canada. However, it did advise hunters of the risk that they might not be able to import those trophies into the United States. At the 2007 Convention of Safari Club International, hunters were advised that, although the Service was able to authorize the importation of polar bear trophies taken in Canada under the provisions

of section 104(c)(5) of the MMPA while the species was proposed for listing, we would not be able to continue to authorize imports under this section of the MMPA if and when the listing became final. The Service wanted hunters to be aware of the risk that they would not be able to import their trophies if the polar bear was listed under the ESA.

Beginning in January 2008, the Service informed potential applicants that a decision on the listing was imminent and that, if the species was listed, further imports could not be authorized under the MMPA. The Service also provided this outreach during the 2008 Convention of Safari Club International. Interested individuals, such as potential hunters and the media, were informed that under the MMPA, the process for reviewing applications for the issuance of import permits requires publication of a notice of receipt of an application in the Federal Register and allowing a 30-day public comment period. In addition, once a U.S. import permit is issued, the Canadian Management Authority must issue a CITES export permit. The permitting process can take between 50 and 90 days, depending on whether any complications arise. Given these requirements, the Service provided as much information to potential hunters as possible, so that they would be aware of the possibility of being unable to import their trophies if and when the species became listed under the ESA. It was up to individual hunters to decide whether they would be able to complete the importation process before a listing went into effect.

4. Does the Service agree with the other witness' testimony that the hunters who took legal bears between January and May 15, 2008 were hunting in "bad faith"?

The Service does not take into consideration the motivations under which individuals choose to carry out personal hunts when considering import applications, including those motivations that led individuals to hunt in Canada between January and May 2008.

5. What is the normal protocol for implementing an ESA listing? Is there usually a 30 day, or longer, implementation delay prior to the effective date of listings?

The effective date of a final agency rulemaking is governed by the Congressional Review Act. Under this Act, a final rule becomes effective 30 days following delivery to Congress and the Government Accountability Office (GAO), unless otherwise noticed and explained in the final rule. As a practice, the Service indicates in its final rules that the effective date is 30 days following publication in the Federal Register, unless otherwise noticed and explained in the final rule. To ensure that we allow for the appropriate review time by Congress and GAO, we deliver the final rule to them in the time between delivery to the Federal Register for publication and publication itself. However, in the case of the polar bear final listing rule, the Service was directed by a court to publish the final rule by May 15, 2008, and make the rule effective immediately, thereby eliminating the delay in making the final rule effective.

6. If it were not for the court order, which required an immediate effective date of the listing, how long would the Fish and Wildlife Service have given the hunters, who legally hunted a polar bear prior to May 15th and applied for a permit, to bring in their trophies?

All trophies would have to be imported before the effective date of the ESA listing, whether the listing went into effect immediately upon publication or not. Even if the hunters had the required U.S. import permit and Canadian CITES export permit in hand, if the trophy was not imported before the effective date of the listing, the import would not have been allowed.

7. Are there species, listed as threatened under the ESA, in other parts of the world which sustain sport hunts, where the trophies can be imported into the U.S.?

Under Section 9(c) of the ESA, any species that is listed as threatened under the ESA and Appendix II of CITES may be imported without an import permit being issued by the Service. While several species could fall under this section, the most common trophy species imported into the United States are red lechwe (*Kobus lechwe*), Hartmann's mountain zebra (*Equus zebra hartmannae*), and African elephants (*Loxodonta africana*) from Botswana, Namibia, Zimbabwe, and South Africa (the Appendix-II populations). In addition, regulations promulgated under section 4 of the ESA (e.g., "special rules") allow for the importation of three other threatened species: argali (*Ovis ammon*) from Tajikistan, Mongolia, Kyrgyzstan; African elephant (*Loxodonta africana*) [Appendix I populations], and African leopard (*Panthera pardus*) from southern Africa.

8. While the polar bear is listed as depleted due to its threatened status, is the world-wide polar bear population considered to be below its optimum sustainable population level as defined in the Marine Mammal Protection Act?

The Service has not evaluated whether the world-wide polar bear population is considered to be below the “optimum sustainable population” (OSP) level as defined in the MMPA. The depleted status of a species under the MMPA can be established either by the species being listed under the ESA or if the species or population stock is determined to be below its OSP. Since the polar bear was listed under the ESA, the Service is not relying on an OSP determination to consider the species depleted under the MMPA.

Additionally, Section 117 of the MMPA requires the Service and the National Marine Fisheries Service to prepare a Stock Assessment Report for each marine mammal stock that occurs in waters under U.S. jurisdiction. We recently made available draft reports for the southern Beaufort Sea polar bear stock and the Chukchi/Bering seas polar bear stock. The 90-day public comment period closed on September 16, 2009, and the Service is currently evaluating the comments that were received. Once the Service completes this evaluation we will make the final reports available.

9. Do you believe Traditional Native Knowledge is an integral part in the management of polar bears?

Yes. The Service recognizes the important role that Alaska Natives play in the conservation and management of polar bears and has worked consistently with this important stakeholder group to better understand the status of the species.

10. Does the Fish and Wildlife Service have any polar bear trophies on display in any of its buildings?

The Service has seized unlawfully imported polar bear trophies, which were then forfeited to the U.S. government. Property of this type is typically retained by the Service for use in educating the public about wildlife conservation and illegal trade. As part of these educational efforts, polar bear trophies have been displayed in Service facilities. Based on the information provided by the Service’s regions and programs, below is a list of the polar bear trophies on display in Service buildings. In addition, the Service has developed educational programs, such as Suitcase for Survival, that make polar bear parts and other wildlife products available to teachers, outreach specialists and similar professionals for use in teaching students and others about wildlife conservation.

- Full body upright polar bear mount on display at National Wildlife Visitor Center at Patuxent Research Refuge in Maryland.
- Polar bear rug on display 1-3 times a year at John Heinz National Wildlife Refuge at Tinicum in Pennsylvania.
- Polar bear mount on display at the Amherst, New York Office of Law Enforcement.
- Polar bear mount and polar bear rug on display in the Education Room at the National Wildlife Property Repository in Commerce City, Colorado.

11. Please explain your specific concerns with H.R. 1054 and any potential amendments that would make this bill acceptable to the USFWS.

As written, H.R. 1054 would allow any polar bear trophy legally hunted prior to the ESA listing from an approved population in Canada to be imported into the United States. As indicated in the Department’s testimony, the Administration does not oppose legislation allowing those hunters who both applied for a permit and completed their legal hunt within an approved polar bear population prior to the ESA listing to import their polar bear trophies, provided that the hunter is required to submit proof that the bear was legally harvested in Canada from an approved population. The Department does not support any broader changes to the MMPA that would allow additional sport-hunted polar bear trophies to be imported beyond those where hunters submitted their import permit application and completed their hunt prior to the ESA listing. Therefore, the Department does not support H.R. 1054 as currently written because it would allow the import of polar bear trophies regardless of whether the hunter had applied for the permit prior to the ESA listing. The service looks forward to working with the Subcommittee on this issue.

12. With your suggested amendments to H.R. 1054, is the Administration willing to provide a SAP supporting the bill?

As the Department stated in our testimony, the Administration does not oppose legislation allowing those hunters who both applied for a permit and completed their legal hunt of a polar bear from an approved population prior to the ESA listing to import their polar bear trophies, provided that the hunter is required to submit

proof that the bear was legally harvested in Canada from an approved population prior to the effective date of the ESA listing. The Department does not support any broader changes to the MMPA that would allow additional sport-hunted polar bear trophies to be imported beyond those where hunters submitted their import permit application and completed their hunt prior to the ESA listing.

Ms. BORDALLO. Thank you very much, Dr. Gould, for your testimony.

And now I would like to recognize Mr. Crystal. It is a pleasure to welcome you before the Subcommittee, and you are now recognized for five minutes.

**STATEMENT OF HOWARD M. CRYSTAL, PARTNER,
MEYER GLITZENSTEIN AND CRYSTAL**

Mr. CRYSTAL. Thank you, Chairwoman Bordallo and Members of the Subcommittee. Thank you for the opportunity to come this morning and testify on H.R. 1054.

I am a partner at Meyer Glitzenstein and Crystal. My firm represents environmental and animal protection groups, and I am here this morning on behalf of the Humane Society of the United States, the International Fund for Animal Welfare and Defenders of Wildlife. These are groups that I represent in the pending litigation concerning the polar bear in Federal District Court.

These groups represent millions of Americans who care about polar bears and other marine species, as well as the integrity of our nation's most vital animal and species protection statutes. The MMPA, the Marine Mammal Protection Act, and the ESA, the Endangered Species Act, are two such statutes. They were enacted decades ago to preserve and prevent the depletion and extinction of species like the polar bear. We oppose H.R. 1054 because it sets a terrible precedent for these statutes, and it serves the interests of polar bear hunters at the expense of polar bear conservation.

The principal argument you have heard today and will hear this morning is that those polar bears at issue are already dead and thus allowing their import will not harm any animals, let alone the species. This argument is flawed because the same is true of polar bears that were hunted after the species was listed under the ESA. The mere fact that the bears are already dead surely cannot justify this amendment.

Limiting the scope of the amendment to polar bears killed before the species was listed or to hunters who had submitted their applications before the species was listed does not address this concern. In our view, the cutoff date for import permits should be the date of the listing when the expert agency designated the species as threatened under the ESA and it became a depleted species under the MMPA. Only that kind of bright line rule makes sense.

The ban on imports is a principal conservation tool that the agencies use and that this country has to impact the treatment of species in other countries. We cannot prohibit the take of polar bears in other countries. We can, however, prohibit the import of species. The species was listed under the ESA as a threatened species. It is only appropriate now that we bring into effect the existing regulatory scheme which bans their imports.

In addition, if we pick a different line and, as proposed by this amendment, allow imports, even though the species has already

been listed, there is no reason that it will end here. As I mentioned, I represent groups in the pending litigation over the listing of the polar bear that is pending in Federal Court right now. Those groups are arguing that the species should not have been listed as a threatened species.

If they lose those cases, then we may be here in the future over the question of whether or not, as a result of the species finally being settled as listed, people who killed polar bears in 2009 should be allowed to import their polar bears at that time. Again, the bright line rule should be when the species was listed, not some future date as is proposed here.

In sum, we believe the only appropriate line to draw is the date of the listing and since the existing statutory scheme bans imports as of that date they should be prohibited regardless of when the polar bear was killed.

Thank you for the opportunity to testify, and I am certainly going to answer any questions.

[The prepared statement of Mr. Crystal follows:]

Statement of Howard M. Crystal, Meyer Glitzenstein and Crystal

I appreciate the opportunity to testify on H.R. 1053, which proposes an amendment to the Marine Mammal Protection Act (MMPA) of 1972. I am a partner with the public-interest law firm Meyer Glitzenstein and Crystal, which has litigated cases on behalf of a wide range of national and grassroots conservation and animal protection organizations, including Sierra Club, Defenders of Wildlife (Defenders), Humane Society of the United States (HSUS), International Fund for Animal Welfare (IFAW), Ocean Conservancy, Center for Biological Diversity, and Save The Manatee Club. With regard to the conservation of the polar bear, we are representing IFAW, Defenders and HSUS in the Multi-District Litigation (MDL) currently pending before the federal district court for the District of Columbia. In that litigation the Safari Club International, Conservation Force, and others are asking the court to find that the Department of the Interior's Fish and Wildlife Service (FWS) may grant polar bear imports permits under the MMPA despite the agency's 2008 finding that the polar bear is a threatened species under the Endangered Species Act (ESA).

THE MARINE MAMMAL PROTECTION ACT AND ITS RELATIONSHIP TO THE ENDANGERED SPECIES ACT

Before providing some comments on the Amendment proposed by Congressman Young, it is important to put the amendment into some historical context. In enacting the MMPA in 1972, the House of Representatives explained:

Recent history indicates that man's impact upon marine mammals has ranged from what might be termed malign neglect to virtual genocide. These animals, including whales, porpoises, seals, sea otters, polar bears, manatees and others, have only rarely benefitted from our interest; they have been shot, blown up, clubbed to death, run down by boats, poisoned, and exposed to a multitude of other indignities, all in the interests of profit or recreation, with little or no consideration of the potential impact of these activities on the animal populations involved.

H.R. Rep. No. 92-707 (1971). Based on these findings, and declaring that "certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities," Congress passed the MMPA to ensure that these species "not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part." 16 U.S.C. § 1361(1) and (2).

To accomplish this objective, the MMPA imposes a moratorium on the taking and importation of marine mammals, id. § 1371; see also id. § 1372(b), and establishes a scheme under which these activities may be permitted by the agency. For the import of species such as the polar bear, the principal authority for the agency to issue such permits is a provision allowing imports "for purposes of scientific research, public display, or enhancing the survival or recovery of" the species. Id. § 1371(c).

In 1994, Congress amended the MMPA to permit the import of polar bear body parts taken in sport hunts in Canada where certain conditions are met, including

the approval of hunting for certain polar bear populations. Pub. L. No. 103-238, § 5 (1994).

The MMPA also has always provided special protection for a species designated as “depleted” under the statute. 16 U.S.C. § 1362(1). Of particular relevance here, MMPA Section 102(b) provides that, irrespective of the polar bear import provision or any other permit authority, once a species is designated as “depleted” import permits may only be issued “for scientific research, or for enhancing the survival or recovery of a species or stock....” Id. § 1372(b)(3).

The 1972 statute defined a “depleted” species, *inter alia*, as one that “has declined to a significant degree over a period of years,” or “has otherwise declined and that if such decline continues...such species would be subject to the provisions of the” ESA. See Pub. L. No. 92-522, § 3(1). In 1981, that definition was expanded to include “any case in which...a species or population stock is listed as an endangered species or a threatened species under” the ESA. Pub. L. No. 97-58, § 1 (1981) (*emphasis added*). As the House Report on this amendment explained, this change “recognized that species that are listed under the Endangered Species Act are, *a fortiori*, not at their Optimum Sustainable Population and, therefore, should be considered depleted.” H.R. Rep. No. 97-228, at 16 (1981).

THE 2009 AMENDMENT

In May 2008 the FWS listed the polar bear as a threatened species under the ESA throughout its range. 73 Fed. Reg. 28,212 (May 15, 2008). In listing the species the Service explained that, prior to 1973, the polar bear was declining due to “severe overharvest” that occurred in light of “the economic or trophy value of their pelts.” Id. at 28,238. While the subsequent cessation in large-scale hunting provided some protection to the species, the Service found that other threats have continued to cause population declines, including climate change-induced reductions in sea ice; reduced prey availability; and continued overharvest in certain areas. Id. at 28,255-28,292. In light of these threats, the Service concluded that the polar bear is likely to become an endangered species “within the foreseeable future,” and consequently listed the species as threatened under the ESA. Id. at 28,238. Moreover, while the agency has the authority under certain circumstances to limit a species’ protection to certain discrete portions of its range, the FWS determined that the species was threatened throughout its range, including the polar bear populations in Canada.

Pursuant to MMPA Section 3(1), by virtue of the ESA listing the polar bear became a “depleted” species under the MMPA. 16 U.S.C. § 1362(1). This, in turn, triggered MMPA Section 102(b)’s proscription on polar bear import permits, limiting them to those issued for scientific research or enhancement of survival purposes. Id. § 1372(b). Accordingly, because the species is threatened with extinction, the FWS may no longer allow trophy hunters to kill polar bears in Canada and import their body parts into the United States.

The proposed amendment would circumvent this existing regulatory scheme, authorizing the FWS to issue import permits for polar bears killed from previously approved populations in Canada up until the date the species was listed under the ESA. The amendment should be rejected for both legal and policy reasons.

The amendment fundamentally undermines the critical relationship between the protections that species presently receive under the ESA and the MMPA. Under the MMPA, Congress recognized that a species may be “depleted”—thereby warranting a ban on imports—even before it becomes so imperiled that it requires listing under the ESA. Indeed, a species can be designated as depleted simply because it is below its “optimum sustainable population,” 16 U.S.C. § 1362(1)(A)—which is the “number of animals that will result in the maximum productivity of the population or the species.” Id. § 1362(9) (*emphasis added*).

Under this amendment, however, although the polar bear is now listed under the ESA, it will not be uniformly treated as depleted under the MMPA. Instead, the FWS will continue to allow certain recreational hunters to import their polar bear trophies into this country.

The fact that the amendment is limited to those polar bears killed before the species was listed does not change this fact. The ban on imports of imperiled species is a critical tool by which the United States can impact the treatment of those species in other countries. Certainly, hunters who wish to bring their trophies into this country will have significantly less incentive to participate in a sport hunt if that import is prohibited. The import ban also sends an important signal to our conservation partners in other countries, helping to generate efforts that might improve the species’ status so that imports may once again be permitted.

Allowing continued imports of polar bears, by contrast, sends exactly the wrong signal. The polar bear has become a poster child for species’ conservation in a world rapidly changing due to human impacts. To allow sport-hunters to bring polar bear

body parts into this country after the expert agency has decided that the species is threatened with extinction broadcasts that the protection of the species is not that important, and that the interests of sport-hunting take precedence over the interests of the long-term protection of the polar bear.

In this regard, it is also critical to recognize that nothing dramatic happened to the polar bear's on-the-ground condition in May 2008. The species was not imperiled the day after the listing, but in fine health the day before. Instead, as the Service recognized in listing the species, the polar bear faces ongoing and long-term threats to its existence. Therefore, from a conservation perspective there is no principled basis to distinguish between polar bears killed before the listing and those killed afterwards. In short, now that the species is listed imports of trophies should be prohibited, regardless of when the species was killed.

The fact that the listing became effective on the date it was published in the Federal Register, and not after a thirty day "grace period" as is often the case, also does not support allowing imports of sport-hunting trophies after the species was listed. As a federal district court judge explained when she rejected the sport-hunter's argument that a special exception should be made for hunters who had submitted import applications for bears killed prior to the listing, sport-hunters "assumed the risk that they would be unable to import their trophies" when they chose to engage in sport-hunting despite the fact that the species was under consideration for listing under the ESA. *Center for Biological Diversity v. Kempthorne*, No. 08-1339 (N.D. Cal. July 11, 2008). Moreover, most, if not all, of the hunters who submitted import applications before the listing could not have obtained an import permit within the grace period in any event, given the notice and comment process involved in obtaining such a permit.

It is also crucial to appreciate that this amendment is a stark departure from earlier amendments allowing these imports. While Congress has twice amended the statute to allow imports of polar bears killed years earlier, at neither time was the species listed under the ESA and depleted under the MMPA. Moreover, while hunters certainly knew the species was likely to be listed—therefore banning imports—this amendment would allow hunters who killed a polar bear just weeks, or even days, before the listing to bring their trophies into this country. Congress should not support the perverse incentives created by such an approach. Indeed, particularly if Congress passes this amendment, hunters will assume that if they continue to hunt polar bears in Canada despite the ESA listing, provisions will be made to allow their importation in the future.

This brings me to the pending litigation. The ESA listing is presently being challenged in multiple lawsuits pending in federal court for the District of Columbia, including by sport-hunting groups. This litigation is yet another reason that the proposed amendment is both ill-conceived and ill-timed.

If Congress passes this amendment, and then the plaintiffs lose the pending litigation and the court upholds the listing, we could well be here again in a few years. At that time, sport-hunters might seek an amendment allowing the import of trophies for polar bears killed before the judicial opinion was issued. Their argument then, much like their argument now, would be that when they went on their hunts in 2009, the species' status was "uncertain" because of the litigation. Because they believed the listing should and would be set aside, they would argue, they should not be penalized by not allowing their trophies to be imported. Moreover, they would also argue, since the polar bears killed in 2009 are already dead, allowing their import would not impact the conservation of the species. The fact that passing the amendment today allows that argument in the future simply highlights why the amendment makes no sense now, just as it will make no sense then. In short, the only reasonable line to draw for imports is the one already drawn by the existing regulatory scheme: banning sport-hunted imports at the time the species is listed.

Finally, if the sport-hunting groups prevail in the current litigation, the amendment under consideration today would not be necessary. If the species were no longer listed as threatened, it would no longer be designated as depleted, and the original polar bear import provision would go back into effect, barring some other legislative development.

Alternatively, the sport-hunting groups are also arguing to the court that the polar bear import provision remains in effect despite the listing. If they prevail on this alternative argument, imports would once again be permitted on that basis. In light of these possibilities, it is at the very least premature for Congress to consider this amendment at this time.

CONCLUSION

Through the interplay between the ESA and the MMPA, Congress has already struck a balance between the conservation needs of marine species such as the polar

bear and the other interests, including those of sport-hunters. We urge Congress not to upset that balance by permitting sport-hunters who have gone to Canada to kill polar bears to continue to import their body parts into this country, despite the fact that the FWS has determined that the species is threatened with extinction throughout its range, including Canada. Thank you for the opportunity to submit these comments.

**Response to questions submitted for the record by Howard M. Crystal,
Meyer Glitzenstein and Crystal**

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. If we were to enact H.R. 1054, how would that affect the relationship between the ESA and the MMPA?

Enacting H.R. 1054 would undermine the relationship between the two statutes, because it would allow the import of species that have been listed under the ESA. At present, once a species is listed under the ESA it is designated as “depleted” under the MMPA, which brings the import ban into effect. Enacting H.R. 1054 will create a loophole whereby ESA listed species can be imported under the MMPA, even though, by virtue of the ESA listing they have become designated as “depleted” under the MMPA.

2. In your testimony you state that the ban on imports of imperiled species is a critical tool by which the United States can impact the treatment of those species in other countries. Would you please expand upon that comment?

Contrary to the premise of several of the questions I was asked at the hearing, U.S. law does not govern the activities of individuals in other countries, including Canada. If a U.S. citizen travels to Canada and kills a polar bear, he is breaking no U.S. law, regardless of the species’ status under the MMPA and the ESA. That is why the question whether the hunters who will benefit from H.R. 1054 violated any laws in killing polar bears is a non-sequitur: it violated no U.S. law to kill those bears when they died before the species was listed, and it violates no U.S. law to kill a polar bear in Canada today.

It is precisely for this reason that the power of the U.S. to prohibit the import of species into this country is so important. As a threshold matter, U.S. hunters are much less likely to participate in a polar bear hunt in Canada if importing their trophy is prohibited. But even beyond that, an import ban also sends an important signal to our conservation partners in other countries concerning the plight of a species and our Nation’s commitment to assist the species’ survival and recovery—which in turn can generate concrete efforts to improve the species’ status so that imports may once again be permitted.

Allowing trophy imports of an ESA-listed species, by contrast, sends exactly the wrong signal, broadcasting to our conservation partners that, despite the ESA listing, the protection of the polar bear is not that important to the U.S., and that the interests of sport-hunting take precedence over the interests of the long-term protection of the polar bear.

3. Dr. Moritz testified that the 40+ permit holders in question “lost the ability to import their personal property due to the arbitrary decision of the federal government, and this bill will do one thing...provide relief from this taking.” Do you agree with this statement?

No I do not, because it is based on several false premises. First, while the polar bears killed in Canada may be the personal property of the hunters, there is no principle in domestic or international law suggesting that being denied the right to import something constitutes an unlawful taking of property. The U.S. bans all sorts of products and items from import, and certainly those bans are not unlawful or inappropriate simply because the importer owns the property. Indeed, states ban imports of certain materials—such as non-native fruits—and certainly may do so without any takings issue.

Second, there is nothing arbitrary about either the decision to protect the polar bear under the ESA, or the import ban that is in effect under the MMPA as a result of the listing. In any event, the legality of the listing and import ban are presently pending before a federal court, and thus, at minimum, if the alleged “arbitrary” listing is the basis for H.R. 1054, at the very least Congress should await resolution of the litigation before deciding whether to enact a large loophole in the existing regulatory scheme for the polar bear.

4. Is a federal administrative action considered a taking if the affected party had full knowledge of the pending regulatory change?

As explained in my answer to question 3, such action is not a “taking” regardless of the affected parties’ knowledge, so long as there is a reasonable basis for the underlying regulatory change, as there certainly is here. However, I do agree that the fact that all of the hunters were well aware of the possibility that the polar bear would be listed—and thus that imports would be banned—further demonstrates that they have no basis to complain about being treated unfairly. They hunted a polar bear at the risk that the import would be prohibited, and nothing about their conduct justifies the special treatment they seek with H.R. 1054.

5. Some argue that since these 40+ bears are already dead, we should just let them be imported. What did you mean when you testified that from a conservation perspective, there is no principled basis to distinguish between polar bears killed before the listing and those killed afterwards?

As I mentioned above, under U.S. law the legality of killing polar bears in Canada did not change with the ESA listing. Only the legality of importing trophies changed. Therefore the proponents’ claim that H.R. 1054 is appropriately limited to polar bears killed before the ESA listing is another red herring, for, from a conservation perspective, those bears are just as valuable as the many bears that were killed after the species was listed. In other words, if the fact that the 40+ bears at issue are already dead justifies their import, then no import permit should ever be denied, because in all cases the polar bear for which the import is sought will already be dead.

6. You testified that allowing these imports will set bad precedents and provide incentives for more bears to be killed despite the ESA listing and the MMPA designation as depleted. Can you elaborate on this, particularly in light of the many pending lawsuits?

If this bill passes, U.S. hunters will know that they can travel to Canada and kill polar bears, after which Congress will provide a special exemption allowing them to import their trophies. Indeed, the primary argument the hunters are making here is that they should not be punished for the uncertainty that surrounded the species’ conservation status prior to the listing. But the listing remains somewhat uncertain due to the pending litigation. Therefore, if Congress passes H.R. 1054 we may be considering another loophole next year when the litigation is resolved. Such a bill would consider whether hunters who killed polar bears in early 2010 may import their trophies, since, they will claim, they had assumed the Court would set aside the listing, and it is only once the litigation was resolved that the import ban became “final,” in their view. The very fact that those hunters can make exactly the same arguments then as these hunters can make now highlights the bad precedent that would be set by passing this bill.

7. Following up on that point, do you think H.R. 1054 could have implications for other laws enforced by the Service?

I do think that H.R. 1054 will undermine the Service’s ability to enforce laws designed to protect international wildlife. Again, protection of species in other countries depends critically on those countries’ commitment and participation in conservation efforts. If the U.S. is in the business of creating special exemptions for sport-hunters, I think that will seriously undermine our credibility with other nations, and therefore our ability to protect species in those countries.

Ms. BORDALLO. Thank you very much, Mr. Crystal, for your analysis of this bill’s legal impact.

And now I would like to recognize Mr. Markarian. Would you please begin your testimony?

STATEMENT OF MICHAEL MARKARIAN, CHIEF OPERATING OFFICER, HUMANE SOCIETY OF THE UNITED STATES

Mr. MARKARIAN. Madam Chairwoman, Members of the Subcommittee, thank you for the opportunity to be here today. Madam Chairwoman, I would specifically like to thank you for your tremendous leadership on wildlife issues and all the good work done by your Subcommittee this year.

The Humane Society of the United States, on behalf of its 11 million supporters across the country, strongly opposes H.R. 1054. We believe this legislation is misguided and would roll back polar bear conservation efforts and set a dangerous precedent for gutting the protections provided under the Marine Mammal Protection Act and the Endangered Species Act.

We have submitted written testimony, but I want to limit my verbal remarks to a couple narrow issues, and one which we believe is an important factor in this debate is that the hunters who are seeking to import their trophies, the 40 or 41 individuals, had adequate notice for about 16 months that this listing was pending and the hunters were well aware of the risks of spending their own dollars to engage in these hunts, and they were well aware that there was a chance they would not be able to import their trophies. They took that risk. It was their own choice.

As we heard, the Service proposed to list the polar bear in January 2007. The listing became final in May of 2008, so that is a 16 month period where trophy hunters who were interested in seeking a polar bear knew that this was a potential. They knew what risk they were taking when they decided to travel north and spend their own money to hunt polar bears.

It wasn't just the U.S. Fish and Wildlife Service that was advising hunters of this proposed listing; it was the hunting groups themselves. The largest hunting organizations for months were warning their members that this was coming down the pike. The Conservation Force organization in its December 2007 newsletter stated:

"American hunters are asking us whether they should even look at polar bear hunts in light of the current effort by the U.S. Fish and Wildlife Service to list the species as threatened. The listing, you will recall, will trigger provisions in the Marine Mammal Protection Act banning all polar bear trophy imports to the U.S. The bottom line is no American hunter should be putting hard, non-returnable money down on a polar bear hunt at this point."

The following month they repeated the warning to their members. "We feel compelled to tell you that American trophy hunters are likely to be barred from importing bears they take this season." And then in March of 2008 they repeated the stern warnings once again. "Make no mistake, there is still a real possibility the polar bear is going to be listed." And then a month later in April they repeated the warning. "No already permitted bears would be allowed into the U.S. after May 15." End of story.

It went on and on and on. The Safari Club International warned its members as well. "If some or all of the polar bear populations are listed, the FWS has indicated that imports of trophies from any listed populations would be barred as of that date regardless of where in the process the application is."

Hunters heard from Conservation Force, they heard from Safari Club International, they heard from the U.S. Sportsmen's Alliance that this was likely to occur, so they should not have been surprised. Madam Chairwoman, we are going to submit these newsletters for the record so that the Subcommittee has them.

The U.S. Fish and Wildlife Service was warning hunters. They attended the Safari Club International convention in 2007 and

then again in 2008 to talk to hunters about the proposed listing and to let them know what was happening in the process, so no one can claim that they were not warned, that they were surprised by this listing in May of 2008, because they had been hearing about it for 16 months.

Madam Chairwoman, I think the best indicator was the surge in polar bear trophy imports that occurred in 2007 because most hunters knew what was coming, and in 2007 we saw 112 polar bear trophies imported, more than a doubling of the previous year's number, which was 52, and the year before that, which was 60, so most hunters knew what was at stake. They knew what they had to do.

Now, we may say it is problematic when a species is merely proposed for listing under the Endangered Species Act that all of a sudden there is a surge in killing that species, but that is what the hunters were expected to do. They knew what they had to do in order to get in early, get in their polar bear hunt, get under the wire and make sure that their trophy was imported.

For the 41 individuals who are now claiming that they are seeking relief from Congress, it is really just the result of poor planning on their part, and we should not allow the Endangered Species Act and the Marine Mammal Protection Act protections to be weakened just because a few dozen individuals did not plan properly.

So we oppose this legislation. We strongly urge the Subcommittee to reject it, and we thank you for your time.

[The prepared statement of Mr. Markarian follows:]

**Statement of Michael Markarian, Chief Operating Officer,
The Humane Society of the United States, on H.R. 1054**

I am Michael Markarian, chief operating officer of The Humane Society of the United States, and I want to thank you, Chairwoman Bordallo, and members of the Subcommittee for the opportunity to testify in opposition to H.R. 1054, a bill to amend the Marine Mammal Protection Act of 1972 to allow importation of certain polar bear trophies taken in sport hunts in Canada. On behalf of The HSUS, the nation's largest animal protection organization, and our more than 11 million supporters, we strongly oppose this legislation, which would roll back polar bear conservation efforts and set a dangerous precedent for gutting the protections provided under the Marine Mammal Protection Act and the Endangered Species Act.

Overview of the Threats to Polar Bears

The polar bear has been protected in the U.S. since 1972, when the Marine Mammal Protection Act (MMPA) was passed, which prohibited the killing of and trade in all marine mammals, including the hunting or importation of sport-hunted polar bears. Unfortunately, in 1994 the trophy hunting lobby tore a loophole in the MMPA, allowing more than 900 sport-hunted polar bear trophies to be imported into the U.S. from Canada since 1997.

In May 2008, the polar bear was listed as "threatened" under the Endangered Species Act (ESA) and from that point on the MMPA prohibited all importation of sport-hunted polar bears into the U.S., as polar bears are now considered "depleted" under that statute. These bears are under serious threat from global climate change and should not be forced to contend with systematic pressure from trophy hunters to roll back long-sought protections.

Melting Sea Ice

A decline in polar bear numbers in recent years has been linked to the retreat of sea ice—a critical hunting ground for polar bears—and its formation later in the year. Warming temperatures also break up sea ice earlier, and this trend is expected to continue. The Arctic Climate Impact Assessment reported in 2004 that the covering of summer ice in the Arctic has shrunk by 15 to 20 percent in the past 30 years and that decline is expected to accelerate. Further predicted reductions of

10 to 15 percent of annual sea ice and 50 to 100 percent of summer sea ice in the next 50 to 100 years present a considerable threat to the species.

Melting ice has forced bears to swim longer distances to obtain food, which may exhaust them, leading to drowning, and it has resulted in a decreased prey base. Polar bears have been forced ashore before they have had time to build up sufficient fat stores, resulting in thinner, stressed bears, decreased reproductive rates, and lower juvenile survival rates.

Some scientists believe that in five years the Arctic may be ice free during the summer.

Pollutants

The Arctic is also considered a “sink” for environmental contaminants, including heavy metals and organochlorines, which are carried northward in rivers, oceans and air currents. These toxins are accumulated at higher levels along the food chain and researchers have found high levels of pollutants in polar bears, which can severely compromise the animals’ health and reproductive capacity. The lead author of a study recently published in the *Journal of Zoology*, which details the problem of polar bears becoming smaller due to these environmental threats, stated that polar bear is “one of the most contaminated individuals in the world.”

Starvation and Cannibalism

There are increasing reports of starving polar bears in the Arctic attacking and feeding on one another. In 2006, a new study by American and Canadian scientists reviewed three examples of polar bears preying on each other. One incident was documented in 2004 in Alaska, in which a male polar bear broke into the den of a female polar bear and killed her shortly after she gave birth. During 24 years of research in northern Alaska’s southern Beaufort Sea region and 34 years in northwest Canada, the researchers had never before seen incidents of polar bears stalking, killing and eating other polar bears. One of the researchers stated, “It’s very important new information. It shows in a really graphic way how severe the problem of global warming is for polar bears.”

Population Declines

The over-hunting of adult polar bears can cause a catastrophic crash in their population. Well over half of the polar bear populations are either of unknown, severely reduced, or declining status. The International Union for Conservation of Nature (IUCN) Red List of Threatened Species cites “a potential risk of over-harvest due to increased quotas, excessive quotas or no quotas in Canada and Greenland and poaching in Russia.” According to the results of a 2009 meeting of the Polar Bear Specialist Group, part of the IUCN, of the 19 discrete polar bear populations worldwide, only one, in the Canadian high Arctic, is increasing, while eight are declining. Three populations appeared to be stable, while seven are too poorly monitored to know their status. The previous meeting in 2005 concluded that only five populations were in decline at that time.

According to the U.S. Geological Survey, the world’s population of 20,000 to 25,000 polar bears will decline sharply as their habitat continues to shrink. As their habitat melts, polar bears will struggle, lead shorter lives, produce fewer or no offspring, and the survival rate of their offspring will be reduced. Steven Amstrup of the USGS stated, “Our results have demonstrated that as the sea ice goes, so goes the polar bear.” He stated that polar bears in their southern range will die off first as sea ice melts, as they are forced to come ashore earlier in the year, facing food shortages before they have stored enough fat to last through the season.

Hunters Were Well Aware of the Risks to Trophy Imports

The trophy hunters who claim they were harmed by the threatened listing had sufficient warning that the polar bear might be listed and that their trophy import applications might be denied. The U.S. Fish and Wildlife Service (USFWS) proposed to list the polar bear in January 2007, triggering an ESA requirement that the USFWS finalize the listing by January 2008—and the entire process was highly publicized. The actual listing did not occur until months later, in May 2008.

In fact, most if not all of the 41 polar bear trophies that would be affected by H.R. 1054 were shot in bad faith, since the dates of the sport hunts occurred in late 2007 or early 2008—after the agency and hunting groups provided ample warning that trophy imports might soon be barred.

Case Pending in Federal Court

This very issue of whether to allow sport-hunted polar bear trophy imports has been raised and is now being considered by a federal court. In 2008, as part of the litigation over USFWS’s listing decision, several hunting groups asked a federal

court to order the USFWS to allow the importation of trophies of bears killed prior to the ESA listing. Judge Wilken of the Northern District of California denied the request on procedural grounds. Judge Wilken specifically noted that hunters had fair warning of the impending ESA listing and “assumed the risk...they would be unable to import their trophies” by continuing with their hunts. The same issue is now before the D.C. District Court.

The USFWS, under the Bush Administration, argued strongly in court against requiring the agency to allow polar bear imports. The government responded to the hunters’ request by noting that allowing importation would severely undermine current MMPA provisions. The MMPA specifically prohibits the importation of any “depleted” animal, regardless of when the animal was taken.

The government’s brief in the case noted, “As a result of the polar bear’s depleted status under the MMPA, no importation of polar bear trophies from Canada is permitted...The Court should decline to order Defendants to grant special permission for the import of polar bear trophies...”

The agency added, “Therefore, when [the USFWS] issued the final rule listing the polar bear as threatened under the ESA with an immediate effective date, the polar bear automatically gained depleted status under the MMPA as of May 15, 2008. Because the polar bear now has depleted status under the MMPA, the statute specifically precludes importation of polar bears or polar bear parts except for scientific research purposes, photography for educational or commercial purposes, or enhancing the survival or recovery of the species. See id. § 1371(a)(3)(B). Importation of sport-hunted trophies under Section 1374(c)(5) is not included in the list of allowable exceptions.”

The USFWS also noted that allowing the importation of sport-hunted polar bear trophies from Canada “would be inappropriate” because the agency would have to go back and process applications for some pre-listing trophies, which “would be burdensome for [the agency], and confusing for the regulated community.” Further, the USFWS explained that, in order to allow importation, the agency would have to withdraw and amend the listing rule, which “would be inequitable” given the substantial time and resources the agency spent finalizing the rule. If H.R. 1054 is enacted, the USFWS may indeed need to amend the listing rule to clarify the status of polar bear trophies killed prior to listing, requiring yet more agency resources.

Repeated Warnings by Hunting Groups

Even the largest hunting organizations warned their members repeatedly, ensuring that trophy hunters who shot polar bears prior to their listing under the ESA were given more than sufficient notice about the impending listing. Conservation Force, a group leading the campaign to allow the importation of additional sport-hunted polar bear trophies into the U.S., repeatedly issued stern, unambiguous warnings to its members. In the group’s December 2007 newsletter, which was e-mailed to members in November, nearly six months before the species was listed, it stated:

“American hunters are asking us whether they should even look at polar bear hunts in light of the current effort by the U.S. Fish & Wildlife Service to list this species as threatened. The listing, you’ll recall, will trigger provisions in the Marine Mammal Protection Act banning all polar bear trophy imports to the US,” and that even though it was unclear what the final outcome would be, “[t]he bottom line is, no American hunter should be putting hard, non-returnable money down on a polar bear hunt at this point. Also, Americans with polar bear trophies still in Canada need to get them home soon or risk losing them...the threat to polar bear hunting is real and imminent.”¹

In Conservation Force’s newsletter the following month, members were adamantly warned: “It may be the end of the world as we know it” and “the end of the modern world in which we live.”² Members were also warned that “we feel compelled to tell you that American trophy hunters are likely to be barred from importing bears they take this season. Moreover, there is a chance that bears taken previous to this season may be barred as well. American clients with polar bear trophies still in Canada or Nunavut need to get those bears home.”³

¹ Conservation Force. “The Hunting Report” Newsletter. December 2007. Volume 27, Number 12. Page 9.

² Conservation Force. “The Hunting Report” Bulletin. January 2008. Volume 28, Number 1. Page 2.

³ Conservation Force. “The Hunting Report” Extra Bulletin. January 9, 2008.

In March, Conservation Force warned its members: "Make no mistake...there is still a real possibility the polar bear is going to be listed."⁴

In April, Conservation Force told its members, "Many hunters have forgone their hunts rather than risk that the bear may be listed and trophy imports will probably be prohibited to all hunters who don't have a permit in hand before the effective date of the final listing rule."⁵ In a bulletin titled "Grim News For Polar Bear Hunters," Conservation Force stated that "[t]he bottom line here is, the service is widely expected to list some or all of the polar bear populations as threatened next month, and that will stop all imports of those listed immediately." After Conservation Force personally called the USFWS, it was confirmed that "No already-permitted bears would be allowed into the U.S. after May 15. End of story. As for unpermitted bears, the news was even more bleak. At this point, there was no time to even get a permit."⁶

Safari Club International members were informed about the potential listing in no less than eight different newsletters sent from the organization,^{7,8,9,10,11,12,13} including one that stated, "If some or all of the polar bear populations are listed, the FWS has indicated that imports of trophies from any listed populations would be barred as of that date, regardless of where in the process the application is."¹⁴ The U.S. Sportsmen's Alliance also informed its members in at least one of its newsletters.¹⁵

After being given more than a year of notice from the USFWS and warnings from various hunting organizations, some chose to either book a hunt in the few months prior to the listing, or chose to wait to submit an application to import their trophies even after the species was listed. These individuals did so at their own risk.

In fact, the number of polar bear trophies imported into the U.S. rose dramatically in advance of the listing—to 112 trophies in 2007, more than doubling the previous year's number of 52 imports. The hunting groups were urging people to get their polar bears before the listing took effect, and that's clearly what most hunters did. These last few bears killed simply represent poor planning on the part of a few hunters who didn't listen, when most of their counterparts knew what was coming and rushed in to get their bears. It's a self-inflicted problem, and now they're crying over spilt milk.

H.R. 1054 Would Harm Polar Bear Conservation Efforts

H.R. 1054 is essentially an attempt by trophy hunters to repeat history and amend the MMPA to allow the importation of sport-hunted polar bear trophies, as they did 15 years ago. The original Act of 1972 barred the importation of all marine mammal parts, including polar bears—the same law that prohibits American citizens from bringing whale meat back from Japan or seal fur back from Canada. But the trophy hunters and their congressional allies successfully punched a gaping loophole through the law in 1994, and opened the door to polar bear heads and hides.

And they made the same arguments back then that they're making now. Law-abiding hunters shot their polar bears legally in Canada, they said, and the trophies were just sitting in storage, so it wouldn't hurt just to let them transport those already-dead bears across the border. The problem was that this policy change opened the floodgates to more and more American trophy hunters trekking north to get the prized bear—many of them competing for the Safari Club's "Bears of the World" award—and in that decade and a half, more than 900 polar bear trophies were imported from Canada.

Now that the polar bear has been listed as a threatened species, the ban on imports has been restored. But trophy hunters are making the same tired argument that they made in 1994. H.R. 1054 is being cast as a private relief measure to help 41 hunters bring in their personal trophies, but in reality the legislation would roll back a federal policy and provide even more incentive for American trophy hunters

⁴Conservation Force. "The Hunting Report" Extra Bulletin. March 6, 2008.

⁵Conservation Force. "The Hunting Report" Bulletin. April 2008. Volume 28, Number 4. Page 1.

⁶Conservation Force. "The Hunting Report" Extra Bulletin. April 29, 2008.

⁷Safari Club International. "SCI Action Alert" E-mail. September 21, 2007.

⁸Safari Club International. "In the Crosshairs" E-mail bulletin. October 4, 2007.

⁹Safari Club International. "In the Crosshairs" E-mail bulletin. October 19, 2007.

¹⁰Safari Club International. "In the Crosshairs" E-mail bulletin. October 23, 2007.

¹¹Safari Club International. "In the Crosshairs" E-mail bulletin. January 7, 2008.

¹²Safari Club International. "In the Crosshairs" E-mail bulletin. February 22, 2008.

¹³Safari Club International. "In the Crosshairs" E-mail bulletin. April 17, 2008.

¹⁴Safari Club International. "In the Crosshairs" E-mail bulletin. April 29, 2008.

¹⁵U.S. Sportsmen's Alliance. "On Target" e-mail newsletter. October 31, 2007.

to accelerate the killing of species with pending ESA listing decisions and, when import of the trophies are barred, make the same personal appeal to Congress over and over again.

Importing Trophies is Inconsistent with Conservation

Further, although the MMPA generally prohibits the importation of depleted species, the law provides specific procedures for importing these animals. A depleted species may be imported if the importation is likely to “enhance” the species’ survival by “contribut[ing] significantly to...increasing distribution” of animals. Congress crafted this narrow exception to ensure that only importations that actually benefit species are permitted. If trophy hunters are allowed to circumvent this process, Congress’s carefully limited exceptions are rendered meaningless.

The U.S. does not allow sport hunting of polar bears in Alaska, and only Alaskan natives are allowed to hunt these bears for subsistence. American trophy hunters cannot legally shoot polar bears at home, and should not be encouraged to add to the mortality of polar bears in other countries. Only a few dozen Americans participate in the trophy hunting of Canadian polar bears. The millions of sportsmen and gun owners in the U.S. are not impacted by this issue.

The MMPA had barred the import of sport-hunted polar bear trophies between 1972 and 1994, and that ban has now been restored. The MMPA does not allow trophy imports of walruses, whales, or other marine mammals. It would be inconsistent with American conservation law to allow the importation of polar bear trophies.

Additionally, trophy hunting is harmful to the survival of polar bears. Polar bears rely on high adult survivorship to maintain populations. Sport hunters target the largest and most fit animals and are not always able to distinguish females from males in the field. These animals may be critical to ensuring the survival of polar bear populations under stress from climate change and habitat degradation. Before the passage of the MMPA, sport hunting was identified as the primary or sole cause of polar bear population declines in places such as Alaska. Once sport hunting was prohibited in the U.S., some populations began to recover.

Commercial hunting is an incentive for higher polar bear mortality. An American trophy hunter pays about \$35,000 for a polar bear hunt in Nunavut. Because the sport hunts are highly lucrative, Canadian wildlife managers may feel pressure to increase quotas beyond sustainable levels. In 2005, Nunavut increased hunting quotas by 29%, despite concerns expressed by polar bear researchers that the increase in take could be harmful to the populations.

Finally, there is no evidence that money charged for polar bear hunting permits is essential to local communities or wildlife conservation. An August 2005 article in the Nunatsiaq News, a Nunavut newspaper, concluded that “most of the [financial benefits from sport hunts] never reach Inuit hands, and when they do, those earnings vary substantially from community to community.” Even if a portion of the money went to polar bear conservation, it is still unsustainable for sport hunters to kill a species that is threatened by climate change and vanishing habitat. Saving these bears will not come from money derived from killing them, but from eliminating the financial incentives to increase the quotas and from protecting their habitat.

And even if the 41 sport-hunted polar bear trophies affected by H.R. 1054 somehow aided polar bear conservation efforts, which is unlikely, there would be no additional conservation value by allowing their importation. Denying these imports would not lead to a refund for hunters, who knew the financial risks they were taking when they paid to shoot the bears.

CITES Protection

The USFWS is considering submitting a proposal to protect polar bears from international trade at next year’s meeting of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The proposal would transfer the polar bear from CITES Appendix II, which allows regulated international commercial trade, to Appendix I, which prohibits all international commercial trade in the listed species. The purpose of CITES is to prevent over-exploitation of species through international trade.

The Appendix I designation would mean that countries agree to prohibit international trade for primarily commercial purposes and thus ensure that international trade will not contribute to the ongoing decrease in polar bear numbers. The announcement that the USFWS is seriously considering submitting this proposal illustrates the fact that the polar bear is seriously threatened with extinction and affected by international trade, and that recent protections granted under the ESA should not be stripped away.

The USFWS should be praised for listing this important and imperiled species under the ESA. Now that the agency is considering a proposal to move polar bears from Appendix II to Appendix I of CITES, it's time to give polar bears greater protection, not less.

Conclusion

In summary, the passage of H.R. 1054 would reward a few dozen individuals who gambled at their own risk, and attempted to game the system knowing that the door would soon be closed to polar bear trophy imports, as it was previously for more than two decades. The ESA and MMPA protections should not be subverted simply to pacify a handful of trophy hunters who, with full knowledge that the species would likely be listed because of serious threats to its survival, chose to ignore all warnings from the U.S. government, animal protection organizations and hunting groups, and pursue a bearskin rug for their trophy room. It's a self-inflicted problem, yet they are asking Congress for a government bail-out.

We shouldn't allow the importation of threatened or endangered species trophies just because they're stockpiled in a warehouse and the animals have already been killed. Whether its elephant ivory or polar bear pelts, each time we allow trade in these protected species, we resuscitate the market for these items, increase the incentive for poaching and sport hunting, and make it harder for law enforcement to crack down on trafficking in wildlife contraband. Thus, even if these 41 trophies in question don't harm polar bear populations since the animals are already dead, the cumulative impacts of shooting more and more bears, putting the trophies in storage, and continuing to ask Congress to allow imports over and over again, are severe and set a dangerous precedent.

Congress should resist the temptation to interfere with the ongoing legal cases the trophy hunters themselves chose to initiate, and should reject this same pattern of behavior that was used to amend the MMPA in 1994 and allow the commercial killing of hundreds of polar bears for trophies. Allowing imports, driven by personal stories, has always been the tack of the trophy hunting groups and it's precisely what has allowed all of this killing by Americans to occur. Congress should send a strong message that this behavior will not be tolerated and that imperiled species deserve protection. In order for the MMPA protections and ESA listings to have meaning, we strongly urge the Subcommittee to reject H.R. 1054.

Response to questions submitted for the record by Michael Markarian, Chief Operating Officer, Humane Society of the United States

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. Isn't sport hunting good for conservation? Won't people protect a species to ensure it's always available for sport hunting and to protect the income they derive from it?

This has not been true historically for polar bears. In the 1950s and 1960s, as Dr. Moritz of the Safari Club testified, polar bears numbered perhaps as low as 5,000 animals. This was because of sport hunting—due to their ecology and high juvenile mortality, polar bears as a species require high adult survivorship to maintain their numbers and the sport hunter's preference for targeting large, full-grown robust bears (most likely the very bears the population needs to survive environmental perturbations such as pollution and climate change) caused a catastrophic crash in population. The 1973 International Agreement on the Conservation of Polar Bears was largely a result of this situation. After sport hunting ended in most countries (and declined in Canada), the polar bear population began to recover. More recently, at least one population, M'Clintock Channel, was being over-hunted by sport hunters (not by subsistence hunters) until the population reached such a low level that managers finally responded by lowering the quota.

Regardless of whether or not sport hunting is "good" for conservation for other species, which is highly debatable, not all species are alike. For polar bears, sport hunting has been a significant contributor to declines in the past. Today, polar bear sport hunting is so lucrative for commercial outfitters that there is a huge incentive to apply strong pressure on managers to maintain unsustainably high quotas (as occurred in M'Clintock Channel), which is not good for polar bear conservation.

Moreover, we have seen no evidence that money charged for polar bear hunting permits is essential to local communities or wildlife conservation. An August 2005 article in the Nunatsiak News (http://www.nunatsiak.com/archives/50826/news/nunavut/50826_12.html), a Nunavut newspaper, concluded that "most of the spoils never reach Inuit hands, and when they do, those earnings vary substantially from community to community." The funds are pocketed by commercial outfitters, and

spent on transportation, hunting gear, and other incidentals—not spent on conservation.

Simply put, sport hunting of polar bears and the commercial trade in polar bear parts must cease altogether if the polar bear is to survive the multitude of threats it faces, including the loss of essential sea ice habitat.

2. Hunting groups say that polar bear numbers are increasing. How can both sides of this debate make such diametrically opposed statements about the polar bear population?

According to the IUCN Polar Bear Specialist Group (and also Dr. Moritz's testimony), the official estimate of the world's population of polar bears is 20,000-25,000 (see <http://pbsg.npolar.no/en/status/>). At its most recent meeting in July 2009, the PBSG concluded that eight of the twelve polar bear populations with data sufficient to estimate trends were declining, three were stable, and only one was believed to be increasing. The remaining seven populations (there are a total of nineteen recognized in five countries) are of unknown status—they are data deficient. (See <http://pbsg.npolar.no/en/meetings/press-releases/15-Copenhagen.html>.) The claim that polar bear numbers are increasing is made ONLY by the trophy hunting community, and not by reputable scientists. Resource managers, the scientific community, the conservation community, and even many Native representatives do not make this claim and the numbers used by trophy hunting groups have no basis in the scientific literature. In other words, the rhetoric from Safari Club and other groups isn't sound science, it just sounds like science.

If we took the trophy hunters' claims on face value, since Canada is the only country that allows sport hunting of polar bears, the other four countries that have polar bear populations must be doing very poorly since they do not allow sport hunting. This logic, of course, is absurd. However, the PBSG continues to express serious concern for the polar bear's future, the U.S. Fish and Wildlife Service considers the science to add up to a "threatened" status and a proposal for increased protection through CITES, and even Natives (including those who have said recently that they believe there are more bears out there) are beginning to worry about the bear's future (and their own, for that matter). The only debate about the status of polar bears is inside the halls of the Safari Club—no one else is debating this question.

Regardless of the cause of the polar bear's low population numbers in the 1950s and 1960s, to compare today's population to the one from 50 years ago leaves out the middle of the story. Polar bear recovery from the sport hunting collapse probably peaked in the 1980s-1990s. Since then, there has been a second decline, believed by scientists to be due to the effects of global warming (e.g., sea ice retreat), pollution (which hits polar bears hard, as they are top predators and toxins magnify up the food chain), and other habitat degradation. So there are more bears today than there were in the 1950s, but FEWER bears today than there were in the 1980s-1990s. Scientists do not know how great the decline has been yet, because counting polar bears (see above) is not simple or precise.

3. In his testimony, Dr. Moritz stated that this bill is not about the future of polar bears, but only about these 40+ permits for imports that were pending when the listing occurred. Do you agree that there is no relationship between this bill and the future conservation of polar bear populations?

H.R. 1054 is essentially an attempt by trophy hunters to repeat history and amend the MMPA to allow the importation of sport-hunted polar bear trophies, as they did 15 years ago. The original Act of 1972 barred the importation of all marine mammal parts, including polar bears—the same law that prohibits American citizens from bringing whale meat back from Japan or seal fur back from Canada. But the trophy hunters and their congressional allies successfully punched a gaping loophole through the law in 1994, and opened the door to polar bear heads and hides.

And they made the same arguments back then that they're making now. Law-abiding hunters shot their polar bears legally in Canada, they said, and the trophies were just sitting in storage, so it wouldn't hurt just to let them transport those already-dead bears across the border. The problem was that this policy change opened the floodgates to more and more American trophy hunters trekking north to get the prized bear—many of them competing for the Safari Club's "Bears of the World" award—and in that decade and a half, more than 900 polar bear trophies were imported from Canada.

Now that the polar bear has been listed as a threatened species, the ban on imports has been restored. But trophy hunters are making the same tired argument that they made in 1994. H.R. 1054 is being cast as a private relief measure to help

41 hunters bring in their personal trophies, but in reality the legislation would roll back a federal policy and provide even more incentive for American trophy hunters to accelerate the killing of species with pending ESA listing decisions and, when import of the trophies are barred, make the same personal appeal to Congress over and over again.

The problem, of course, is the cumulative impact of these repeated requests. Whether it's elephant ivory or polar bear pelts, each time we allow trade in a protected species, we resuscitate the market for these items, increase the incentive for poaching and sport hunting, and make it harder for law enforcement to crack down on trafficking in wildlife contraband. Trophy hunters are encouraged to kill more threatened and endangered species and just keep them in storage until their congressional allies can provide a government bail-out.

Ms. BORDALLO. I thank you very much, Mr. Markarian, for your testimony.

And now I would like to recognize Mr. Oerter. Please begin.

**STATEMENT OF MAJOR ROGER OERTER,
U.S. AIR FORCE, RETIRED**

Major OERTER. Madam Chairwoman, Members of the Committee, I am here today as a voter and a citizen who suffered a taking of my property because of Federal regulatory action. I appreciate the opportunity today to tell my story.

I was a Major on active duty with the U.S. Air Force in 2007 when I decided to pursue the hunt of a lifetime, a polar bear. I took out a home equity line of credit on my home and booked the hunt for late April of 2008. This hunt, which remains entirely legal under Canadian law, was to be a retirement present to myself.

Though I could ill afford a trip of such expense, I rationalized it as a once-in-a-lifetime luxury following a 29 year military career. The hunt costs have totaled over \$41,000 thus far, nearly half of my 2008 annual military salary, but a figure for which I was willing to go into debt as I have always wanted to experience and enjoy one of the world's few remaining adventures, a dogsled hunt north of the Arctic Circle.

Besides the adventure, I knew that my participation in this hunt would help conserve the bear population and provide sorely needed funds to the Inuit people. I was elated to have success on this arduous and challenging hunt on the 1st of May, having seen 39 bears in 10 days. I hope you understand I wanted to bring home my bear to create a taxidermy mount as a memento of this amazing experience, so I arranged for its transport back to the United States before leaving Canada.

I had submitted my paperwork to the U.S. Fish and Wildlife Service for the mandatory 30-day review when the Interior Department listed the polar bear as threatened under the Endangered Species Act. As a result of their decision, I am now banned from importing this legally harvested polar bear into the U.S. under the Marine Mammal Protection Act. With that, I basically lost my investment in this trip.

While I will never lose the experience, the polar bear mount, which would have been my lasting trophy, cannot happen under current laws, and this regulation effectively confiscated my polar bear. Right now the bear hide and skull are in cold storage in Edmonton. I can't throw good money after bad by having the taxi-

dermy work done in Canada, and yet the longer the hide sits unmounted in storage the greater risk that the hide will be ruined.

I find it distressing that the government required me to abide by a 30-day review period before importation, but itself instantaneously changed its import policy. As a veteran of 10 contingency deployments during my Air Force career, including Operation Southern Watch four times, Joint Forge/Joint Guardian once, Enduring Freedom Philippines twice and Iraqi Freedom three times, I am asking you to support enactment of H.R. 1054.

This simple bill will do only one thing. It will allow me and the other similarly affected polar bear hunters in this country to import the bears we legally hunted. It will not change the ESA listing, and it will not allow future bear imports. It will simply restore my property to my possession.

I ask you to support efforts to lift the restriction on polar bear importation at the very least. It makes no sense in regards to conservation or science. In the long run, the bears will suffer as the Canadian Government will still issue permits, but with no monetary value attached to them the Inuits will have no incentive to take only mature males as is currently done. The hunting will be solely for subsistence, and females will be taken more often.

This issue is not about hunting. It is a simple matter of returning property that was effectively taken by regulatory action. I made an enormous investment in my polar bear expedition, and the government has effectively stripped me of my property. This is a deeply personal issue that has had an enormous impact on me. I sincerely hope you will consider, co-sponsor, and support enactment of H.R. 1054.

Finally, I would like to thank the Dallas Safari Club in assisting me in my effort to testify today and appreciate the position the club has taken to help move this legislation forward.

Madam Chairwoman, thank you once again for the opportunity to tell my story to the Committee. I appreciate your careful consideration of this legislation. Thank you.

[The prepared statement of Major Oerter follows:]

Statement of Roger E. Oerter, Major, USAF, Retired

Madam Chairwoman, Members of the Committee, I am here today as a voter and a citizen who has suffered a taking of my property because of federal regulatory action. I appreciate the opportunity today to tell my story.

I was a Major on active duty with the U.S. Air Force in 2007 when I decided to pursue the hunt of a life time—the polar bear. I took out a home equity line of credit on my home and booked a hunt for late April, 2008. This hunt, which remains entirely legal under Canadian law, was to be a retirement present to myself. Though I could ill afford a trip of such expense, I rationalized it as a once-in-a-lifetime luxury following a 29-year military career.

The hunt costs have totaled over \$41,000 (thus far), nearly half of my 2008 annual military salary, but a figure for which I was willing to go into debt; as I've always wanted to experience and enjoy one of the world's few remaining adventures—a dog-sled hunt north of the Arctic Circle. Besides the adventure, I knew that my participation in this hunt would help conserve the bear population and provide sorely needed funds to the Inuit people.

I was elated to have success on this arduous and challenging hunt on the 1st of May, having seen 39 bears in ten days. I hope you understand, I wanted to bring home my bear to create a taxidermy mount as a memento of this amazing experience. So I arranged for its transport back to the United States before leaving Canada. I had submitted my paperwork to the U.S. Fish and Wildlife Service for a mandatory 30-day review period when the Interior Department listed the polar bear as

“threatened” under the Endangered Species Act (ESA). As a result of their decision, U.S. hunters are now banned from importing these legally-harvested polar bears into the U.S. under the Marine Mammal Protection Act. With that, I basically lost my investment in this trip. While I’ll never lose the experience, the polar bear mount which would have been my lasting trophy cannot happen under current laws, and this regulation effectively confiscated my polar bear. Right now, the bear hide and skull are in cold storage in Edmonton. I can’t throw good money after bad by having the taxidermy work done in Canada, and yet the longer the hide sits unmounted in storage, the greater the risk that the hide will be ruined. I find it distressing that the government required me to abide by a 30-day review period before importation, but itself instantaneously changed its import policy.

As a veteran of ten contingency deployments during my Air Force career, including Operations SOUTHERN WATCH (4 times), JOINT FORGE/JOINT GUARDIAN (1), ENDURING FREEDOM-PHILIPPINES (2) and IRAQI FREEDOM (3); I am asking you support enactment of H.R. 1054. This simple bill will do only one thing—it will allow me and the other 42 similarly affected bear hunters in this country to import the bears we legally hunted. It will not change the ESA listing. It will not allow future bear imports. It will simply restore my property to my possession.

I ask you to support efforts to lift the restriction on polar bear importation at very least. It makes no sense in regards to conservation or science. In the long run the bears will suffer, as the Canadian government will still issue permits, but with no monetary value attached to them, the natives will have no incentive to take only mature males, as is currently done. The hunting will be solely for subsistence, and females will be taken more often.

This issue is not about hunting. It’s a simple matter of returning property that was effectively taken by regulatory action. I made an enormous investment in my polar bear expedition and the government has effectively stripped me of my property. This is a deeply personal issue that has had an enormous impact on me. I sincerely hope you will consider, co-sponsor, and support enactment of H.R. 1054.

I would like to thank the Dallas Safari Club in assisting me in my effort to testify today and appreciate the position the Club has taken to help move this legislation forward.

Madam Chairwoman, thank you once again for the opportunity to tell my story to the Committee. I appreciate your careful consideration of this legislation.

[A letter submitted for the record by Roger E. Oerter, Major, USAF, Retired, follows:]

September 2009

The Honorable Don Young
US House of Representatives
2111 Rayburn HOB
Washington, DC 20515

Dear Representative Young:

I would like to again thank you personally for introducing H.R. 1054, amending the Marine Mammal Protection Act of 1972 to allow for the importation of legally-harvested polar bears taken before 15 May, 2008. To assist in this effort, I would like to retell my story.

I was a Major on active duty with the U.S. Air Force in 2007 when I heard that polar bear hunting could soon close due to political posturing by opponents of sport hunting. Because I anticipated that once closed, polar bear importation would not reopen in my lifetime; I took out a home equity line of credit on my home and booked a hunt for late April, 2008. This hunt was to be a retirement present to myself, as I could ill afford a trip of such expense; but I rationalized it as a once-in-a-lifetime luxury following a 29-year military career.

The hunt costs have totaled over \$41,000 (thus far), nearly half of my 2008 annual salary, but a figure for which I was willing to go into debt; as I’d never get another chance to enjoy one of the world’s few remaining adventures—a dog-sled hunt for bear north of the Arctic Circle. Besides the adventure, I knew that my participation in this hunt helped conserve the bear population and provided sorely needed funds to the Inuit people. Yet to protect myself against loss should importation policy change, I talked to the outfitter often leading up to my departure date. He said he would allow me to cancel up until the day I left if laws or policies were enacted preventing my bringing the bear back to the US. Nobody I talked to envisioned that legally-taken bears wouldn’t be grandfathered after any change.

I took my bear from the Lancaster Bay population on the 1st of May, having seen 39 bears in ten days. I had started the paperwork with U.S. Fish and Wildlife Service for the 30-day review period when they made their decision to suspend importation of already-taken bears. With that decision, I basically lost my investment in this trip. While I'll never lose the experience, the polar bear mount which would have been my lasting trophy cannot happen under current laws. Right now, the bear hide and skull are in cold storage in Edmonton. I can't throw good money after bad by having the taxidermy work done in Canada, and yet the longer the hide sits unmounted in storage, the greater the risk that the hide will be ruined. I feel betrayed by a government that requires a 30-day review, but can itself act instantly.

As a veteran of ten contingency deployments during my Air Force career, including Operations SOUTHERN WATCH (4 times), JOINT FORGE/JOINT GUARDIAN (1), ENDURING FREEDOM-PHILIPPINES (2) and IRAQI FREEDOM (3), I implore you to continue your efforts to lift the restriction on polar bear importation at very least. It makes no sense in regards to conservation or science. The Inuit village of Grise Fiord will suffer. In the long run, so will the bears, as the Canadian government will still issue permits, but with no monetary value attached to them, the natives will have no incentive to take only mature males, as is currently done. If it helps, feel free to cite me as an example as you try to secure co-sponsors and support in the U.S. Congress to right this wrong.

Sincerely and respectfully yours,

Roger E. Oerter, Major, USAF, retired

**Response to questions submitted for the record by Roger Oerter on
H.R. 1054**

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. On September 21, 2008, the U.S. Fish and Wildlife Service (Service) responded to a Freedom of Information Act (FOIA) request submitted by the International Fund for Animal Welfare. In it the Service reports receiving a call from you on April 17, 2008 informing them that you would depart for your polar bear sport hunt on April 22, 2008 and that your hunt was scheduled for April 24th through May 8th. The Service states that it informed you that a final decision on whether to list the polar bear under the ESA was imminent and that they could not guarantee that they could process your permit request in time to import the trophy if a final decision were announced to list the polar bear. Records show that the Service also told you that if the polar bear were listed, all trophies would have to be imported by the effective date of the listing regardless of whether you had received a permit to import the trophy. Did the Service inform you that if the listing went into effect no future trophy imports would be allowed?

Madam Chairwoman, the short answer is, "No." The U.S. Fish & Wildlife Service Division of Management Authority sent me a letter outlining what I needed to do to import my bear before I went on the hunt. In this letter, they informed me of the proposal to list the polar bear as "threatened." The very next sentence read, "If polar bears are listed, this may impact your ability to import your trophy." (The capitalized emphasis is in the original correspondence from the Division of Management Authority, while the italicized emphasis is mine.) So, this is hardly the absolute, carved-in-stone context that I infer from your question. In fact, I was advised that the decision on listing was imminent, but the USFWS would not advise me to cancel my hunt (which I had the option from the outfitter to do, at no penalty to me). What I was told was that, "We can't guarantee that we can process your permit request in time to import the trophy IF a final decision is announced to list the polar bear." (Again, "IF" is capitalized for emphasis in their letter.) The correspondence went on to say, "If listed, all trophies will have to be imported by the effective date of the listing (typically 30-days {sic} from publication of the final decision) regardless of whether you have received a permit to import the bear." (Italicized emphasis added.) So, I was not only given no absolutes, but I was led to believe that it would take some time to go from announcement to publication of the listing decision, and that even after it was published, I would have 30 days or perhaps more to get the bear imported. They even told me to fill out the import permit application ahead of time, leaving blank the date the bear was harvested, so that the 30-day review period would start, which I did. I was told to get the harvest date in to USFWS as soon as possible, which I also did—the day I returned to the US. Then,

the application could be fast-tracked through as soon as the review period was complete.

2. **The FOIA response also says that the Service received a voice mail message from you on May 7, 2008, indicating that your hunt was successful and that you had taken a bear on May 1st. According to the Service, you also left a voice mail message on the 8th, seeking guidance about: 1) what to submit in order for permit application to be considered complete; and 2) information about how the court decision would affect the import of your trophy. Service staff returned your call on May 9, 2008 and informed you of the April 28, 2008 U.S. District Court order requiring the Service to publish the final decision on listing the polar bear under the ESA on or before May 15th, Service records show, and that the decision would become immediately effective on the publication date. Service staff say they told you that although the Service didn't yet know what that final decision would be, if the decision were to list polar bears, all polar bear trophies would have to be imported by the effective date because under the MMPA, polar bears would be considered "depleted" if listed under the ESA, and the MMPA provision that allows for the import of polar bear trophies would no longer apply.**

Did the Service tell you that since you hunted your polar bear on May 1, 2008, and that the court-ordered deadline was May 15, they would not be able to process your permit request in time to import the trophy if a final decision were announced to list the polar bear?

No. And at that time, it would have mattered little, as the bear was already dead. The lead-in paragraph to this question shows that I was exercising due diligence in this matter. The voice mail on the 8th was intended to confirm that I had done everything in my power to ensure the requirements for importation were met, to prevent from happening exactly what has happened: my bear sitting in cold storage in Canada, where it will deteriorate over time. And again, I was under the impression that an announcement date on May 15th didn't necessarily equate to a publication date.

3. **Your import permit application was complete on May 12, 2008, three days before the court-order deadline for the listing decision. Given the fact that the application still would have to go through the clearance process, would need to be sent to the Federal Register for a 30-day comment period, did the Service explain to you that it would not be possible to approve the import of your trophy by May 15, 2008?**

No. I was still under the impression that since I had filled out the import permit ahead of time, at the recommendation of USFWS Division of Management Authority, my 30-day comment period was underway. And actually, I assumed my permit application was completed on May 7th, the day I informed USFWS of the date of actual harvest of the bear (the only piece of information missing in the application.) This is the first time I've heard that it was not complete until the 12th.

Ms. BORDALLO. I thank you, Mr. Oerter, and especially for your military service to our country.

Next we have Dr. Moritz, who is recognized to testify for five minutes. Please begin.

STATEMENT OF WILLIAM MORITZ, PH.D, DIRECTOR, DEPARTMENT OF SCIENCE-BASED CONSERVATION PROGRAMS AND RESEARCH, SAFARI CLUB INTERNATIONAL

Dr. MORITZ. Good morning. My name is Dr. William Moritz, Director of Conservation for Safari Club International Foundation and the Acting Director of Government Affairs for Safari Club International.

I have a Bachelor's degree in Fisheries and Wildlife Biology, a Master's degree in Fish and Wildlife Management and a Doctorate in Zoology. I have worked in the field of wildlife research and management for over 20 years prior to accepting my current professional position.

Safari Club International protects the freedom to hunt and promotes wildlife conservation worldwide. SCIF promotes, funds and manages worldwide programs dedicated to wildlife conservation, outdoor education and humanitarian services. Thank you for allowing me to testify today on their behalf.

Madam Chair, the most important point that we would like to make to this Subcommittee is that the question before the Subcommittee is not the future of polar bears. It is only about whether approximately 42 bears that were legally harvested by U.S. citizens under the legal framework established by local communities, the Government of Canada, and the polar bear range states should be allowed into the United States and thereby provide over \$40,000 for polar bear research and management.

Canada, the United States and other range state governments will continue extensive efforts to conserve and manage the polar bear, including, but not limited to, the development of and compliance with international agreement and domestic laws. Multi-national agencies and committed governments are already dedicating significant resources to manage the polar bear and to ensure its long-term sustainability. These efforts have resulted in positive impacts to the polar bear, including rebounding from possible population lows, as low as 5,000 bears 40 years ago, to today's population estimate of 20,000 to 25,000.

We should not lose focus on the purpose of H.R. 1054. The issue today is whether a small number of harvested bears hunted legally before the polar bear was listed as threatened should be allowed to be imported. The obvious fact underlying the bill to allow the import of already harvested polar bears is that the bears are dead. No legislation will make them live again.

The harvest of these animals provided important income to local native communities, which encouraged the communities to value the polar bear even more and to better accept science-based quotas on the appropriate levels of sustainable take. In addition to much needed income, the animals provided meat and employment to local communities to ensure native people will be able to continue their way of life. Under U.S. law, allowing the importation through permits will generate over \$40,000 in fees for much needed research on polar bears. This money will be in addition to the more than \$900,000 in import fees generated since 1997.

This bill is not about climate change, even though some may try to tell you that it is only about climate change. This bill is not about the future hunting of polar bears. That question will be left for another day. This bill will not affect the population of polar bears at all.

This amendment is simple, straightforward and totally unrelated to climate change and the future of polar bear hunting. H.R. 1054 will allow approximately 42 citizens to bring their legally harvested polar bears into the United States and to contribute much needed revenue to polar bear conservation. These citizens lost the ability to import their personal property due to the arbitrary decision of the Federal government.

This bill will do one thing and one thing only. It will provide relief from this taking. We strongly urge the Subcommittee to support H.R. 1054. Thank you.

[The prepared statement of Dr. Moritz follows:]

Statement of Dr. William E. Moritz, Director of Conservation, Safari Club International Foundation, Acting Director of Governmental Affairs, Safari Club International, on H.R. 1054

Good morning. My name is Dr. William Moritz, Director of Conservation for Safari Club International Foundation (SCIF) and acting Director of Governmental Affairs for Safari Club International (SCI). I have a Bachelors' degree in Fisheries and Wildlife Biology, a Masters degree in Fish and Wildlife Management, and a Doctorate in Zoology. I worked in the field of wildlife research and management for over 20 years. SCI protects the freedom to hunt and promotes wildlife conservation worldwide. SCIF funds and manages worldwide programs dedicated to wildlife conservation, outdoor education and humanitarian services. Thank you, Chairwoman Bordallo, for allowing me to testify today on their behalf.

Madam Chair, the most important point that we would like to make to the Committee is that the question before the subcommittee is not the future of polar bears, it is only about whether approximately 42 polar bears that were legally harvested by U.S. citizens under the legal framework established by local communities, the government of Canada, and the polar bear range states in the 1973 international agreement on conservation of polar bears, should be allowed into the United States and thereby provide over \$40,000 for polar bear research. Canada, the United States, and other range state governments will continue extensive efforts to conserve and manage the polar bear, including but not limited to the development of and compliance with international agreements and domestic laws. Multinational agencies and committed governments are already dedicating significant resources to manage the polar bear and to ensure its long-term sustainability. These efforts have resulted in positive impacts to the polar bear, including rebounding from possible population numbers as low as 5,000 bears 30-40 years ago to today's population of 20,000-25,000. Freeman, et al. 2006, at page 21.

The issue today is only whether a small number of harvested bears hunted legally before the polar bear was listed as threatened should be allowed to be imported. The obvious fact underlying the bill to allow the import of already harvested polar bears is that the bears are dead, no legislation will make them live again. The harvest of these animals provided important income to local native communities, which encouraged the communities to value the polar bear even more and to better accept science-based quotas on the appropriate levels of sustainable take. In addition to much needed income, the animals provided meat and employment to local communities to ensure native people will be able to continue their way of life. Under U.S. law, allowing the importation through permits will generate over \$40,000 in fees for much needed research on polar bears. This money will be in addition to the more than \$900,000 in import fees generated since 1997.

This bill is not about climate change even though some may try to tell you that it is only about climate change. This bill is not about future hunting of polar bears, that question will be left for another day. This bill will not affect the population of polar bears at all. This amendment is simple, straightforward and totally unrelated to climate change and future of the polar bear.

It will allow approximately 42 citizens to bring their legally harvested polar bears into the United States and to contribute much needed revenue to polar bear conservation. These citizens lost the ability to import their personal property due the arbitrary decision of the federal government, and this bill will do one thing and one thing only—it will provide relief from this taking. We strongly urge the Subcommittee to support H.R. 1054.

Key points:

1. Polar bears harvested in Canada are taken under a legal framework established by the government of Canada and approved under an international agreement governing polar bear conservation worldwide. Based on scientific knowledge, including local ecological knowledge, Canada routinely sets quotas for polar bear harvests to be sustainable.
2. Prior to May 15, 2008, the date the U.S. Fish and Wildlife Service listed the polar bear as threatened worldwide and imposed an import ban, U.S. hunters could import polar bear trophies from six populations in Canada approved by the FWS as having a sustainable and well-managed conservation and hunting program.
3. Foreign sport hunters, including U.S. hunters, do not increase polar bear mortality from hunting. These hunters use "tags" assigned to local native communities based on these scientifically-determined quotas. If the tags were not used for sport hunting, they would be used for subsistence.

4. By bringing much needed cash to these remote native communities (U.S. hunters generally spent between \$30,000-50,000 per hunt), U.S. hunters in particular helped encourage the local communities to support science-based polar bear management efforts in Canada.
5. Under U.S. law, import permits provide important conservation program funding of \$1000 per permit. In the last 13 years, almost \$1 million dollars has been contributed to research. The permits sought for bears taken before the import ban went in effect would add over \$40,000 to current efforts in polar bear research.

Ms. BORDALLO. I thank you very much, Dr. Moritz.

We will now recognize Members for any questions that they may wish to ask, alternating between the Majority and the Minority and allowing five minutes for each Member.

At this time I ask unanimous consent to allow Congressman Paul Broun, the gentleman from Georgia, to sit and participate in this hearing. Hearing no opposition, so ordered.

I have some questions for Dr. Gould. There are many pending lawsuits related to the listing decision and the import prohibition. In one filing, the plaintiffs claim that the Department misled the hunting community by leading them to believe that the listing would not stop the import of trophies. I just want a yes or a no. Is this accurate?

Dr. GOULD. No.

Ms. BORDALLO. OK. Along these lines, I would like to get the fuller extent of the Fish and Wildlife Service's outreach efforts following the publication of the proposed listing on January 9, 2007. Could you please provide brief answers to the following questions:

One, following the January 9, 2007, listing proposal did the Service send staff to the Safari Club International's annual conventions in both January 2007 and 2008, and what did the staff tell people regarding the proposed listing?

Dr. GOULD. We did provide people for both of those conventions, 2007 and 2008. We indicated to folks that a decision was imminent on listing the polar bear. There was no indication whether the decision would be either positive or negative.

Ms. BORDALLO. Thank you. Another question I have. In your testimony you said that in January 2008 the Fish and Wildlife Service's Division of Management Authority fielded a large number of telephone and email communications on this issue, including inquiries from hunters, Canadian outfitters and the media. What did you tell them regarding the proposed listing?

Dr. GOULD. That a decision was imminent on whether we were going to list the polar bear or not. Again, there was no indication of whether there was going to be a positive or negative finding. It would have been inappropriate for us to opine at that time.

Ms. BORDALLO. And you also said that on May 5, 2008, Service staff attempted to call those individuals who had already been authorized to import a trophy, but may not have done so, to inform them that an ESA listing might go into effect on or before May 5, 2008. Did all of these permit holders succeed in importing their bears?

Dr. GOULD. No, they did not. There were 43 I believe permits outstanding. Forty-one are where there was legally taken bears in

approved areas that had applied for permits that had completed their hunts before May 15, but we don't know if anybody—

If I am answering your question, we don't know if other people we called had—there were five pending at the time, but beyond that we do not know if there were other people that had legally taken bears, but had not submitted permits by that period of time.

Ms. BORDALLO. Thank you. And then one other question for the record. What other outreach efforts did the Service conduct between January 2007 and the May 15, 2008, listing decision?

Dr. GOULD. Listing the decision?

Ms. BORDALLO. Yes. Listing decision.

Dr. GOULD. Oh.

Ms. BORDALLO. I am sorry.

Dr. GOULD. There was an extensive comment period that was the result of the listing process for polar bear, so there was extensive public comment and there was extensive notification to both the environmental community, the other NGO's, other stakeholders that the listing process was moving forward.

But again I have to always qualify that by saying Fish and Wildlife Service at no time before the decision was made indicated whether the decision was either pro listing or positive listing or a negative listing action.

Ms. BORDALLO. All right. Thank you. I have one minute left here, and I would like to ask a question to Mr. Crystal.

Your testimony states that most, if not all, of the 40 or so hunters who had submitted permit applications before the listing on May 15, 2008, could not have obtained import permits even if the Judge ordered the customary 30-day delay in the effectiveness of the rule, given the notice and comment process involved in approving a permit application.

As you heard earlier, the Service believes many could have been approved. Can you elaborate on why you do not agree with the Service on this point?

Mr. CRYSTAL. Yes, Madam Chairwoman. I will start by saying that the reason why, and I think this is critical to this issue, that the listing went into effect immediately, that was as part of this litigation that was going on about the listing of the polar bear and a decision was made to have the listing go into effect immediately.

There still is pending litigation over that issue about whether the listing should have been effective immediately or whether the 30-day grace period should be in effect, and that is an issue, among many others, that still could be resolved in the litigation.

Now, to answer your specific question, the regulatory scheme provides for a notice and comment period, some of which had started to take place, and there were Federal Register notices. It also provides for a hearing opportunity, so I think it overstates the case to suggest that it definitely would have been the case that these permits would have been granted. I think the best that can be said, given the existing regulatory scheme, is that it is unclear what would have happened as a result of a delay.

And the existence of the immediate listing was a consequence of the litigation. The Judge made a ruling that it was appropriate for the species to be listed at that time. These same kind of arguments

were made to the Court and the Court rejected them. It is an issue that is still pending and could be resolved there.

Ms. BORDALLO. Thank you very much. I now recognize the Ranking Member for any questions he may have.

Mr. YOUNG. Thank you, Madam Chairwoman.

Dr. Gould, in your testimony you state the Administration does not oppose this legislation to allow those hunters that applied for a permit to import their trophies, but you go on to say the Administration does not support H.R. 1054 as currently written. What changes need to be made to the bill for the Administration to support the passage?

Dr. GOULD. We would like to work with the Subcommittee to specifically get language that does not lead to a person that took a bear that had not applied for a permit to be included in those list of folks that would receive their trophies. That is the only issue.

Mr. YOUNG. Dr. Gould, I thought my bill did that. If it did not, though, you can provide the language correctly that would only allow the 41 that had applied for a permit and yet were disallowed to import them. That is what you are saying?

Dr. GOULD. Yes, sir.

Mr. YOUNG. Well, I am sure the Chairwoman would work with you also. That is what my interest is in.

Dr. Gould, again if it were not for the Court order which required an immediate effective date, to go back to the lawyers—I don't like lawyers; I want you to know that—how long would the Fish and Wildlife Service have given the hunters who legally hunted a polar bear prior to May 15 and applied for a permit to bring in the trophies?

Dr. GOULD. Normally we allow 30 to 60 days' grace period before an effective action under the ESA goes into effect when we make a listing decision, the final decision is made. In this case, as has been indicated, the Court ordered the immediate effect of the action on May 15, so therefore there was no grace period.

Mr. YOUNG. I appreciate that. Mr. Markarian, does your organization support hunting prior to the May 15 ESA listing?

Mr. MARKARIAN. Excuse me, sir?

Mr. YOUNG. Did you support hunting prior to the May 15 ESA listing?

Mr. MARKARIAN. Congressman, I think you know our position.

Mr. YOUNG. You don't support hunting.

Mr. MARKARIAN. We do not support the hunting of polar bears in the Arctic.

Mr. YOUNG. Do you support any hunting?

Mr. MARKARIAN. We are not against all hunting. We are against—

Mr. YOUNG. Which hunting do you support?

Mr. MARKARIAN. We are not against—

Mr. YOUNG. Which hunting do you support?

Mr. MARKARIAN. Subsistence hunting in your State of Alaska we have no problem with. We don't focus on hunting issues generally. We focus on inhumane and unsporting practices, and every bill we have ever supported dealt with practices that we believe—

Mr. YOUNG. The answer is you don't support hunting.

Mr. MARKARIAN. We are the Humane Society. We don't encourage people to hunt for fun, but we don't work on those practices.

Mr. YOUNG. Mr. Oerter, you had 10 tours of duty. How did you find time to participate in this bear hunt? Were you retired?

Major OERTER. No, Congressman. I was a member of the Air Force's Combat Search and Rescue community. CSAR, as it is called, is a low density, high demand career in the Air Force. There are very few of us; but anywhere there are American troops in harm's way, we were required to be there.

Because we are spread so thin, our tours of duty are generally a lot shorter than most. Where the Army goes for 18 months or 15 months, we go for normally four to five months.

Mr. YOUNG. OK. How long did it take you to acquire your polar bear tag for the native village?

Major OERTER. I started the process in January of 2007, and I went on the hunt the following year right before—

Mr. YOUNG. It took you about a year?

Major OERTER. Yes.

Mr. YOUNG. OK. Good. Doctor, one of the things I am interested in is I mentioned in my opening statement 20,000 bears in the year 1970 and now 23,000. What do you attribute to the growth in the polar bear population?

Dr. MORITZ. The careful management that range states have undertaken over the last 20, 30, 40 years has resulted in the increase in numbers.

It is that sort of careful management and establishment of quotas, recognizing the sustainable use both by the local communities and by the hunters, to ensure that these populations are as well managed as they possibly can.

Mr. YOUNG. Now, if I may. I don't have much time left, but I am actually one of the few people in this room that ever killed a polar bear, in 1964; but what we have found is that if we have a value on the polar bear boar, the polar bear sow and cubs are not taken for subsistence because there is a value on the boar.

That serves two purposes. It not only protects the sow and the cubs from human consumption; it also protects them from the boar itself because the boar will try to kill the cubs so that the sow goes into heat and they can have another cub, so actually the population has increased about 3,000 bears in Canada over where it was prior to the instigation of this management principle. That is just a little bit of information. I am sure you are aware of it.

Dr. MORITZ. Sure.

Mr. YOUNG. Thank you, Madam Chairwoman. My time is up.

Ms. BORDALLO. I thank the gentleman for his questions. Mr. Kratovil—

Mr. KRATOVIL. No.

Ms. BORDALLO.—from Maryland has no questions. Then I would like to recognize the gentleman from Virginia, Mr. Wittman.

Mr. WITTMAN. Thank you, Madam Chairwoman. I am going to go to Dr. Gould and just ask did the U.S. Fish and Wildlife Service at any time tell hunters prior to the imminent ESA listing that they shouldn't go on these polar bear hunts?

I know you spoke a little bit about going to the Safari Club International convention and letting folks know about the imminence of

the ESA listing, but was there any communication with folks pursuing hunts about saying that they shouldn't go on a hunt due to the imminence of a determination of the ESA listing?

Dr. GOULD. As I understand it from the folks I have talked to—of course, I am not privy to all conversations, but the folks that I have talked to that participated in the outreach—they never at any point said you should not go on a hunt. They said that there was a listing action coming up. Should that action be positive for the bear then the imports of trophies would be affected.

Mr. WITTMAN. Very good. Thank you, Dr. Gould.

Major Oerter, thank you again for your service to our nation. We deeply, deeply appreciate that. Let me ask you. Did you have any type of communication from the U.S. Fish and Wildlife Service up until or after your hunt?

Major OERTER. Yes. Yes, sir. Actually I had been in almost constant contact with the Division of Management Authority's policy specialist, and she had been telling me to get my permit application started even before I went on the hunt and then when I came back it would already be in the review process and all I would need to do is fill in the actual date that the bear was taken and I would get a jump start.

From that point she said with a 30-day review period that will be plenty of time for these bears to get fast tracked through the system and get imported.

Mr. WITTMAN. Were you ever notified then of the imminent ESA listing or ever told that you shouldn't go on the hunt or that there might be some issues there if you went on the hunt?

Major OERTER. I was notified that the ESA listing might be forthcoming, but again if I get my process started now I will have time enough to import the bear, and it was only after the bear was down and I was back on duty that I was notified the date of the listing and that it was an immediate listing.

Mr. WITTMAN. OK. Thank you, Madam Chairwoman. I yield back my time.

Ms. BORDALLO. I thank the gentleman from Virginia. Now we would like to recognize Mr. Chaffetz.

Mr. CHAFFETZ. Yes. Thank you, Madam Chairwoman. I appreciate it.

Ms. BORDALLO. Go ahead.

Mr. CHAFFETZ. And thank you all for being here. I appreciate your time and consideration.

Mr. Markarian? Sorry. I am terrible with names, but Chaffetz. I am used to it getting slaughtered as well.

Mr. YOUNG. Better than being chaffed.

Mr. CHAFFETZ. Yes, better than being chaffed. Yes. Exactly.

Ms. BORDALLO. So am I with my name.

Mr. CHAFFETZ. Is there any doubt in your mind about the 40? We keep talking about the 41 trophies that were taken in my opinion legally. Would you dispute? Are they taken legally or illegally in your mind?

Mr. MARKARIAN. Well, I think the issue for us, Congressman, is whether—

Mr. CHAFFETZ. It is just a yes/no question.

Mr. MARKARIAN. If they were taken legally in Canada, that doesn't mean they can be legally imported into the U.S.

Mr. CHAFFETZ. OK. The question was whether they were taken legally under U.S. law, yes or no? My understanding is the answer is yes. Is there anything to refute that?

Mr. MARKARIAN. Under Canadian law, these were legally hunted bears in Canada.

Mr. CHAFFETZ. Mr. Crystal? Same question.

Mr. CRYSTAL. Yes. The answer to your question is yes, and that is true today as well. A polar bear is killed today in Canada. The killing of the polar bear does not violate U.S. law.

The import is the only restriction that we have that enables us to impact the treatment of polar bears in Canada. That is as true today as it was before the listing.

Mr. CHAFFETZ. We are talking about polar bears that were taken before the enactment on May 15, 2008, because I think the legislation is very clear on page 2, line 17, with legally harvested by the person before May 15, 2008, and it goes on from there.

What in your mind do you suggest we do with polar bears that were taken before that date while it was still legal based on U.S. law? What would you suggest we do with the trophies that are currently out there?

Mr. MARKARIAN. Congressman, I think the issue is that—

Mr. CHAFFETZ. No, no. I am asking you the question and the issue. Don't change my question. I want you to answer my question.

Mr. MARKARIAN. What should we do with the trophies? The hunters who took those bears did so at their own risk. Those trophies are in storage.

Mr. CHAFFETZ. Wait a minute. I am asking you about the existing trophies that are here in the United States. My understanding is that the Fish and Wildlife Service has polar bear trophies on display in their offices and whatnot. Do you think that is inappropriate?

Mr. CRYSTAL. The import of course of the polar bear, which is the question we are asking—

Mr. CHAFFETZ. No. The question I am asking is the existing trophies. Do you think it is inappropriate for them to be on display?

Mr. CRYSTAL. I have no view one way or the other about whether it is inappropriate for them to be on display. I am sure that there is some permit associated with it. There are permits that one can obtain for both display and for import.

But with regard to your question, though, to answer your question about the legal killing of the bears before the listing, again the key fact is the listing of the polar bear did not make killing bears in Canada illegal.

Mr. CHAFFETZ. I understand that. I am trying to deal with—

Mr. CRYSTAL. It made the import illegal, which is the question here today.

Mr. CHAFFETZ. Well, the question here today is what do we do with the gentleman as nice as Mr. Oerter here in being able to bring that trophy home; personal property of his and being able to bring that back to the United States.

Mr. CRYSTAL. I understand.

Mr. CHAFFETZ. He paid for it. It was legal. It was lawful. I see no reason to stop doing that other than what you believe is a higher moral ground that you think you are on in trying to say no, no, no. We should cut that off immediately. I find that to be terribly unfair and selfish on your part.

Mr. CRYSTAL. Well, I think it is no different again from a hunter who goes today. Right now, there is a hunter in Canada—there may be—who is killing a polar bear.

Mr. CHAFFETZ. No. They are separate. They are different. No. I am talking about before May 15. You are changing dates on me.

Mr. CRYSTAL. Because the question from a fairness perspective as you are suggesting is because it is legal the import should be allowed, but what became illegal was the import of polar bears, and the question of whether the polar bear is threatened—

Mr. CHAFFETZ. But the core question—

Mr. CRYSTAL.—or whether imports should be allowed is still pending in litigation.

Mr. CHAFFETZ. The core question is what happened to those who legally brought permits under the law dealing with a date before May 15, 2008?

Mr. CRYSTAL. I understand. The answer to your question again, our view is that there should be a bright line rule. The date of the listing is the date it became defeated under the MMPA. Imports should be prohibited whether the bear was killed before or after. That should be the rule.

Mr. CHAFFETZ. And I guess we simply disagree. I think trying to do so with some sort of moral authority is very selfish on your part. You have somebody who has legally, lawfully obtained something. It is their personal property.

We have polar bears that are on display. I asked you earlier. Do you think that there is something wrong with polar bears that were killed at whatever point? Do you think it is wrong to have those on display? You are indifferent to that.

Mr. MARKARIAN. Congressman, if I may address your question of fairness briefly? You know, what about the fairness to the 112 hunters who imported their trophies in 2007 because they did it right? They knew this was a potential listing coming down the pike. They sped up the process. They did what they were expected to do. They got in early.

Why should we now change the rules and weaken the Marine Mammal Protection Act and the Endangered Species Act for a few people who didn't plan in advance?

Mr. CHAFFETZ. Again, Madam Chair, just let me conclude on this thought. I know my time is up. Those permits are spread out over a course of time. They are not all just done in one big block.

At the end of the day, thank you for your service, Mr. Oerter. I do hope that this legislation can right a wrong and allow the importation of these trophies that were taken in a very legal way with good intentioned Americans who were doing all the right things.

Thank you, Madam Chair.

Ms. BORDALLO. I thank the gentleman from Utah, and now I would like to recognize Mr. Broun, the gentleman from Georgia.

Mr. BROUN. Madam Chairwoman, I thank you and I thank the Committee for allowing me to come here to this hearing. I have a particular interest in this, Madam Chairwoman and Members of the Committee, because I was the Government Affairs Vice President of Safari Club International for a number of years, and if I could I would like unanimous consent that my opening statement be placed in the record.

Ms. BORDALLO. No objection. So ordered.

[The prepared statement of Mr. Broun follows:]

Statement of The Honorable Paul C. Broun, a Representative in Congress from the State of Georgia

Thank you, Chairwoman Bordallo and Ranking Member Brown for holding this important hearing today and allowing me to appear before this subcommittee. I appreciate the opportunity to hear testimony and ask questions from the witnesses today.

I first became active in politics when I served as a volunteer advocate for Safari Club International, the world's largest pro-hunting and conservation organization. (Personalize welcome to Dr. Moritz from SCI). I also served for several years as the President of the Georgia Sport Shooting Association (the NRA state affiliate).

I am an avid hunter. Safari Club International, The National Rifle Association, and Gun Owners of America are just some of the numerous sporting associations that I am a Life Member of. A full-body-mounted African lion and Kodiak grizzly bear are just a few of my prized trophies that visitors see when they come to my DC office.

On May 15, 2008 Secretary Dirk Kempthorne declared polar bears threatened, or likely to become endangered in the future. U.S. Fish and Wildlife Service withdrew authorization to import hides from Polar bears killed in approved populations in Canada. Unfortunately, this included those already killed and awaiting a taxidermist mount.

There are currently 41 trophies that were taken legally, prior to the May 2008 ESA listing. As a hunter, I know these hunts can cost close to \$50,000. But this issue has nothing to do with hunting. It's a simple matter of returning property that was taken by wrongheaded regulatory action.

The 41 polar bears that have been killed and are sitting in storage in Canada are not going to come back to life if the current ban stays in place. H.R. 1054 provides a reasonable grace period for hunters to arrange the importation of their trophies. Allowing these polar bear trophies to be imported will also bring in \$40,000 of conservation money for the U.S.-Russia polar bear population.

I am a proud co-sponsor of H.R. 1054 and thank Mr. Young for introducing this legislation. I'm just upset that I didn't think to introduce it first.

Chairwoman Bordallo, thank you for calling this hearing. I look forward to hearing from our witnesses.

Mr. BROUN. Thank you, Madam Chair. Madam Chair, I worked on this issue for a number of years as the Government Affairs Vice President of Safari Club International before it finally got the change in the law in the Marine Mammal Protection Act and so this is something I worked on for a number of years, and I thank Dr. Moritz for his continued work in that regard and Dr. J.Y. Jones who furthered my work and finally got this listing changed in the Marine Mammal Protection Act.

I have a number of questions that I would like to submit for the record if I could and ask for a written response from all the people.

Ms. BORDALLO. No objection. So ordered.

Mr. BROUN. OK. Thank you, Madam Chairwoman. I want to make a couple of statements.

Number one is, Mr. Crystal and Mr. however you pronounce it. Sir, how do you pronounce your name?

Mr. MARKARIAN. Markarian.

Mr. BROUN. Markarian. I think it is quite evident to me and to all the Members here and anybody that is hearing this testimony that you are adamantly trying to stop hunting period, and that has been the Humane Society of the U.S.'s objective is to stop hunting and fishing. You all are trying very hard to promote that philosophy.

The Major obtained a bear permit in a legal manner. He hunted in a legal manner in Canada. He had permission from our government to import that bear. Even though hunters—not only the Major, but other hunters—were informed there may be a change in the listing, you want to just be able to say there is a possible change and you want to stop hunting through that.

By just filing a suit in Court, you want to stop hunting for all species by anybody except for subsistence hunters in Alaska and Canada, and that is totally wrong and is deplorable as far as I am concerned. You are utilizing the Courts to promote your agenda, which is to stop hunting and fishing. I think it is deplorable. You ought to be ashamed of yourselves for that, but I have a question to ask you.

Mr. MARKARIAN. Would you like a response?

Mr. BROUN. I want to go back to what Congressman Chaffetz was saying because neither one of you all have answered the question that he asked you, and I am going to ask you the same question.

Before I ask the question, I want to say this. The Major and the other 40 people who obtained permits had a legal right up until May 15 to import those bears. Yes or no? Is that correct?

Mr. MARKARIAN. Congressman, can I—

Mr. BROUN. Yes or no?

Mr. MARKARIAN. Can I address your question about hunting?

Mr. BROUN. No, sir. Yes or no?

Mr. MARKARIAN. Because your—

Mr. BROUN. I have very limited time.

Mr. MARKARIAN. Congressman?

Mr. BROUN. Yes or no. Did they have a legal right up until May 15 to import those bears?

Mr. MARKARIAN. They had a legal right to take their own risk, to spend their own money.

Mr. BROUN. No, sir. Yes or no?

Mr. MARKARIAN. No.

Mr. BROUN. Did they have a legal right to import that bear prior to May 15?

Mr. MARKARIAN. They knew what was coming.

Mr. BROUN. No, sir. You are not answering my question. You did not answer Mr. Chaffetz's question. Yes or no? Did they have a legal right under U.S. law to import that bear up until May 15?

Mr. MARKARIAN. If they would have done it before May 15, which is what most hunters did. These guys did not plan properly.

Mr. BROUN. Well, the answer is yes. Is that correct?

Dr. CRYSTAL. If they had obtained a permit.

Mr. BROUN. They had the permit.

Dr. CRYSTAL. If they had obtained a permit.

Mr. BROUN. They had a permit to hunt the bear.

Dr. CRYSTAL. They didn't need a permit from the U.S. to hunt the bear. They needed a permit to import the bear.

Mr. BROUN. I know that.

Dr. CRYSTAL. They didn't have the permit before the listing.

Mr. BROUN. But they went through the Office of Scientific Authority to get the permit to import it.

Dr. CRYSTAL. That is correct.

Mr. BROUN. And it was legal up until May 15, and so the lawsuit that has been filed and the immediate closure of importation is a taking of their lawful, rightful property. Is that not correct?

Mr. CRYSTAL. That is not correct.

Mr. BROUN. It is correct.

Mr. CRYSTAL. Because the Humane Society is not a plaintiff in any lawsuit about the polar bear. The Humane Society is an intervenor defending lawsuits that have been brought by sport hunting groups who are raising the very issue that is before this Committee today. They are asking the Court to make a judicial determination to allow them to import polar bears. So you say it is shameful that we are bringing lawsuits to try and stop hunting, but we are not plaintiffs in lawsuits.

Mr. BROUN. No, sir. What I think is shameful is that you are using the Courts to further your philosophy of anti-hunting and anti-fishing, and that is what is shameful.

Mr. CRYSTAL. In the Courts we are defending the Fish and Wildlife Service's determination under the Bush Administration.

Mr. BROUN. Sir, it is my time. Please. The other thing is I want to go back to what Congressman Young said. I have been involved in wildlife management practices all over the world, and I just want to say for the record if we give a value to wildlife what happens is it stops the poaching, it stops the indiscriminate use of those species.

I have worked on that for sheep in China, wild sheep, for wild sheep in Pakistan. It has worked in Africa, particularly in Namibia for elephant. By giving a value to the locals where they receive monetary value, some economic benefit from protecting those species, then the species are protected. They flourish and do much better. Stopping hunting is actually adverse to the species and causes the species to be indiscriminately killed by the locals.

So U.S. Fish and Wildlife policy that stopped our practices in Pakistan and China that we were establishing has been adverse to the species and has harmed the species, and it is something that we have to change. We have to change that philosophy, Dr. Gould. Dr. Gould. I apologize, Doctor. I am a physician. I am called Mr., and so I apologize.

But the thing is we have to look at proper management practices to help the species, and you guys with the Humane Society U.S., you all are doing everything to stop hunting and fishing, which is adverse and it is going to harm the species long term. I think that is deplorable. You are not looking at things in a wildlife management perspective and what is good for the species.

With that, Madam Chair, my time is up and I appreciate your forbearance. Thank you, ma'am.

Ms. BORDALLO. I thank the gentleman from Georgia.

I have a couple of quick questions here for this first panel. To you, Dr. Gould, you also testified that the permitting process can take between 50 and 90 days. Given that timeline, how many of the pending applications could have been approved with an extra 30 days?

Dr. GOULD. We don't know for sure obviously because you have to get corroborative documentation from Canada, but if everything is smoothly obtained and provided we could have provided all of those permit applications probably within that timeframe as long as they were able to provide the information that was required.

Ms. BORDALLO. All right, Doctor. I have a follow up question. For instance, would permit applications submitted after April 28, the date that the Court required you to make a final decision by May 15, have had enough time to be approved? Yes or no?

Dr. GOULD. The answer is likely no.

Ms. BORDALLO. All right. All right. Both you and Mr. Markarian stated that allowing these imports will set bad precedents and provide incentives for more bears to be killed despite the ESA listing and the MMPA designation as depleted. Can you elaborate on this particularly in light of the many pending lawsuits? Mr. Crystal?

Mr. CRYSTAL. Thank you, Madam Chairwoman. Again, the lawsuits challenge whether the species should have been listed as a threatened species, and I think that part has been overlooked a little bit here today because the Fish and Wildlife Service again in the prior Administration made a determination that the polar bear's conservation status is such that it should be designated as a threatened species in Canada and throughout the rest of this range.

So, the concern is that if despite the listing, and as a result of which there is an import ban, the United States is, nonetheless, continuing to allow the import of polar bear trophies whenever the polar bear was killed, that sends a terrible signal to our conservation partners about our views about how polar bears should be treated, and it sets a terrible precedent because it opens the door to the same argument.

Again, the principal argument we have heard today is the polar bears are already dead. It makes no difference whether we allow them in. But that is just as true for polar bears that were killed before the listing as it is for polar bears that were killed yesterday, so it does set a terrible precedent in that regard.

Ms. BORDALLO. I thank you very much for your answer to that question, and now I would like to recognize the Ranking Member, Mr. Wittman, for any questions he may have.

Mr. WITTMAN. Thank you, Madam Chairwoman. I am going to yield my time to the gentleman from Georgia.

Mr. BROWN. I thank the gentleman for yielding. I just want to make a comment, and then I will yield the time back to Mr. Wittman.

If we look at Kenya, they stopped all hunting for big game in Kenya. We have had more poaching, we have had more decimation of the animals in that country with no hunting than we did when there was value placed on all these animals. So the philosophy that Humane Society U.S. has of stopping hunting is not a conservation issue. It is a protectionist issue because of your perverse idea that

hunting is bad for animals. It is not. Actually hunting helps animals.

The conservation community, which I have spent literally thousands of my personal dollars in contributing and belonging to various organizations like Safari Club International and many others. The hunter is the only individual who puts their money where their mouth is and actually helps promote the species, promote good, healthy species and does what is necessary in true conservation.

Protectionist organizations like HSUS and others actually harm species, and your philosophy of anti-hunting is totally going to long-term be disastrous to species all over this world. I feel very firmly about that. There is scientific evidence that my statement is factual.

With that, Mr. Wittman, I thank you.

Mr. MARKARIAN. Congressman, I would like to respond to those points about the Humane Society.

Mr. WITTMAN. I thank the gentleman from Georgia. Madam Chairwoman, I yield back the balance of my time.

Ms. BORDALLO. All right. Thank you very much. Before dismissing any of the members of the first panel, I just want to let you know that the Members will likely have a few more questions for the record. If you want to answer the gentleman, you can also place that on the record, in a timely manner. I would request that you answer any of their questions.

All right. I want to thank you all very much for appearing before the Committee this morning. Thank you for your time and I thank the gentleman for serving in the Air Force for so many years. Thank you for your service to our country.

And now I would like to recognize the second panel. Our witnesses on the second panel include Mr. Paul Schmidt, Assistant Director, Migratory Birds, United States Fish and Wildlife Service; Mr. Scott A. Sutherland, Director of the Governmental Affairs Office—

Could I have order, please, in the room? Would you kindly take your conversations out in the hall, please? We have not concluded this hearing.

All right. Our witnesses on the second panel, Mr. Paul Schmidt, Assistant Director, Migratory Birds, United States Fish and Wildlife Service; Mr. Scott A. Sutherland, Director of the Governmental Affairs Office, Ducks Unlimited; Mr. Michael Daulton, Legislative Director, National Audubon Society; Mr. Darin Schroeder, Vice President of Conservation Advocacy, American Bird Conservancy; and Ms. Lisa Cutchin, a teacher from the St. John Regional Catholic School in Maryland.

I would like to thank the witnesses on the second panel. I thank you for your time and for coming here to testify before the Subcommittee.

I would like to welcome Mr. Schmidt and thank him for appearing before the Subcommittee. As I mentioned for the previous panel, the red timing light on the table will indicate when your time has concluded.

Be assured that your full written statement will be included into the record, so if you can consolidate your statement into five min-

utes or less we would appreciate it. Thank you very much. Dr. Schmidt, you can proceed.

**STATEMENT OF PAUL SCHMIDT, ASSISTANT DIRECTOR,
MIGRATORY BIRDS, U.S. FISH AND WILDLIFE SERVICE**

Mr. SCHMIDT. Thank you and good morning, Madam Chairwoman and Mr. Wittman. Thanks for the opportunity—

Ms. BORDALLO. Kindly close the door, please. Thank you.

Mr. SCHMIDT. Thank you. Thanks for the opportunity to present the Service's views on these three important pieces of legislation. They are important to bird conservation and our efforts to inspire environmental stewards in our youth, and to build partnerships that are necessary for successful protection and conservation of migratory bird populations and their habitats.

The Service supports H.R. 3537 reauthorizing the Junior Duck Stamp Program through 2015. This program is one of this nation's most successful government-sponsored environmental education and conservation programs. First authorized in 1994, the program continues to build strong partnerships with schools and young educational programs using proceeds from the stamp sales to provide materials and other support for environmental education.

In addition to the annual contest held to select art featured on the stamp, the program features a science and art-based curriculum designed to help teach wildlife and wetland conservation principles in grade schools across this country. In 2009, nearly 30,000 students throughout the country, including Washington, D.C. and our U.S. territories, submitted artwork to the contest and participated in the curriculum.

The Service particularly supports this proposed streamlining in the legislation in requiring the reporting back to the Congress and the provision of the Secretary to have discretion to disburse funds where they are needed most. We want to thank Representative Ortiz for his leadership throughout this program's history and the support he has given to the Junior Duck Stamp Program.

H.R. 2213 reauthorizes the Neotropical Migratory Bird Conservation Fund, also supported by the Fish and Wildlife Service. It would increase and extend authorizing appropriations through Fiscal Year 2015. In authorizing the Neotropical Migratory Bird Conservation Act in 2000, Congress provided a mechanism for coordinating and funding conservation of neotropical migratory birds and their habitats throughout Latin America, the Caribbean and North America.

Modeled after other international programs, including the Multi-National Species Conservation Funds and the North American Wetlands Conservation Fund, the Act has recognized the need for international cooperation in these conservation efforts and established an effective and targeted matching grant program.

Since receiving appropriations in Fiscal Year 2002, the program has made significant conservation progress. We have funded 296 projects throughout the United States, Latin America and the Caribbean with more than \$30 million. In Fiscal Year 2009, 124 grant proposals were received. We were able to fund 36 of those proposals.

While the statute currently requires a three to one match for all grant requests, meaning that partners must come up with \$3 for every Federal dollar, they have contributed \$135 million in matching funds, representing more than a three to one—in fact, a four to one—match.

H.R. 2213 would allow the continuation of the very positive work already accomplished by this program, encourage more partners across the Western Hemisphere, leverage more dollars for conservation, complete more projects to benefit migratory birds that nest, winter and migrate through the United States.

And finally H.R. 3413, which would amend the North American Wetlands Conservation Act to allow funds from Canada to count as nonFederal match for Canadian projects. Currently only U.S. funds can be considered as this nonFederal match for Canadian habitat projects under the Wetlands Act, limiting the number and scope of habitat projects in one of the most crucial habitats, the Prairie Pothole Region, which supports the vast majority of our nesting waterfowl that migrate to the United States.

The North American Wetlands Conservation Act grants have been internationally recognized as a success story and support our partnership throughout this continent. Since 1990, thousands of partners have been involved in the Wetlands Act. In fact, almost 2,000 grant projects have been conducted and accomplished. More than a billion dollars in U.S. funds have been used in this program to leverage more than \$2 billion private or state dollars for this program, delivering 25.5 million acres of wetlands conservation throughout the country and beyond.

The Service's Migratory Bird Program has two primary goals: 1) To conserve and sustain healthy migratory bird populations and their habitats; and 2) To ensure the citizens of the United States continue to have opportunities to enjoy migratory birds.

These three bills build upon, refine and enhance our current authorities to achieve our goals. We truly appreciate the leadership in this Committee relative to these three bills and the work you have done to date and look forward to answering any questions you might have. Thank you.

[The prepared statement of Mr. Schmidt follows:]

Statement of Paul R. Schmidt, Assistant Director for Migratory Birds, U.S. Fish and Wildlife Service, U.S. Department of the Interior, on H.R. 3537, Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2009; H.R. 2213, a Bill to Reauthorize the Neotropical Migratory Bird Conservation Act; and H.R. 3433, a Bill to Amend the North American Wetlands Conservation Act

Chairwoman Bordallo, Ranking Member Brown, and Members of the Subcommittee, I am Paul Schmidt, Assistant Director for Migratory Birds for the U.S. Fish and Wildlife Service (Service). I appreciate the opportunity to appear before the Subcommittee today to testify on behalf of the Department of the Interior on three important pieces of legislation related to migratory birds: H.R. 3537, Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2009; H.R. 2213, a bill to reauthorize the Neotropical Migratory Bird Conservation Act; and H.R. 3433, a bill to amend the North American Wetlands Conservation Act. The Department supports all three of these bills and greatly appreciates the Subcommittee's continued leadership and support for the conservation of the nation's migratory birds.

Introduction

Migratory birds are among nature's most magnificent natural resources, and they play a significant ecological, economic and cultural role in the United States and around the globe. Like canaries in coal mines, birds are indicators of the health and quality of our environment. The Service's Migratory Bird Program has two primary goals: (1) to conserve migratory bird populations and their habitats in sufficient quantities to prevent them from being considered as threatened or endangered and (2) to ensure the citizens of the United States continue to have opportunities to enjoy migratory birds and their habitats. The Service pursues these goals in concert with a host of participating partners, both domestic and foreign. The Service also serves as the lead Federal agency responsible for protecting, managing and conserving the species of birds covered by four major treaties with Canada, Mexico, Russia, and Japan through their implementing legislation, the Migratory Bird Treaty Act of 1918.

Birds are tremendous engines for local economies; each year millions of Americans watch birds in their backyards and on National Wildlife Refuges, National Parks, National Forests and other federal lands, as well as at state and local birding hot spots. In fact, the 2006 Survey of Fishing, Hunting and Wildlife-Associated Recreation, conducted by the U.S. Fish and Wildlife Service in conjunction with the Federal census, showed that 48 million Americans watched birds, and wildlife watchers generated \$122.6 billion in total industrial outputs.

On March 19, 2009, Secretary Salazar announced the release of the State of the Birds 2009 Report, which shows that while a number of species are healthy or recovering, many are in decline. This report, a partnership product led by the Service and coordinated with the U.S. Geological Survey, the American Bird Conservancy, The Nature Conservancy, Cornell Lab of Ornithology, the National Audubon Society, and many other organizations, is the first of an annual and collective effort to monitor the health of our nation's birds, and will help us monitor the condition of their environments and the success of our conservation efforts. The State of the Birds 2009 Report is a part of what the Service envisions as a broader and more collaborative approach to conserving birds in order to enhance the protection of their habitats while helping these landscapes to be more resilient to climate change.

H.R. 3537, Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2009

The Federal Junior Duck Stamp Conservation and Design Program (Program) was authorized through the Junior Duck Stamp Conservation and Design Act of 1994 (Public Law 103-340), which was enacted on October 6, 1994. The Act authorizes the Secretary of the Interior to carry out the Junior Duck Stamp Program, including conducting an annual art competition to create a stamp and licensing and marketing the stamp. The proceeds from these efforts are used to support conservation education programs, awards and scholarships for Junior Duck Stamp Program participants.

In addition to the annual art contest for the design of the Stamp, the program features a science and art-based curriculum designed to help teach wetland and wildlife conservation principles, engaging children from kindergarten through high school by pairing science and the arts. The program's goal is to empower and encourage students to become conservation stewards who will work to conserve sustainable populations of migratory birds and many other wetland-dependent plants and animals.

In 2009, nearly 28,000 students across the United States, including the District of Columbia and the territories, entered the contest, and thousands more participated in the curriculum. The 2009 national winning design of a wood duck entered by a 16-year-old student from Toledo, Ohio, now graces the eighteenth Junior Duck Stamp. In 2008, Junior Duck Stamp sales raised more than \$172,000 for awards, environmental education activities throughout the U.S. and its territories, and Junior Duck Stamp marketing materials.

H.R. 3537, reauthorizes the program, increases authorization for appropriations to \$500,000 per year, removes limitations on the use of funds for administrative expenses and amends the Program's reporting requirements. The Department supports H.R. 3537 as it would enable the Service to more effectively implement the Junior Duck Stamp Program.

H.R. 2213, The Neotropical Migratory Bird Conservation Act

Through bilateral treaties with Canada, Mexico, Japan and Russia, and the Migratory Bird Treaty Act, the Service has responsibility for maintaining healthy populations of hundreds of native migratory birds, including 341 species that migrate

from or through the United States to Latin America and the Caribbean and are covered by the Neotropical Migratory Bird Conservation Act.

Migratory birds help control agricultural pests, pollinate many commercially valuable plants and provide bird-related recreational opportunities for millions of people. Unfortunately, many migratory bird species are declining as a result of habitat loss and degradation, particularly in the Caribbean and Latin America. The fact that many, if not most, neotropical migratory bird species have “two homes”—the United States and a Caribbean or Latin American country—increases the challenges associated with conserving them.

In authorizing the Neotropical Migratory Bird Conservation Act in 2000, Congress provided a mechanism for coordinating and funding the conservation of neotropical migratory birds and their habitats throughout Latin America, the Caribbean and North America. Modeled after other international conservation programs including the Multinational Species Conservation Funds and the North American Wetland Conservation Act grants program, the Act recognized the need for international cooperation in these conservation efforts and established an effective and targeted matching grant program. The Service strives to implement the Act as a complement to other programs that seek to protect and restore neotropical migratory bird habitat in the United States.

Administered by the Service’s Migratory Bird Program, grants are awarded for projects that promote the long-term conservation of migratory birds through partnership. These projects protect and manage bird habitat, conduct research and monitoring, support law enforcement, and provide education and outreach.

Since receiving appropriations in FY 2002, the Service has funded 296 projects, throughout the United States, Latin America and Caribbean with more than \$30 million. In FY 2009, 124 grant proposals were received and 36 were funded. While the statute currently requires a 3:1 match for all grant requests, partners have contributed nearly \$135 million in matching funds, representing a match ratio of more than 4:1. As a result, the program has achieved significant on-the-ground results, including restoring island bird species in the Caribbean, protecting and reforesting 8,000 acres of wintering habitat for Neotropical migrants in Colombia, Ecuador and Peru, and studying the effects of bison on bird habitat diversity. The Neotropical Migratory Bird Conservation Act is helping the United States and our international partners address the threats to neotropical migratory birds and reduce the likelihood that they will need the protection of the Endangered Species Act.

The Department supports H.R. 2213 to reauthorize the Neotropical Migratory Bird Conservation Act.

H.R. 3433, A Bill To Amend the North American Wetlands Conservation Act

The North American Wetlands Conservation Act (NAWCA) is an internationally recognized conservation program that supports partnerships to conserve waterfowl and other wetland-associated migratory birds. Since 1990, more than 11,500 partners have been involved in 1,946 NAWCA grant projects. More than \$1 billion in grants has leveraged more than \$2 billion in matching funds to affect approximately 25.5 million acres of wetlands and associated uplands across the continent.

H.R. 3433 would amend NAWCA to allow up to 50 percent of the required “non-federal” match for projects in Canada to be composed of Canadian funds. Under current law, all such funds must be from U.S. sources, and Canadian funds contributed to NAWCA projects cannot be counted as part of the “non-federal” match. If this measure were enacted, Canadian projects would be able to reach their non-federal funding requirements.

The Department supports H.R. 3433 and its proposed change to NAWCA as long as at least 50 percent of the “non-federal match” would still come from United States sources. The change in this historic conservation statute would better acknowledge the importance of the U.S. partnership with Canada and would be more consistent with the non-U.S. funding match that is already allowed for Mexican NAWCA projects.

NAWCA grants act as catalysts in bringing together partnerships to support wetland projects and leverage non-federal funding. Grants have brought together partners as diverse as conservation organizations; federal, state and local government agencies; and private industry, and thousands of private landowners. Partners have carried out projects in all 50 U.S. states, 12 Canadian provinces and territories, and 23 Mexican states.

Conclusion

Protecting and conserving migratory birds is one of the primary public trusts held by the Service. The three programs being considered today have all greatly improved the Service’s ability to meet our mission. The Junior Duck Stamp Program

has enabled the Service to educate and encourage young Americans to step up to the plate as conservation stewards. The Neotropical Migratory Bird Conservation Act and the North American Wetlands Conservation Act have greatly enhanced our ability to protect birds and their habitat for future generations.

We greatly appreciate your leadership, Chairwoman Bordallo and Ranking Member Brown, in enhancing and refining our statutory authorities to conduct this important work. We look forward to continuing to work with you to ensure that the diversity and health of the nation's native bird species are sustained.

**Response to questions submitted for the record by Paul Schmidt,
U.S. Fish and Wildlife Service**

Questions from The Honorable Henry E. Brown, Jr. (R-SC)

H.R. 2213:

1. What are the major threats facing neotropical migratory birds? How many neotropical migrants are currently listed on our Endangered Species Act?

The predominant threat to neotropical migratory birds is habitat loss and fragmentation in both migration stopover and wintering areas south of the U.S. border, and in breeding areas within the U.S. and Canada. Other major threats to these birds include predation from introduced animals; exposure to heavy metals and toxic chemicals; and collisions with communication towers, power lines and buildings.

The populations of over a hundred migratory birds are declining within our hemisphere, some severely. Nine species are listed as endangered under the Endangered Species Act. An additional seven bird species are targeted by the Service as focal species and 121 are on the Service list of birds of conservation concern. Eleven of the 20 birds on Audubon's "List of the Top 20 Birds in Decline" are long-distance migrants that benefit from grants provided through the Neotropical Migratory Bird Conservation Act.

2. The Fish and Wildlife Service has approved 296 of the 1,157 projects submitted to conserve neotropical migratory birds. This represents about 25 percent of the overall total. What distinguishes the approved projects from those that did not obtain funding? Was it lack of sufficient federal resources or what about other factors?

Neotropical Migratory Bird Conservation Act (NMBCA) project proposals are evaluated, ranked and recommended by a review panel of Federal and State natural resource professionals with experience in bird conservation in the U.S., the Caribbean, and Latin America. Funded projects are those that make the best case for conservation activities during any grant cycle. Applicants' proposals usually involve working with priority species or habitats, studying important natural resource management-related issue, or providing a particularly high conservation value relative to the estimated cost. Other factors considered during the project selection process include habitat and population sustainability, threats to natural resources within the project area, and coordination among public and private organizations.

The Service funds those projects submitted each year that have the best ability to meet the goals of the NMBCA within available funding.

3. For the past five years, Congress has appropriated about \$10 million dollars total for African and Asian elephants, rhinos, tigers, Great Apes and marine sea turtles. In recent years, neotropical birds has received about \$5 million per year or 50 percent of the total amount appropriated. Since it is unlikely that this overall figure will be dramatically increased in the short-term, what is the justification for increasing the authorization level for neotropical birds from \$6 million in FY09 to \$20 million in FY15?

Under the current authorization the Service funds as many of the highest priority neotropical migratory bird conservation projects as possible. In FY 2009, 124 grant proposals were received and 36 were funded. We recognize that it is likely we will not request the authorization ceiling amount proposed. Increasing the authorization ceiling does not require us to request that amount. Rather, it allows us the flexibility to request amounts higher than the current ceiling within our overall allocation as we examine Service priorities.

Neotropical migratory birds encompass 345 species that either breed or migrate through the U.S. on their way north and then winter in Latin America or the Caribbean. Neotropical migratory birds are especially important because they reflect envi-

ronmental conditions not just in the U.S. but across their migratory range. The same factors that make these birds important indicators of environmental health also make them more difficult to manage. Adequate breeding, wintering, stopover habitat, and environmental conditions must be available and this involves the active involvement of local resource managers and land owners as well as coordination and cooperation with governments and conservationists across the Western Hemisphere. Neotropical Migratory Bird Conservation Act funds can support local efforts in other countries while ensuring that the welfare of our birds is taken into account by local resource managers. Such funds also increase collaboration among scientists and managers searching for the best ways to manage these border-crossing species in an increasingly complex world.

In FY 2010 Congress appropriated \$5 million for the Neotropical Migratory Bird Conservation fund and \$11.5 million for the Multinational Species account. Over the past 5 years (FY2006 – FY2010) the Multinational species account which covers those species listed above has grown from \$6.4 million to \$11.5 million, an increase of eighty percent (80%). Over the same period the Neotropical Migratory Bird Conservation fund has grown from \$3.9 million to \$5 million, a twenty-seven percent (27%) increase.

4. One of the most endangered of all neotropical migratory birds is the sandhill crane. Has the Fish and Wildlife Service reviewed and funded any grant proposals to assist sandhill cranes, and if so, what was the outcome of that conservation effort?

At least seven funded projects totaling \$1,176,301 of Neotropical Migratory Bird Conservation Act funds identified sandhill cranes as occurring within the project area and/or included them as a species that would benefit from the proposed project activities. These projects support a variety of landscape conservation measures, as well as promote neotropical bird conservation education, research and monitoring. A few examples of conservation outcomes benefitting sandhill cranes and other migratory birds includes:

- acquisition of approximately 750 acres of bird habitat in the Central Wisconsin Grasslands Conservation Area;
- restoration of approximately 249 acres of public grassland in Illinois, enhancement and management of critical pine/oak barrens grasslands in northwest Wisconsin;
- 35-year protection of more than 70,000 acres of bird habitat in the Mapimi Biosphere Reserve in Coahuila, Mexico,
- Mexico, restoration of 20,000 acres of grassland in Nuevo Leon;
- establishment of two Grassland Bird Conservation Areas in the Chicago region; and
- acquisition of approximately 800 acres of high priority grassland and riparian habitat on Montana's Rocky Mountain Front.

5. How much money does the Fish and Wildlife Service spend each year to administer the Neotropical Migratory Bird Conservation Account? Is this a sufficient amount to meet the administrative expenses?

By statute the amount of administrative funds available to the Service for this program is equal to 3% of the total NMBCA appropriation or \$150,000, whichever is greater. The Service uses all of these funds each year.

Administrative expenses for the program include the salary costs for Service personnel necessary for project administration, records management, database costs, travel associated with project monitoring and outreach, and the support needed for the NMBCA Advisory Group. In general, the administrative funds available each year are supplemented by other discretionary funding in the Service's migratory bird program.

H.R. 3537:

1. Since the creation of the Junior Duck Stamp Program, how many stamps have been purchased?

The program was started in 1994; however, we only have complete records beginning in 1996 to April 2010. During that time, the Service has sold 237,285 Junior Duck Stamps.

2. How much money has Congress appropriated for the Junior Duck Stamp Program prior to this fiscal year? How much money did the Administration request in FY'10? How will these appropriated funds be used?

Prior to FY 2010, the Junior Duck Stamp Program had never received a specific appropriation from Congress, although it is authorized to receive \$350,000 per year.

In FY 2010, the Administration requested and Congress provided \$250,000 specifically for the Junior Duck Stamp Program.

In FY 2010, we are using part of the \$250,000 appropriation to update the Junior Duck Stamp environmental education curriculum, which will incorporate the latest scientific and wildlife management principles, as well as address issues such as multi-cultural differences, special requirements of home-schooling and possible use by after-school and community-based programs. We are also incorporating a new wildlife careers component into the program, designed to cultivate the next generation of wildlife professionals and stewards.

In addition, appropriated funds will allow the program to support the National Junior Duck Stamp Coordinator and better assist our regional partners as they work to ensure the Junior Duck Stamp Program is available to all American school-children. With this improved support and coordination, we will produce and make more widely available outreach tools such as fact sheets, brochures, rack cards, and postcards, which will help us to improve participation and address other challenges. The FY 2010 appropriation also helps support Junior Duck Stamp regional and state coordinators, providing them with the resources to visit schools in order to assist and encourage teachers to get more involved with the program.

3. Since the number of students participating in the art contest seems to have remained static for the past five or six years, what additional steps should the agency be taking to encourage greater participation?

One of Secretary Salazar's top priorities is involving more young people in our natural resources programs. To improve the program's visibility and get more teachers and children involved, the Service is taking the following steps:

- Holding the annual National Junior Duck Stamp Contest at different locations around the country to allow more educators and students to experience first-hand the result of the program, which is the selection of the winning art to grace that year's Junior Duck Stamp. The contest has been held at the National Zoological Park in Washington, D.C., the San Diego Zoo, and the Smithsonian's National Postal Museum. In 2010, the contest will be at the Science Museum of Minnesota in St. Paul. Several hundred school children have participated in these events.
- Increasing the number and types of venues (such as wildlife museums, National Wildlife Refuges, wildlife and outdoor recreation festivals) where the Junior Duck Stamp Best of Show art entries are exhibited.
- Improving our website and outreach materials to offer enhanced support to our regional and state colleagues for their outreach efforts. We are also now using social networking to improve our outreach and encourage greater participation.
- Initiating a special recognition program as an incentive for our volunteers and colleagues and a "green-ribbon" awards program for educators and their schools.

The Service is beginning to see the results of our improved efforts to increase the visibility of the Junior Duck Stamp Program. We are pleased to report the following successes:

- Our Colorado State Coordinator reports increased participation from 376 students in FY 2009 to 813 in FY 2010.
- Our Kentucky State Coordinator reports increased participation from 198 students in FY 2009 to 1,113 in FY 2010.
- Our Nebraska State Coordinator reports increased participation from 653 students in FY 2009 to 901 in FY 2010.

4. How many schools receive copies of the Curriculum Guide and what outreach efforts has the Fish and Wildlife Service used to inform public and private schools that this program exists?

Although the Service is unable to estimate how many schools receive or are using the current Curriculum Guide, we do know it is used not only by public and private school educators but also by home-school parents throughout the country. Our national, regional and state coordinators are constantly working within their communities to inform educators about the program.

The current Curriculum Guide and all of our other outreach materials are now available on our Junior Duck Stamp website, and they are continually updated. As we reach out to students and teachers through social networking tools and email, new and existing users of the Guide will have access to the most updated materials on-line.

5. What is the current number of Junior Duck Stamp Program Coordinators? Do you have a coordinator for each of the five territories? If not, why not?

Currently, there are 52 coordinators across the country and territories. American Samoa and Puerto Rico do not have coordinators at this time, but the Service is in the process of designating individuals for these positions. While we do experience some turnover annually as people change jobs or relocate, we encourage our regions to identify new coordinators and get them integrated into the program as quickly as possible.

Ms. BORDALLO. I thank the gentleman for his statements on the three bills. I think you will all be testifying on the three bills with the exception of our teacher from Maryland, who is going to just be testifying on the one bill.

I would like at this time to recognize Mr. Scott A. Sutherland, Director of the Governmental Affairs Office, Ducks Unlimited.

**STATEMENT OF SCOTT A. SUTHERLAND, DIRECTOR OF THE
GOVERNMENTAL AFFAIRS OFFICE, DUCKS UNLIMITED**

Mr. SUTHERLAND. Thank you, Madam Chairwoman. Your staff and you have both remarked as the hearing was getting going that time is short, so I am going to respect that as best I can, and I am going to try to very briefly summarize my written testimony.

Regarding H.R. 3433, the amendment to the NAWCA bill, we are grateful to Congressman Wittman for introducing this legislation. We strongly support it. NAWCA is based on a simple idea which is implementing the North American Waterfowl Management Plan. The biggest and most important thing to know about the plan is it recognizes that the waterfowl resource is a continental resource. Without Canada, Mexico and the United States working together, we cannot sustain and improve waterfowl populations in North America. That is the central idea.

NAWCA simply implements that plan from the Federal government's perspective. The Federal government puts up the seed money. You folks authorized that program. It has worked very, very well. Paul Schmidt just talked about some of the very impressive numbers NAWCA has delivered in the 20 years it has been existent.

Third point. NAWCA requires match. The law says that it has to be a one to one match. As Paul Schmidt mentioned, the match has been two to one in terms of what we call matchable dollars and in fact three to one when you count in other dollars that have come in to programs that are not considered as match.

No. 4. Mexico can use domestically raised funds as match. Canada cannot.

Point 5. This bill would allow Canadians to contribute to the match and have their contributions counted as match.

That is the whole thing in a nutshell, Madam Chairwoman, and we strongly support this bill. It is needed to keep this program going, and we hope that you will enact it in a speedy way.

The second piece of legislation is the Neotropical Migratory Bird Conservation Act. The program has been existent for nine years. It has proved very successful. There is huge demand, again as Paul outlined in his testimony. The original authorization was relatively small, but Congress wanted to make sure that the demand was

going to be there, that the partner match was going to be there and that it would work. It has.

We support the reauthorization, and we support raising the authorized ceiling to some number significantly above what it is right now. The bill as written is very good, and we support it.

Finally, the Junior Duck Stamp Program. Who couldn't like this program? The biggest problem with this program is there aren't more like it, frankly. We need programs that foster interest from young people in getting outdoors, and combining art with wildlife is a brilliant idea. It captures an audience that may not normally be gravitating toward those kind of things, people who are very culturally talented.

I have to say that I have actually been a judge for this contest. I saw how it works up close about a decade ago when I served as a judge. It is a wonderful program. We hope you will reauthorize it and support it.

Thank you, ma'am.

[The prepared statement of Mr. Sutherland follows:]

Statement of Scott Sutherland, Director of the Governmental Affairs Office, Ducks Unlimited, on H.R. 3433, to Amend the North American Wetlands Conservation Act; H.R. 2213, to Reauthorize the Neotropical Migratory Bird Conservation Act; and H.R. 3537, to Reauthorize the Junior Duck Stamp Conservation and Design Program Act of 2009

Ducks Unlimited (DU) is pleased to testify before the Natural Resources Committee, Subcommittee On Insular Affairs, Oceans And Wildlife, regarding three conservation bills: H.R. 3433, to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada; H.R. 2213, to reauthorize the Neotropical Migratory Bird Conservation Act; and H.R. 3537, to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 2009.

I am the Director of the Governmental Affairs Office of Ducks Unlimited, a non-profit wetlands conservation organization. In my role at DU, I lead a small group of professionals who educate and advocate on behalf of federal conservation policy initiatives to benefit the waterfowl resource.

H.R. 3433: Amending the North American Wetlands Conservation Act

I have led DU's efforts to increase funding for federal programs that support the North American Waterfowl Management Plan since joining DU 19 years ago. I have also worked with the North American Wetlands Conservation Act (NAWCA) program since it was started, and assisted the work of Congress on four reauthorizations of the Act.

Background:

One of the key purposes of NAWCA is to support the North American Waterfowl Management Plan (NAWMP), which was signed in 1986. The Plan is an international agreement between the governments of the U.S., Canada and Mexico. It recognizes the continuing loss of habitat and resulting declines in waterfowl populations and creates a unified continental effort required to restore this valuable resource to long term average population levels. NAWMP is a broad framework based on biological science that describes the problems facing North America's waterfowl. Far more importantly it outlines the scope and goals needed to recover and sustain waterfowl populations at a long term average level and suggests general strategies and tactics for addressing the problems. NAWCA recognizes that waterfowl are a continental resource and they depend on a wide geographic range of habitats throughout their life cycle. This was an extension of the idea that led to the first migratory bird treaty between the U.S. and Canada in 1916.

Since its enactment in 1989, NAWCA has played an invaluable role in wetlands conservation in North America by helping to stimulate local partnerships aimed exclusively at habitat conservation for wetland-dependent species. NAWCA continues to be an extraordinarily popular program. We commend Congress for their foresight in creating NAWCA and repeatedly taking action to ensure the long-term success of this effective program.

NAWCA has accomplished remarkable success, with projects in all 50 states, Canada and Mexico. The creation of the program 20 years ago was a bipartisan effort and NAWCA has consistently attracted strong bipartisan support in Congress. The House members serving on the Migratory Bird Conservation Commission are routinely joined by between 100 and 200 members of the House supporting annual funding for NAWCA. Those supporters include many members of this Committee and Subcommittee. The level of interest and enthusiasm in Congress for the program is a testament to NAWCA's success in fostering public-private partnerships in a cost-effective and results-oriented manner.

NAWCA has also enjoyed consistent support from the Executive Branch. President Obama's FY2010 budget proposal envisions full funding of the program at \$75 million by 2012. NAWCA has been identified as an Administration priority to protect America's wetlands. Previous Presidents have also strongly supported the program. During his tenure, President Bush announced a goal to go beyond the no-net loss of wetlands to achieve an overall increase in wetlands each year in the United States. NAWCA was identified as a key program to accomplish the Bush Administration's goal to restore, improve or protect 3 million acres of wetlands over a five-year period. President Obama has now called for full funding at the authorized level for the program by FY 2012. This consistent support by the current and past administrations demonstrates how important NAWCA is to the priorities of our nation and our neighbors to the north and south.

Historically, the lower 48 states of the United States have lost approximately 53% of their original wetlands. The state of California has lost a staggering 91% of its original wetlands and Maryland wetland loss is 73%. While NAWCA is helping to slow this trend of wetland loss, the United States continues to lose more than 80,000 acres of the wetlands most important to fish and wildlife each year and faces increased threats from changing land use patterns and the recent withdrawal of Clean Water Act protections. These losses have dramatic negative impacts on waterfowl and other fish and wildlife.

How NAWCA Works:

NAWCA facilitates efforts by resource managers and a wide variety of partners using strategies to restore and enhance degraded habitat along with protecting the quality habitat that remains. The habitat work that is completed on both public and private lands improves recreational opportunities while providing additional economic benefits for landowners and their communities. Wildlife-related recreation generates over \$100 billion of economic output each year. In many cases, this economic activity is vital to the incomes of rural Americans and it serves as the base for major industries that produce outdoor equipment and a wide range of other products.

The law requires each federal dollar put into the program to be matched by at least \$1 in non-federal funds. The partner investment in NAWCA so far has been three non-federal dollars for every federal dollar invested and the combined total is more than \$3 billion so far. The original law, written in 1989, required that all non-federal match money be raised from United States sources, no matter where the money was to be spent. Because of challenges to raise sufficient match dollars for projects in Mexico, a 1994 amendment changed the match requirements for projects located in Mexico, allowing non-United States sources to be used to pay costs of the projects. However, no such change was made for projects completed in Canada. The amendment proposed in H.R. 3433 will allow funds raised in Canada to be applied as a portion of the required match for habitat projects that will benefit waterfowl and other wetland dependent species across the continent.

Canadian Projects:

Canadian NAWCA projects have made strides in raising money from local sources to supplement the federal and non-federal matching funds. The law as currently written does not recognize this money raised from Canadian non-profits and provincial agencies as matching funds, and they therefore do not count towards the match requirement. NAWCA has served to encourage entities in Canada to increase fund-raising for local wetland conservation projects, and the Committee should foster further Canadian investment in local conservation efforts benefiting the continent.

Unfortunately, sometimes Canadian projects can face difficulty raising enough money from United States sources to meet non-federal match requirements. Typically, the average partner match in the U.S., Mexico, and Canada combined has been \$3 for every \$1 in federal money. For Canadian projects, however, the typical partner match has been 1:1. American non-profits and state agency partners contribute funds to send to Canada, and that money is becoming more and more difficult to find. With a difficult economic situation American partners are under pres-

sure, and find it challenging to raise sufficient money to match the cost of Canadian projects. In order to increase the return on a relatively modest federal investment and fund these vital habitat projects, it is important that Congress pass H.R. 3433 to allow funds from Canadian sources to comprise a portion of the non-Federal share of the costs of each project.

After 20 years of being one of the federal government's most effective conservation programs, it is appropriate to ask why the match requirements should be changed. Starting in September 2001, fundraising for many of the nation's charities has become more difficult, and has hampered the abilities to produce match money. Fundraising challenges have continued into this current tough economic climate, resulting in even fewer matching funds from state governments and NGOs. The proposed amendment would open more non-federal revenue streams, and allow for more NAWCA projects to benefit habitat on the Canadian breeding grounds and the waterfowl and other migratory birds that are produced there.

Projects in Canada are critically important to the sustainability of the North American waterfowl population. When NAWCA was passed in 1989, Congress stated that one of the purposes of the Act was "to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America." Because migratory birds routinely cross national borders, wetland protection and restoration must occur across North America. Federal NAWCA funds were and are used in all three countries, Canada, Mexico, and the United States, and H.R. 3433 will provide new incentives for U.S.-Canadian partnerships to raise funds so that federal dollars can be leveraged for the most impact.

Success of the Program:

The U.S. Fish and Wildlife Service reports that through September 2009 more than 4,000 partners have been involved in over 1,850 NAWCA projects. The federal funding portion through NAWCA has leveraged partner contributions of over \$3 billion in matching and non-matching funds. This funding has stimulated the conservation of almost 25 million acres of wetlands and associated uplands across North America. The success of NAWCA is exemplified by the growing list of project partners, which is now above 4,000. The list of partners includes all 50 state fish and wildlife agencies, hundreds of private landowners, a diversity of private conservation efforts, corporations and other business, tribes, and local governments.

NAWCA is successfully implementing the habitat objectives of the North American Waterfowl Management Plan (NAWMP) and other national and international conservation plans for wetland-associated migratory birds. Regional Joint Ventures, established to support the NAWMP, play a substantial role by fostering partnership to successfully implement NAWCA projects. DU is an active member of most of the Joint Ventures. It would be impossible to fulfill our collective habitat goals without the critical support provided by NAWCA.

The benefits of NAWCA extend well beyond waterfowl. Wetlands provide a home for more than 900 wildlife species at some time during the year. As intended by Congress, the criteria for NAWCA projects include waterfowl as well as other wetland-associated migratory birds, threatened and endangered species, and other wetland-dependent wildlife and plants. Under this guidance, NAWCA projects are proven to benefit a diverse array of species, including fish.

NAWCA serves as a vital tool for cooperative efforts to address landscape-level habitat challenges in vital areas for waterfowl, including the Prairie Pothole Region of the Great Plains, the Lower Mississippi River Valley, Chesapeake Bay, Gulf Coast and the Great Lakes, to name a few. NAWCA has made a significant impact in coastal communities, but the value and importance of NAWCA to inland areas is also remarkable. Projects in Canada have focused mainly on the Canadian portion of the Prairie Pothole Region and the Western Boreal Forest.

Conclusion:

What began as a small funding mechanism to accelerate implementation of NAWMP in the early 1990's has grown into a highly successful program with widespread success and support. NAWCA has stimulated hundreds of conservation partnerships that would likely not exist otherwise. The result is millions of acres of habitat conserved that provide a myriad of benefits for wetlands, wildlife, and the public. We support the legislation and urge the Committee to approve this bill to allow a portion of the non-federal share of the costs of Canadian projects to include contributions from Canadian sources.

H.R. 2213: Reauthorization of the Neotropical Migratory Bird Conservation Act

Since its inception 72 years ago, Ducks Unlimited has recognized that maintaining North America's waterfowl populations requires conservation well beyond the borders of the U.S. Responsible stewardship of these migratory species often requires conservation of habitats from the boreal forests of Canada to the mangrove wetlands of South America and numerous points between and beyond. The same is also true for a variety of other bird species including neotropical migrants—those that breed in the U.S. and Canada and spend the winters in Mexico, Central and South America. Therefore, since its inception, DU has been an active supporter of the Neotropical Migratory Bird Conservation Act.

Modeled after NAWCA, the Act has been successful in fostering public-private partnerships and international cooperation to conserve habitats for migratory birds and there is a significant potential to expand these on-the-ground efforts in the future. In total, nearly half of all North America's bird species are dependant upon the natural resources of the Canadian boreal forest, and 94% of the birds that use the boreal forest migrate south into the U.S. and Mexico. Approximately 50% of neotropical migrants breed in the boreal forest north of the lower 48 states. To deliver a full spectrum of habitat conservation for migratory birds, particularly neotropical species, it is important to reauthorize this Act to offer assistance for conservation projects in the most important areas in the range of their migration.

Besides the ducks, geese, and swans, 225 other migratory bird species can be found in the prairie pothole region (PPR) of the U.S. and Canada during portions of the year. The PPR forms the core of what was formerly the largest expanse of grassland in the world: the Great Plains of the United States. Pothole complexes have supported populations of breeding waterfowl unmatched anywhere in the world. These same complexes make the region vitally important to other migratory species as well.

At least 16 waterfowl species that breed in North America, including blue-winged teal, pintail and lesser scaup, spend the winter in Latin America and the Caribbean. These areas have experienced many threats to wetlands including wide-scale deforestation and erosion in the surrounding watersheds, inappropriate agricultural practices, improper use of agrochemicals, and destruction of wild lands for banana and sugarcane plantations. Despite their importance for biodiversity and mankind, the majority of wetlands have been modified due to human activities, such as agriculture, intensive use of chemicals, urban development, and improper use of water. Habitat deterioration continues at a high rate, further impacting the security of waterfowl and other wetland species.

DU is strongly in favor of reauthorizing and expanding the Act. Protection of grassland, wetland, and other waterfowl habitats through private, state, and federal partnerships that effectively deliver habitat conservation projects has been proven as a model for successful conservation. Reauthorization of this Act will continue to benefit numerous migratory bird species that are important to the U.S. and North America from a recreational, aesthetic, and economic standpoint.

H.R.3537: The Junior Duck Stamp Conservation and Design Program Act of 2009

For 20 years, this program has provided strong partnerships with public and private schools, after-school programs, and many other youth-based education programs all over the country. It is one of this country's oldest and most successful government-sponsored, youth-focused conservation education programs, and involves students in all fifty states and the District of Columbia.

The Junior Duck Stamp program teaches students the importance of conserving our wetlands and migratory birds and pairs science and the arts to teach greater awareness of America's natural resources. This program has provided a valuable role in fostering not only an appreciation of art in the natural world, but a better understanding of the habitat needs of migratory bird species. This program is complementary to DU's efforts on behalf of habitat conservation and education. DU believes this program has been and will continue to be a strong teaching tool to encourage our youth to become stewards of America's irreplaceable wild places and treasured outdoor heritage, and we strongly support its reauthorization.

Ms. BORDALLO. I thank you very much for your testimony, Mr. Sutherland.

And now I would like to recognize Mr. Daulton, the Legislative Director of the National Audubon Society.

**STATEMENT OF MICHAEL DAULTON, LEGISLATIVE DIRECTOR,
NATIONAL AUDUBON SOCIETY**

Mr. DAULTON. Thank you, Chairwoman Bordallo. My name is Mike Daulton. I am Legislative Director for National Audubon Society. Thank you for the opportunity to testify today regarding three very important bills for bird conservation.

Audubon's 25 state offices and 500 local chapters throughout the United States serve more than one million members and supporters. Our mission is to conserve and restore natural ecosystems focusing on birds, other wildlife and their habitats for the benefit of humanity and the earth's biological diversity.

Audubon strongly supports the bipartisan H.R. 2213. Sponsored by Congressman Ron Kind and Congressman Jim Gerlach, it is recognized as an outstanding opportunity to expand the highly successful and cost effective Neotropical Migratory Bird Conservation Act and represents a significant step forward for bird conservation in the Western Hemisphere.

We thank Congressman Kind for his longstanding leadership on this issue, and we are gratified that this bill continues a long tradition of bipartisan support for the conservation of neotropical migratory birds that stems back to the 106th Congress when Congressman Don Young and Congressman George Miller introduced H.R. 39, which became the law that we so value today.

The Neotropical Migratory Bird Conservation Act is critical to bird conservation in the United States. There are 340 species of neotropical migrants which represents more than half of all the breeding birds in the country. Unfortunately, many of these birds are in decline. Recent data shows 127 of these species are in decline and 60 of them are in severe decline.

It is clear from the list of species of conservation concern across the country, including the species of greatest conservation need and the state wildlife action plans and the national list of birds of conservation concern, that these are species that are in dire need of conservation effort.

Fortunately, the Neotropical Migratory Bird Conservation Act has a proven track record of success, and since it was enacted the program has supported 296 projects, as Paul mentioned, and that has conserved more than three million acres of vital bird habitat, an area about twice the size of the State of Delaware.

This program's focus on building partnerships and leveraging partner contributions is key to its success. The \$30 million that has been invested in this program beginning in Fiscal Year 2002 has leveraged partner funding at a ratio of more than four to one, so for every dollar that has been spent by the Federal government, \$5 has been spent on conservation. That has been great news for migratory birds and a good value for taxpayers.

Unfortunately, the program hasn't been able to make use of all the matching funds that have been available. \$258 million in matching funds have been left on the table because the Federal side of the match hasn't been available to take advantage of that. Since the first grants were awarded in 2002, three out of every four projects that have come into the program that were otherwise qualified have had to go unfunded and unfulfilled.

So this bipartisan bill, H.R. 2213, is going to remedy that need by gradually increasing the grants authorization from the current cap of \$6.5 million to \$20 million in 2015. We believe that expanding the program is going to be critical to achieving the conservation goals for these species so they can continue to play their vital biological, recreational and economic roles.

So while the program has been enormously successful, we think that the significant increase will really help us move the dial and help to reverse the population declines of so many of these neotropical birds that are in dire need of conservation.

Audubon is also pleased to support H.R. 3433 and H.R. 3537, which represent improvements to successful bird conservation programs. We thank you for your leadership, Congressman Wittman. These are programs that the Audubon Society has long supported, the North American Wetlands Conservation Act and the Junior Duck Stamp Program, and I couldn't agree with Mr. Sutherland more about the value of both programs.

We greatly appreciate your leadership, Chairwoman Bordallo, in refining and enhancing these successful bird conservation programs. We look forward to working with all Members of the Subcommittee to protect America's birds and their habitat for future generations.

Thank you very much for the opportunity today, and I look forward to answering your questions.

[The prepared statement of Mr. Daulton follows:]

Statement of Michael Daulton, Legislative Director, National Audubon Society, in Support of H.R. 2213, Reauthorizing the Neotropical Migratory Bird Conservation Act

Chairwoman Bordallo and Members of the Subcommittee:

I am Mike Daulton, Legislative Director for the National Audubon Society. Thank you for the opportunity to testify in support of H.R. 2213, a bill to reauthorize the successful Neotropical Migratory Bird Conservation Act.

National Audubon Society's 25 state offices and more than 500 local chapters throughout the United States serve more than one million members and supporters. Audubon's mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and the earth's biological diversity. Our national network of community-based nature centers and chapters, scientific and educational programs, and advocacy on behalf of areas sustaining important bird populations, engage millions of people of all ages and backgrounds in positive conservation experiences. Audubon also is the North American partner of Birdlife International, a global alliance of conservation organizations working together for the world's birds and people.

The National Audubon Society is pleased to commend Congressman Ron Kind (D-WI) for his longstanding leadership as a strong voice for conservation of America's migratory birds. Audubon strongly supports the bipartisan H.R. 2213, sponsored by Congressman Kind and cosponsored by Congressman Jim Gerlach (R-PA), which recognizes an outstanding opportunity to expand the highly successful and cost effective Neotropical Migratory Bird Conservation Act and represents a significant step forward for bird conservation in the Western Hemisphere.

The Neotropical Migratory Bird Conservation Act (NMBCA) has done a great service for the conservation of Neotropical migratory birds since it was enacted in 2000, awarding 296 grants for conservation projects benefiting America's migratory birds. These grants have been distributed across more than 40 U.S. states and territories, and more than 30 countries in Latin America and the Caribbean. They include efforts to protect and manage bird populations and habitats, to increase research and monitoring, to improve law enforcement, and to promote community outreach and education programs. Projects involving land conservation have affected more than three million acres of vital bird habitat.

Unfortunately, despite these numerous conservation efforts, many Neotropical migratory bird species are experiencing severe population declines. For example, the

Red Knot, a small Neotropical migratory shorebird that visits Delaware Bay during its migration, has experienced a decline of more than 80% in the past 25 years, from a population of 85,000 birds to a population of only 15,000 today. Similarly, the Wood Thrush, a forest-dwelling Neotropical species that breeds in eastern North America and winters in the lowlands of Central America, has experienced a 50% decline in the past 40 years. Other Neotropical species experiencing significant population declines include the Black Swift, Cerulean Warbler, Grasshopper Sparrow, Olive-sided Flycatcher, Golden-winged Warbler, Mountain Plover, and Bobolink.

The high level of conservation concern for Neotropical migrants also is demonstrated by the 2008 national list of Birds of Conservation Concern of the United States. Of the 145 species on the 2008 national list, 65 are Neotropical migrants, including the Red Knot and the Wood Thrush, and dozens of other birds such as Swainson's Hawk, Short-eared Owl, and Peregrine Falcon.

Many of the Neotropical species experiencing significant population declines are common birds that are found in backyards and at the bird feeders of millions of Americans. The Rufous Hummingbird, a common western species that might be spotted on the feeder by any American's backyard window, has lost 61% of its population in the past 40 years. The Chimney Swift, whose high-pitched twittering is a familiar sound during summertime in cities across the eastern United States, has lost 53% of its population over the same time period. The loss of birds once common in our backyards serves as a troubling wake-up call for all of us. The findings signal serious problems with habitats in the United States and outside our borders, as well as national environmental trends.

To reverse these trends, Audubon urges the committee to approve H.R. 2213, H.R. 3433, and H.R. 3537. This Committee and the Congress are to be commended for authorizing successful conservation programs, such as the Neotropical Migratory Bird Conservation Act, the North American Wetlands Conservation Act (NAWCA), and the Junior Duck Stamp Conservation Design and Program Act, which have made substantial contributions to bird conservation. I am very pleased to be here today to support H.R. 2213, H.R. 3433, and H.R. 3537, which would build on this success by reauthorizing and improving these outstanding conservation programs.

The Conservation Challenge: Neotropical Migratory Birds in Decline

The Neotropical Migratory Bird Conservation Act is critical to bird conservation in the United States. There are 340 species of Neotropical migratory birds, which represents more than half of all the breeding birds in the country. These birds are in dire need of conservation effort. Neotropical migrants are facing an increasingly complex range of threats, from development pressures, invasive species, avian diseases, and a changing climate. The best science on bird population trends, from the Breeding Bird Survey and Partners in Flight, indicates that as many as 127 species of Neotropical migratory birds are in decline. Every major list of species of conservation concern, from the lists of Species of Greatest Conservation Need in State Wildlife Action Plans to the national list of Birds of Conservation Concern, show that Neotropical migrants are a conservation priority, not just for the Fish and Wildlife Service, but for nearly every state fish and wildlife agency, and a wide range of non-governmental conservation organizations.

Best Available Science on Bird Population Trends Indicates Significant Declines of Neotropical Migrants

- **Breeding Bird Survey:** An analysis by National Audubon Society in 2007 of data from the Breeding Bird Survey showed that 127 of the 340 Neotropical migratory bird species are known to be in decline. Of these, 60 species are in severe decline, defined as a population decrease of 45% or more in the past 40 years.
- **Partners in Flight:** A recent analysis of Partners in Flight data suggests 118 Neotropical bird species are in decline, representing nearly half of the Neotropical species for which adequate data has been collected.

Major Lists of Species of Conservation Concern Highlight Significant Threats to Neotropical Migrants

- **State Wildlife Action Plans:** Audubon reviewed all of the lists of Species of Greatest Conservation Need in the State Wildlife Action Plans. In the 40 states we reviewed with well defined and accessible lists, 463 bird species are listed in State Wildlife Action Plans as Species of Greatest Conservation Need. Of these, 276, or 60%, are Neotropical migrants. In fact, Neotropical migratory bird species are listed more than 2,000 times as Species of Greatest Conservation Need in the 40 State Wildlife Action Plans we reviewed.
- **WatchList:** Of the 178 continental bird species on WatchList 2007, a list of birds of highest conservation concern compiled by Audubon and American Bird Conservancy, over one-third, 71 species, are Neotropical migrants.

- **Birds of Conservation Concern:** Of the 145 species listed on the 2008 national list of Birds of Conservation Concern of the United States, 116 breed in the continental U.S., and 65 are Neotropical migrants.

The Neotropical Migratory Bird Conservation Act has a Proven Track Record of Success

Grants provided through the Neotropical Migratory Bird Conservation Act have funded critically important conservation projects that have helped to protect Neotropical migrants of conservation concern. NMBCA conservation projects have successfully:

- Removed invasive species populations from wetlands and coastal habitats in the Bahamas;
- Secured voluntary conservation easements establishing six new nature reserves within a 597,000 acre biological corridor in Costa Rica;
- Restored bird habitat in degraded forested areas of a national park in Jamaica; and
- Worked with local community groups to restore riparian habitat and conduct ecotourism planning in Mexico

These are just four examples of the 296 projects funded through the NMBCA. All told, the program has protected more than 3 million acres of vital bird habitat.

In addition to the NMBCA's proven track record of protecting bird habitat, the program has filled gaps in understanding of the population status and conservation needs of Neotropical migrants through support of research, monitoring, and conservation planning. For example, funding through the NMBCA has allowed conservationists to identify 20 Important Bird Areas in the Southern Cone Grasslands in Argentina, Brazil, Paraguay and Uruguay. These grasslands provide critically important habitat for Swainson's Hawk, American Golden-Plover, Buff-breasted Sandpiper, Upland Sandpiper, and Bobolink, as well as the Peregrine Falcon and Red Knot. For example, the region of San Javier in Argentina includes a mosaic of wetlands, grasslands and woodlands along the Parana River that attracts the most important concentration of Bobolinks in the Southern Cone, where at least one million individuals have been estimated recently. Laguna de Rocha, a brackish lagoon in Uruguay, is one of the most important sites for Buff-breasted Sandpiper at a global scale. The grasslands in the interior of the Pampas region in Argentina are critical for overwintering Swainson's Hawks.

Such projects that identify high-value conservation opportunities have laid the groundwork for significant conservation work in the future. New investments, including NMBCA grants, are now being considered in these critical IBAs that will bring about impressive conservation results.

The NMBCA also has taken a cost-effective approach that contributes to its success. By focusing on protecting birds of conservation concern, the program allows species to be conserved before they are so critically imperiled that they are on life support and require high-cost protection and recovery efforts under the Endangered Species Act. The focus on conservation in Latin America and the Caribbean also captures efficiencies. The birds are concentrated in a smaller land area than they are in the United States. Most of our Neotropical migrants funnel into just a handful of countries: Mexico, Cuba, Belize, the Dominican Republic, Haiti, and the Bahamas. Federal dollars also can be stretched further where land values reduce the price of conservation.

Most importantly, this track record of success is made possible by a focus on building partnerships and leveraging partner contributions that dramatically multiply the program's conservation impact. From the program's first year of funding in FY 2002 through FY 2009, \$30.4 million was available through Congressional appropriations for grants under the NMBCA. This modest investment resulted in more than \$134 million in matching funds and in-kind contributions. Overall, the program matched partner contributions to federal funds at a rate of 4:1. For every \$1 invested, \$5 was spent on conservation. This impressive leveraging of partner contributions is a major reason for the program's success, a good value for the taxpayer, and good news for migratory birds.

The NMBCA Recognizes the Need for Protection of Key Habitats Used Throughout Migration

By their very nature, migratory birds are a symbol of the need for international efforts in nature conservation. To safeguard the future for Neotropical migratory birds, protections must be in place at every stop along their migratory routes.

Hundreds of millions of dollars are spent each year managing the National Wildlife Refuge System, restoring ecosystems like the Everglades, the Upper Mississippi River, and the Chesapeake Bay, and funding cooperative bird conservation efforts

through initiatives like the North American Bird Conservation Initiative and the U.S. Fish and Wildlife Service's Joint Ventures. However, once these birds leave the United States, to go to Latin America or the Caribbean to spend their winters, they can be exposed to a range of other threats that hold the potential to significantly undermine conservation efforts in the United States.

A recent front-page story in the Washington Post (Day of the Gaucho Waning in Argentina, September 10, 2009) noted that the traditional Argentine Cowboy, the iconic gaucho, could soon be extinct in Argentina. Ranchland there is rapidly being converted to fields of soybeans, corn, and wheat as commodity prices rise. Because the vast grasslands of Argentina increasingly are being used for agriculture, cows are increasingly being raised in commercial feedlots. These same pressures are threatening Argentina's grassland birds. Conservation efforts to protect the Swainson's Hawk in the United States, for example, may be undermined without attention to conservation of key strongholds for the species in Argentina.

The NMBCA recognizes that the future survival of many of the 340 species of U.S. breeding Neotropical migrants depends on a range-wide, hemispheric approach to species conservation that protects key habitats used by these birds outside of the United States.

The NMBCA Protects Birds that Attract Spending by Birders and Help Our Economy

Neotropical migratory birds are among the most attractive and interesting birds to America's 48 million bird watchers, and drive many of the economic benefits that bird watchers provide to local communities.

Each year, thousands of birders flock to see Neotropical migratory bird species all across the United States during their migration seasons. During the spring migration in April and May, bird watchers visit the Gulf Coast, including the coast of Texas, Louisiana, Mississippi, Alabama, and Florida, to try to catch a glimpse of the migratory songbirds that stop by there, like the Scarlet Tanager and the Baltimore Oriole.

During the fall migration in September, birders visit the Atlantic and Pacific coasts to try to spot Neotropical migratory songbirds and shorebirds. Away from the coasts, bird watchers visit sites like Hawk Mountain in Pennsylvania, Hawk Ridge in Minnesota, and Corpus Christi in Texas to see migrating raptors like the Broad-winged and Swainson's Hawks.

These birders, out to spot Neotropical migrants, provide a significant boost for local economies during the migration periods. In fact, according to the U.S. Fish and Wildlife Service, in 2006, 48 million birders and other wildlife-watchers spent \$46 billion pursuing their interest in bird and wildlife watching. More than 53 million people fed wild birds around their homes, and 20 million people took trips specifically for bird watching. Birders spend money on equipment, birding trips and vacations, bird food, park fees, hotels, airfare, and more. Total wildlife-related expenditures on bird watching, hunting, and fishing amounted to \$122 billion, or about one percent of the Gross Domestic Product.

H.R. 2213 Will Expand the Highly Successful and Cost Effective NMBCA

Audubon is pleased to offer strong support for the bipartisan H.R. 2213, which recognizes a tremendous opportunity to expand a highly successful conservation program and transform it into one of the most significant forces in bird conservation in the Western Hemisphere. While the program has been enormously successful, a significant increase in authorized funding would provide the opportunity to "move the needle" and reverse the population declines of Neotropical migrants.

When the Congress has made significant investments in bird habitat conservation, those investments have worked. The federal "Duck Stamp" program and the North American Waterfowl Conservation Act have protected nearly 30 million acres of wetland habitat. Enacted in 1989, NAWCA has raised \$3 billion for wetlands conservation. The 2009 State of the Birds Report indicates that these investments have contributed to thriving populations of herons, egrets, hunted waterfowl, and other birds.

The National Audubon Society strongly supports language in H.R. 2213 that would follow the successful example of NAWCA and the Duck Stamp program and raise the authorized level of funding for conservation projects under the NMBCA from its current cap of \$6.5 million annually to \$20 million by 2015. With the program's 3:1 matching requirement, a \$20 million funding level would guarantee at least \$80 million of spending on conservation for Neotropical migratory birds each year.

Currently, the NMBCA has been unable to make use of millions in matching funds that have been left on the table due to inadequate funding levels. Since the

first NMBCA grants were awarded in 2002, the program has only been able to award 296 grants out of the 1158 proposals received, meaning three out of every four otherwise qualified projects go unfunded.

Out of the \$105.5 million in grants requested since the program began, the NMBCA could only afford to award \$30.4 million of those requests, or 29% of the requested conservation funds.

Since the NMBCA program began, more than \$258 million in matching funds and in-kind contributions have been left on the table because federal funds were not available to provide the federal match. This suggests an enormous opportunity for successful expansion of the program. The increased authorization level included in H.R. 2213 recognizes this opportunity and takes an important step toward leveraging these private investments and thereby significantly expanding the program's conservation impact.

The Congress Has Demonstrated Longstanding Bipartisan Support for NMBCA

H.R. 2213 continues the long history of bipartisan support for the conservation of Neotropical migratory birds, and for significant increases in authorized funding for the Neotropical Migratory Bird Conservation Act. The Neotropical Migratory Bird Habitat Enhancement Act (H.R. 4517) was introduced in August of 1998 in the 105th Congress by Congressman Don Young (R-AK), authorizing \$5 million for each Fiscal Year 1999-2002. Companion legislation introduced in the Senate later that year (S. 1970) by Senator Spencer Abraham (R-MI) and a bipartisan group of seven cosponsors called for an authorization of \$8 million for each Fiscal Year 1999-2002.

In the 106th Congress, Congressman Young, along with Rep. George Miller (D-CA) and Rep. Jim Saxton (R-NJ), introduced H.R. 39, calling for an authorization of \$8 million for each of Fiscal Years 2000-2004. Companion legislation introduced in the Senate by Senator Abraham and a bipartisan group of 14 other senators (S. 148) called for an authorization of \$8 million for each Fiscal Year 2000-2003. An amendment was accepted that reduced the authorization to \$5 million for each Fiscal Year 2001-2005, and on July 20, 2000, the Neotropical Migratory Bird Conservation Act was signed into law.

In 2005, in the 109th Congress, Congressman Ron Kind and Congressman Wayne Gilchrest (R-MD) introduced H.R. 518, which ramped up authorization levels from \$5 million in FY 2006 to \$15 million in FY 2009. Companion legislation introduced in the Senate by Senator Lincoln Chafee and a bipartisan group of 5 other senators (S.1410) ramped up the authorized funding level from \$5 million in FY 2006 to \$10 million in FY 2010. A compromise was accepted that reduced the authorized funding levels to \$5.5 million for FY08, \$6 million for FY 09, and \$6.5 million for FY10. This compromised version of H.R. 518 was included in the Tylersville Fish Hatchery Conveyance Act, H.R. 4957, and signed into law on October 17, 2006.

Earlier this year, Senator Ben Cardin (D-MD) and Senator Mike Crapo (R-ID) introduced S. 690, which calls for ramped up authorization levels from \$8 million in FY 2010 to \$20 million in FY 2015. This bill was reported favorably without amendment by the Senate Committee on Environment and Public Works in June. H.R. 2213, introduced by Congressman Ron Kind and Congressman Jim Gerlach in April, contains funding levels identical to those included in S. 690.

From the early bills sponsored by Congressmen Don Young and George Miller, to the most recent bill sponsored by Congressmen Ron Kind and Jim Gerlach, the NMBCA has maintained bipartisan support for more than a decade. Bipartisan bills to significantly increase authorized funding levels were introduced in both the House of Representatives and the Senate in the 106th, 109th, and 110th Congresses, and now the 111th Congress as well.

H.R. 3433: Amending the North American Wetlands Conservation Act

The North American Wetlands Conservation Act (NAWCA) was enacted in 1989 for the purpose of supporting the North American Waterfowl Management Plan. Loss of habitat in the United States, Mexico, and Canada was causing a significant decline in waterfowl populations, and all three countries agreed that a continental effort would be required in order to restore previously damaged wetlands and uplands and population levels.

For 20 years, NAWCA has made remarkable strides in protection of habitat used by migratory birds across the continent. The program has put projects on the ground in all 50 states. It is helping slow the trend of wetland loss and preventing serious negative impacts on migratory birds and other wildlife. We appreciate that it not only provides habitat for waterfowl, but also nongame wetlands birds, a wide variety of grassland-nesting birds, and other wildlife.

NAWCA requires each federal grant dollar to be matched by at least one dollar in non-federal funds. Most of the match is raised by participating NGOs and state governments. Across the program in all three countries, the ratio has consistently been closer to 3:1 in non-federal/federal funds, demonstrating strong community based support for the projects. Originally, all non-federal funds were required to be raised in the U.S. and sent to Mexico or Canada for individual projects. Congress changed this requirement in 1994 for Mexican projects, allowing match funds to originate in Mexico. Canadian projects, however, must still raise 100% of their match funds in the U.S. As support has developed in Canada, Canadian organizations and local governments have become proficient at raising some funding for projects, none of which currently counts towards the match requirement under current law.

The National Audubon Society supports the amendment to the North American Wetlands Conservation Act, included in H.R. 3433, which would allow money raised in Canada to be counted towards a portion of their match requirement. The benefits of NAWCA to migratory birds is substantial and Congress should encourage Canadians to raise a portion of the matching funds required, thus increasing both local engagement and the number of acres conserved.

H.R. 3537: Reauthorizing the Junior Duck Stamp Conservation and Design Program Act

National Audubon Society supports H.R. 3537, which would reauthorize the Junior Duck Stamp Program. The Junior Duck Stamp Program is one of the premier environmental education programs in the United States today. Over the past 10 years, more than 175,000 students have participated in the Art Contest associated with the program including more than 26,000 students in 2004, and many thousands more have participated in the related environmental education program. A tremendous amount has been accomplished for a relatively small outlay of funds. National Audubon Society is pleased to commend Congressman Solomon Ortiz and Congressman Henry Brown for sponsoring H.R. 3537 to reauthorize this outstanding program for our young students and our shared environment.

Conclusion

National Audubon Society is very pleased to offer our strong support for H.R. 2213, which represents a significant step forward for bird conservation in the Western Hemisphere. The Neotropical Migratory Bird Conservation Act has been an unqualified success, leveraging modest federal investments into a heavily multiplied and impressive conservation impact. We are pleased to commend Congressman Ron Kind and Congressman Jim Gerlach for their leadership in introducing this important legislation. We are also pleased to support H.R. 3433 and H.R. 3537, which represent improvements to successful bird conservation programs.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions you may have.

Ms. BORDALLO. Thank you very much, Mr. Daulton. I represent the territory of Guam in the Pacific. We have very few birds. We have a problem with the brown tree snakes.

Mr. DAULTON. Absolutely.

Ms. BORDALLO. So if we could just send a few of those birds over to our island, I would be very, very pleased.

Mr. DAULTON. We will see what we can do.

Ms. BORDALLO. Thank you.

And now I would like to recognize Mr. Schroeder. Mr. Schroeder, you can begin your testimony.

STATEMENT OF DARIN SCHROEDER, VICE PRESIDENT OF CONSERVATION ADVOCACY, AMERICAN BIRD CONSERVANCY

Mr. SCHROEDER. Chairwoman Bordallo, Ranking Member Wittman, I want to thank you for holding this important hearing today. I am here as Vice President of Conservation Advocacy for the American Bird Conservancy, a national nonprofit organization whose mission is to conserve our native wild birds and their habitats throughout the Americas.

As such, we believe that all three bills—H.R. 2213, H.R. 3433 and H.R. 3537—advance America's historic and ongoing commitment to the conservation of one of its most cherished natural resources, migratory birds, and therefore we urge the expedited markup and passage by Congress.

With ABC's unqualified support for the reauthorization of the Federal Junior Duck Stamp Conservation and Design Program and the amendment to the NAWCA to allow Canadian organizations and local governments to contribute up to 50 percent of the required matching funds, I would like to spend just a bit more time on H.R. 2213, Congressman Kind and Gerlach's reauthorization of the Neotropical Migratory Bird Conservation Act.

In last year's Subcommittee hearing entitled *Going, Going, Gone: An Assessment of the Global Decline in Bird Populations*, my colleague, Dr. George Wallace, testified that of the 341 neotropical migratory bird species found in the U.S., 127 are known to be in decline, 60 severely, suffering a population loss of more than 45 percent in just the last 40 years.

This analysis was confirmed earlier this year in the U.S. Fish and Wildlife Service's U.S. State of the Birds Report, the most comprehensive assessment to date on the status of bird populations.

Scientists and conservationists agree that the major source of bird mortality comes from habitat loss through conversion for human uses and habitat degradation from ecologically unsustainable land uses. Put together, there are simply fewer and fewer places for our native birds to breed and live, especially the large tracts of unbroken natural habitat.

So while the situation is clearly dire for many of our native migratory species, there is a Federal program in place that has an established and proven track record of helping reverse this trend, the NMBCA. In a report produced last year that was submitted for the record by American Bird Conservancy entitled *Saving Migratory Birds for Future Generations: The Success of the NMBCA*, we found that the program has worked well in helping reverse habitat loss and advance conservation strategies.

The grant's requirement for public/private partnerships, along with the international collaboration they foster, are integral to conserving vulnerable bird populations. I will quickly relate to you just one example of the work accomplished through the NMBCA.

Last year, American Bird Conservancy and its partners in Colombia, Ecuador and Peru collectively received a \$204,000 NMBCA grant and then matched it with \$613,000 in privately donated funds in order to reduce the habitat loss in the Northern Andes, an extremely important winter home for many migratory bird species.

This coalition of NGOs worked together to acquire and preserve the few remaining obtainable patches of high elevation natural forest. We then partnered with local communities to reforest nearly 2,500 acres with over 660,000 native tree species. And finally we persuaded coffee growers to use bird friendly cultivation practices such as the production of shade grown coffee which maintains a canopy of natural trees over coffee shrubs.

This was a win/win solution for both birds and coffee farmers. Since coffee is the second most valuable exported commodity on

earth after oil, producing shade grown coffee ended up adding value to their product, resulting in the farmers receiving higher prices than typically commanded on the world market.

Since 2002, there has been a growing demand for NMBCA grants to help fund migratory bird conservation efforts. Unfortunately, as Assistant Director Schmidt has testified, on average about 125 qualifying proposals are submitted every year, but grants can only be awarded to about 40 due to the program's current limited funding.

In 2008, 37 grants totaling \$4,431,000 were awarded, but 63 otherwise qualified projects worth nearly \$10 million in private contributions were not funded. From these numbers it is clear that there is a demand for funding that is currently not being met.

ABC strongly believes that increasing the resources for this program is essential to achieving conservation goals critical to our environment and our economy. Just as importantly, this Federal program is a good value, as Mr. Daulton has said, for the American taxpayer, often leveraging \$4 in partner contributions for each \$1 the government spends.

Therefore, ABC fully supports Congressman Kind's bill, H.R. 2213, which will meet the growing conservation needs of America's migratory birds by ensuring the authorization level of the NMBCA meets the level of demand.

In closing, Madam Chair, ABC endorses all three bills and strongly believes that through the continued support and leadership by the Federal government and bird conservation through the NMBCA, combined with the active help of its citizens, we can restore America's birds and the habitats on which they depend.

I will be pleased to take any questions.

[The prepared statement of Mr. Schroeder follows:]

**Statement of Darin Schroeder, Vice President of Conservation Advocacy,
American Bird Conservancy**

Chairwoman Bordallo, members of the Subcommittee, I want to thank you on behalf of my organization, American Bird Conservancy, for holding this hearing today on three important bills: the first, bipartisan legislation (H.R. 2213) seeking the reauthorization of the Neotropical Migratory Bird Conservation Grants Act; second, a bill (H.R. 3433) to amend the North American Wetlands Conservation Act; and third, legislation (H.R. 3537) to reauthorize the Junior Duck Stamp Conservation and Design Program Act.

I am here today as Vice President for Conservation Advocacy for American Bird Conservancy, a national, not-for profit organization whose mission is to conserve our native wild birds and their habitats throughout the Americas.

To begin, I would simply say that American Bird Conservancy supports all three bills that are before the Subcommittee for consideration today and urges their expedited markup and passage by Congress.

The Federal Junior Duck Stamp Conservation and Design Program has successfully provided students in kindergarten through high school with an important opportunity to learn about migratory birds, their migration patterns, and their habitat requirements by focusing on birds often found in the students' own backyards. Since the Junior Duck Stamp legislation was enacted in 1994, there have been hundreds of thousands of students who have been educated on the importance of bird conservation, and permitted students to demonstrate what they have learned through their creation of truly stunning works of art. This program successfully serves to inspire the next generation of bird conservation leaders and merits Congress' continued support.

The North American Wetlands Conservation Act has helped to conserve wetlands in North America for more than twenty years by providing grant money for projects that would provide habitat conservation for wetlands-dependant species. The law requires each federal dollar put into this grant program to be matched by at least \$1

in non-federal funds, and projects may be completed in the U.S., Canada, or Mexico. As currently written, Canadian projects must be matched solely by American match money, and any funds raised by Canadian organizations and local governments are not counted towards the required match. H.R. 3433 would allow Canadian organizations and local governments to contribute up to 50% of the required matching funds. And because these organizations are already raising non-matching funds, these monies could be counted towards the match if H.R.3433 is passed.

As an organization that works with migratory birds, which by definition cross international borders during their migration patterns, we know that protection and restoration of wetland and upland habitat must occur across the continent if the goal is to protect the species. By previous amendment, Mexican projects are able to raise their matching funds from Mexican sources. But because Canadian projects are required by law to raise matching funds solely from the United States, these projects are suffering from a lack of funding. H.R.3433 would rectify this discrepancy, and allow Canadian sources to contribute monies to projects in their own communities. This amendment can only serve to raise more money for this important program, and enable these partnerships to conserve the habitat that is so important to migratory bird species.

With our unqualified support of the first two bills I would like to spend just a bit more time on the third, Congressmen Kind and Gerlach's reauthorization of the Neotropical Migratory Bird Conservation Act. For those on the subcommittee who aren't familiar with my organization, American Bird Conservancy acts to address the full spectrum of threats to birds, safeguarding the rarest bird species, restoring habitats, and finding policy solutions that reduce threats to America's native birds. In so doing, American Bird Conservancy has a great deal of experience working with our partners in accomplishing the goal of the Neotropical Migratory Bird Conservation Act—the long-term conservation of these birds and their habitats for future generations.

In last year's prescient Subcommittee hearing entitled, "Going, Going, Gone? An Assessment of the Global Decline in Bird Populations," my colleague, Dr. George Wallace, testified that of the 341 neotropical migratory species found in the U.S., 127 are known to be in decline—60 severely, suffering a population loss of more than 45% in just the past 40 years. This analysis was confirmed earlier this year in the U.S. Fish and Wildlife Service's U.S. State of the Birds report, the most comprehensive assessment to date on the status of bird populations.

The reasons for this startling decline of migratory bird species in the U.S. are many and varied. Threats such as inappropriately lit communications towers, poorly placed wind turbines, unnecessary night lighting of tall buildings, or even glass windows in our homes that reflect the surrounding environment and consequently cause the sickening "thump" we have all heard from a bird strike—all play a contributing role to the decline of many bird population levels.

While science continues to document the growing impact on bird species from these threats, it is also advancing practical solutions to them. Yet scientists and conservationists agree that the major source of mortality comes from habitat loss through conversion for human uses, and habitat degradation from ecologically unsustainable land uses. Resource extraction and a growing human population have resulted in more development and land conversion for suburban sprawl. There are simply fewer and fewer places for our native birds to breed and live, especially large blocks of unbroken natural habitat. Meanwhile deforestation, especially in Latin America, is accelerating at an alarming rate, driven by the needs of a rapidly expanding human population that has tripled in the last fifty years. Estimates of the percentage of remaining forests that are lost each year in the Neotropics are between 1-2%.

While the situation is clearly dire for many species of our native, migratory species, such as Golden-winged and Cerulean warblers, Buff-breasted Sandpiper, Long-billed Curlew, Reddish Egret, and Wood and Bicknell's Thrushes, there is a federal program in place that has an established and proven track-record of helping to reverse this trend: the Neotropical Migratory Bird Conservation Grants Act (NMBCA).

The NMBCA supports partnership programs to conserve birds in the United States, Canada, Latin America, and the Caribbean, where approximately five billion birds of more than 500 species, including some of the most endangered birds in North America, spend their winters. Highly leveraged projects include activities that benefit bird populations such as habitat restoration, research and monitoring, law enforcement, and outreach and education.

In a report produced last year by American Bird Conservancy entitled, *Saving Migratory Birds for Future Generations: The Success of the Neotropical Migratory Bird Conservation Act*, we found the grant program has worked well in helping reverse habitat loss and advancing conservation strategies for the broad range of neotropical

birds that populate America and the Western Hemisphere. These public-private partnerships along with the international collaboration they foster are integral to conserving vulnerable bird populations.

Here is just one example of the work accomplished through the NMBCA: Last year, ABC and its partners Fundacion ProAves (Columbia), Fundacion Jocotoco (Ecuador) and Asociacion Ecosistemas Andinos (Peru) received a \$204,500 NMBCA grant, and then matched it with \$613,500 in privately-donated funds to reduce habitat loss in the northern Andes, an important winter home for many migratory birds. This coalition worked together to acquire and preserve the few remaining obtainable patches of high elevation natural forest; we then partnered with local communities to reforest nearly 2,500 acres with 660,000 native tree species; and, finally, we persuaded local ranchers and coffee growers to use bird friendly cultivation practices such as the production of shade grown coffee which maintains a canopy of natural trees over coffee shrubs. This was a win-win solution for both birds and coffee farmers since coffee is the second most valuable exported legal commodity on earth (after oil) and their efforts to produce shade grown coffee adds value to their product, resulting in the farmers receiving higher prices than typically commanded on the world market.

Since 2002, there has been growing demand for grants to fund migratory bird conservation efforts. From 2002-2007, grant money has gone out to 44 U.S. states and 34 countries, funding 225 projects, impacting almost three million acres of critical bird habitat. On average, about 120 qualifying proposals are submitted every year, but grants are awarded to about 40 due to the program's current limited funding. In 2008, 37 grants totaling \$4,431,295 were awarded, but 63 projects, worth nearly \$10,000,000, were not funded. From these numbers, it is clear that there is a constant demand for funding that currently is not being met.

ABC strongly believes increasing the resources for this program is essential to achieving conservation goals critical to our environment and economy. Just as importantly, this federal program is a good value for taxpayers, leveraging over four dollars in partner contributions for each one that the government spends.

And, while it is not the explicit goal of the grant program, it is my strong belief that this grant is a good example of serving another important role—that of an effective tool of U.S. foreign policy. In a recent speech at the Council of Foreign Relations, U.S. Secretary of State, Hillary Clinton said:

“President Obama has led us to think outside the usual boundaries. He has launched a new era of engagement based on common interests, shared values, and mutual respect. Going forward, capitalizing on America’s unique strengths, we must advance those interests through partnership, and promote universal values through the power of our example and the empowerment of people. In this way, we can forge the global consensus required to defeat the threats, manage the dangers, and seize the opportunities of the 21st century. America will always be a world leader as long as we remain true to our ideals and embrace strategies that match the times. So we will exercise American leadership to build partnerships and solve problems that no nation can solve on its own, and we will pursue policies to mobilize more partners and deliver results.”

Those words apply precisely to the NMBCA. It is, “engagement based on common interests, shared values, and common respect” and the grant program works because it builds “partnerships” and “promotes universal values”. Frankly, there is no surer way to win the “hearts and minds” and build collaborative relationships among people than by assisting with the conservation of species that, literally, inhabit our respective backyards at different times of the year. Migratory birds are part of our shared history, culture, and legacy to our children—and conserving them for these future generations is a “problem no nation can solve on its own,” hence the need and effectiveness of this grant program.

Therefore, ABC fully supports Congressmen Kind and Gerlach’s bill, H.R. 2213, which will meet the growing conservation needs of America’s migratory birds by ensuring the authorization levels of the Neotropical Migratory Bird Conservation Act meet the level of need.

In closing, Madame Chair, as you and the other members of this Subcommittee well know, birds are not only beautiful and interesting creatures eagerly welcomed by millions of Americans into their backyard every year; bird watching is also big business. According to a new report released by the U.S. Fish and Wildlife Service, birdwatchers contributed \$36 billion to the U.S. economy in 2006, the most recent year for which economic data are available. The report, “Birding in the United States: A Demographic and Economic Analysis,” shows that total participation in bird watching is strong at 48 million and has remained steady since 1996. Birds also

naturally provide billions of dollars worth of pest control each year, benefitting farmers and consumers alike.

American Bird Conservancy believes that through the continued support and leadership by federal government in bird conservation through the NMBCA, combined with the active help of its citizens, we can restore America's birds and the habitats on which they depend.

Ms. BORDALLO. Thank you very much, Mr. Schroeder, for your testimony before the Subcommittee.

And now I would like to invite Ms. Cutchin to present her statement. She is from the St. John Regional Catholic School in Maryland, and you are going to testify I think on one of the more popular bills before the U.S. Congress, so if you would proceed with your statement?

**STATEMENT OF LISA CUTCHIN, TEACHER,
ST. JOHN REGIONAL CATHOLIC SCHOOL**

Ms. CUTCHIN. Thank you, Madam Chair and Members of the Subcommittee. I am thrilled to be here this morning, and I videotaped myself and left a message for my students because I am not there today to let them know that I was coming to Capitol Hill to be part of the process, so I am thrilled to be here.

Thank you very much for this opportunity to tell you about something that four years ago I knew nothing about. I did not know what a duck stamp was. I attended a teacher workshop at Patuxent Research Refuge through the Fish and Wildlife Service.

And I learned about this wonderful program that would allow me to teach art—I teach art to kindergarten through eighth grade, about 550 students—and it would allow me to work across a variety of curriculums with science connections, with literature and research connections, reading and writing, and it also and most importantly would allow my students to influence and be part of something at a very young age that they could see a long lasting impact for.

And so I went to this program, learned about the Junior Duck Stamp, and I brought it back to my classroom, and for the past three years I have used this as one of my lessons. We don't participate because we expect to win. The artwork for the stamps is certainly much greater than what a student who comes to art once a week for 42 minutes can achieve.

But I want to share with you the looks on their faces, and you can see that in some of these pictures; the looks on their faces when they are working so hard to create this picture after their research and learning about conservation and migrating birds and then the look and the smiles on their faces when they have finished and the pride that they take.

It is just a phenomenal program, and at a time when no child can or ever should be left behind I just think this is such a powerful teaching tool for our students, and I urge you please continue this.

Mr. Sutherland said who cannot like the duck stamp. I love the Duck Stamp Program as a teacher. Its only fault is that there are more teachers who don't know about this program. I have students—I now have eighth graders—who participated in this program. I have done it with sixth graders and with third graders.

They still talk to me about seeing the geese fly over when they are out in the playground because we are in a rural area.

So it has impacted the lives of my students, and I would just like to close with the fact that we were invited to be part of the national judging since it was at the Postal Museum last year. I took 70 of my students. This is one of the thank you notes that they wrote:

"Thank you for the Duck Stamp Program. I love," and it is underlined, love, "learning about ducks because where I live there are non-stop ducks flying over our roof. I love seeing ducklings. They are so cute. I love the program because I like to see other people's work. Thank you for setting up this wonderful program." This is Jessica Lowe, one of my students.

So for my students and for fellow teachers who could not be here, please support and continue this wonderful program. Thank you.

[The prepared statement of Ms. Cutchin follows:]

**Statement of Lisa D. Cutchin, Teacher,
St. John Regional Catholic School**

The Jr. Duck Stamp Program, Conservation on Canvas, is an excellent tool for teaching students at all grade levels about science, language arts, mathematics, and the Visual Arts, and for providing a real world scenario which students can positively impact. Just starting out as a new teacher, several years ago I attended a workshop offered by the Patuxent Research Refuge, located just outside Washington, DC. I was looking for lesson plans and materials with curriculum connections across multiple disciplines that would be interesting for my students. I spent a Saturday in January learning about the Jr. Duck Stamp Program and participating in hands on activities that had been designed by the staff at Patuxent Research Refuge. I had no prior knowledge of the Duck Stamp Program and probably would still not know about program if not for attending the workshop. My hope was that I could incorporate the materials in a lesson for the following school year. I was so impressed with the materials and excited about the learning opportunity for my students, I incorporated the lesson in just a few short weeks after attending the program. My third graders created pictures that were submitted to the Maryland Coordinator for the Jr. Duck Stamp competition in mid-March. I have used the Jr. Duck Stamp lesson with my students each year since and continue to share it with other teachers.

I have been teaching at St. John Regional Catholic School (named a National Blue Ribbon School by the U.S. Department of Education, September 15, 2009) for the past 5 years and my students have participated in the Jr. Duck Stamp Competition for 3 of those years. In the spring of 2009, 70 SJRCS third graders participated in the National Judging for the Federal Jr. Duck Stamp Program that was held in Washington, DC. It created a memory for those students, which will be with them for years to come. When those students walked into art class as 4th graders recently, the first thing they asked me was, "When are we doing the Jr. Duck Stamp?" Our school is in rural Frederick, Maryland and very close to the city limits. There are farm lands nearby and a pond that attracts migrating water fowl, especially Canada Geese. The geese fly over our playground and our students are very aware of the sights and sounds of these beautiful creatures. I believe our classroom studies, connected to the Jr. Duck Stamp, have significantly raised awareness of these birds, flyways, and migration and the need for land conservation.

My students learn about the Jr. Duck Stamp through materials provided to me by the U.S. Fish and Wildlife Agency. Students begin their study by reading books, watching movies and creating a "Jr. Duck Stamp" journal that includes facts they discover during the research phase of the unit. After conducting some preliminary research, students are asked to select a waterfowl they would like to learn more about. We discuss plagiarism and why it is not ok to copy or take another person's work. Students use and hone their powers of observation as they work to determine proportion and create an accurate image of their selected waterfowl. At a time when no child will be left behind, this powerful teaching unit connects the various curriculums and provides asks students to planning, make decisions, and use higher order thinking skills.

Armed with information about a waterfowl they have selected, my students begin work on their entry for the State of Maryland Jr. Duck Stamp competition. Every student who submits an entry is given a certificate of participation by the Maryland Jr. Duck Stamp Coordinator. Several students/parents have lent me their Jr. Duck Stamp pictures to bring with me when I speak with you in person. This is a project that families keep and some are even framed to be enjoyed at home. I have also included photographs I have taken of some of my students' Jr. Duck Stamp pictures and included those also.

My students participate in art class once a week for 42 minutes. My hope is during that time, I can expose them to the visual arts, help them make connections between the arts and the real world; and give them an opportunity to experiment with a variety of media and techniques. We are not an art school. My goal is help grow and develop responsible citizens of the United States and the world. The Jr. Duck Stamp Conservation on Canvas program plays an important role in helping me achieve this goal.

As a teacher, I believe the Jr. Duck Stamp Program is an excellent learning opportunity for students at all grade levels. It provides a real world problem (land conservation) that students can actively take a part in improving. Participation in the Jr. Duck Stamp Program at an early age makes connections for the citizens our students will grow to become. (That I have never chosen to smoke, although both my parents did, I attribute this fact to the educational programs I participated in as a 5th/6th grader in elementary school in the 1960's. I believe the Jr. Duck Stamp Program will make connections to the environment and land conservation in a similar way for my students.)

What is difficult for me to put into words is the looks on the curious faces of my students as they research and learn about various water fowl and their habitat; the looks of determination as they work hard to capture the likeness of the birds; and the smiles when their entries are finally completed. The Jr. Duck Stamp Lesson Plan is my favorite lesson to teach and based on the feedback from my students, one of their favorites as well. At the start of the current school year, a parent told me that her son was practicing drawing ducks over the summer because he knew (from his sister who had created a Jr. Duck Stamp picture two years ago) that this was the year he would be learning about the Jr. Duck Stamp program and creating a picture for the contest! When I talk with my current 8th graders, they have a sense of pride in their participation in the Jr. Duck Stamp Competition.

This past summer I was selected to participate in the National Gallery of Art's Teacher Institute for 17th and 18th Century American Art. I was one of 50 fortunate teachers across our great nation to have this honor. I talked to my fellow educators and was surprised to learn that they did not know about the Conservation on Canvas program. As teachers, we are asked to have our students participate in many contests throughout the school year. It has been my experience that most contests are to benefit the sponsor of the contest. The Jr. Duck Stamp Conservation on Canvas Program the related competition is a significant benefit to the students who participate. I ask you to provide support and continue this worthwhile program.

Thank you.

Ms. BORDALLO. Thank you very much, Ms. Cutchin. I don't think there would be any opposition to such a wonderful program, and for your very impassioned testimony here today we certainly agree with it.

I know I support it. What about you, Mr. Wittman?

Mr. WITTMAN. Yes. Absolutely.

Ms. BORDALLO. Absolutely. You have two votes already. All right. Thank you so much.

And now I have just a couple of questions, and I know Mr. Wittman will have a few questions too. To Mr. Schmidt, you and other panelists each testified in support of Mr. Wittman's legislation to amend the NAWCA to allow the use of non U.S. funds to satisfy up to 50 percent of nonFederal matching contribution requirements.

For the record, can you confirm that there is nothing in H.R. 3433 that would reduce or waive any portion of the non-Federal match requirements for projects in Canada and H.R. 3433

will only increase flexibility to allow the use of Canadian sources of funds to satisfy existing matching requirements? Is that correct?

Mr. SCHMIDT. That is correct. I can confirm what you have said.

Ms. BORDALLO. All right. Let me ask some of the other witnesses.

Mr. SUTHERLAND. Yes. We had meetings with Mr. Wittman and other Members of Congress to talk about the issue and the opportunities, and that was the intent from the get go, Madam Chairwoman.

Ms. BORDALLO. All right. Next?

Mr. DAULTON. Yes. Absolutely. That is my understanding of the legislation, and I certainly support the goal to provide additional flexibility for additional match in Canada.

Ms. BORDALLO. All right. And next?

Mr. SCHROEDER. I agree. American Bird Conservancy's careful reading and review of that legislation would definitely lend to that conclusion.

Ms. BORDALLO. All right. Thank you. Now we have, Mr. Sutherland, were the Congress not to pass H.R. 3433 what might the consequences be for NAWCA projects in Canada and how—

Mr. SUTHERLAND. Thank you for the question. As I said in my very brief statement and more extensively in my written testimony, the purpose of NAWCA is to implement the North American Waterfowl Management Plan, which recognizes the continental scope and nature of waterfowl and other migratory birds.

Wisely, I believe, when Congress wrote NAWCA back in 1989 they required that funds that were going to be expended in the program must be expended in all three of the countries, and the way that the law is written it requires that money be spent in all three countries.

Therefore, if it is not able to be spent in any one country or let us say outside the United States, where in Canada most of the birds are actually produced, the program can't spend all of the money then in the United States, so it triggers a situation.

If we can't use the money in Canada, it triggers a situation where you won't be able to spend all the money in the United States either, and the repercussions will be again continental in scope much like the benefits are continental in scope.

Ms. BORDALLO. All right. OK. I have another question now for Mr. Schroeder and Mr. Daulton.

There appears to be a broad support for the increased authorized funding levels contained in Mr. Kind's legislation, H.R. 2213, in part because the program has been so successful in generating funds to meet the nonFederal matching contribution requirements under the Neotropical Migratory Bird Conservation Act.

Are you not concerned, however, that the current global economic slowdown will have a similar drag effect on the ability of grant applications to meet nonFederal matching contribution requirements, not unlike what has happened for NAWCA projects in Canada?

Mr. DAULTON. I will give a try to that first.

Ms. BORDALLO. First? All right.

Mr. DAULTON. I think if you look at the history of the program, the matching requirement has been exceeded in the past. The legislation requires a three to one match and, generally speaking, the match has been closer to four to one in practice. So that would be

the first thing that I would say is that so far we are exceeding the legislatively recommended matching requirement for this program.

Second, the history of NAWCA I think shows that at increased levels of authorization a higher level of match can be sustained; that the neotropical program has been matching funds with a Federal authorization around \$5 million or now the current cap of \$6.5 million. The NAWCA funding has been much higher, and yet they have been able to sustain a close to three to one match.

So I think the history with NAWCA actually shows us that as you gradually ramp up the authorization we should be able to maintain a higher level of match.

Ms. BORDALLO. Mr. Schroeder, do you want to add to that?

Mr. SCHROEDER. I would agree with Mr. Daulton, and I think the history of the NMBCA program has shown that the quality of the proposed projects—when I mentioned in my testimony that there were a number, a far greater number of qualified projects that exceeded the Fish and Wildlife Service's ability to provide that seed money that is the NMBCA, I think that shows that mainly Latin America countries are able to provide the match if there is an opportunity by the United States to have a grant that they can match.

So I don't anticipate that with a higher authorization there would be a flood of projects, proposals that wouldn't be qualified. I think that simply we could do more, much more conservation work with just a little bit greater investment from the United States portion.

Ms. BORDALLO. Thank you very much. My time is up here, but I want to ask one quick question to Ms. Cutchin.

If I heard you correctly, you became aware of the Junior Duck Stamp Program more through your own interest and initiative than through any marketing or promotion effort by U.S. Fish and Wildlife Service. Is that accurate?

Ms. CUTCHIN. I actually received an email through Fish and Wildlife Service as a teacher and their offering of classes for teachers, and that was how I learned of the program.

Ms. BORDALLO. Do you think the Federal government should do more?

Ms. CUTCHIN. Yes, I do.

Ms. BORDALLO. All right. Thank you. Mr. Wittman, do you have any questions?

Mr. WITTMAN. Thank you, Madam Chairwoman, and thank you so much for your leadership on these issues. I would like to thank each and every member of the panel for joining us today and thank you for your continued efforts to protect and enhance our bird populations. That is extraordinarily important.

Madam Chairwoman, in the interest of time, I would ask unanimous consent to have my remarks today entered into the record.

Ms. BORDALLO. Without objection, so ordered.

Mr. WITTMAN. Thank you.

[The prepared statement of Mr. Wittman follows:]

**Statement of The Honorable Robert J. Wittman, a Representative in
Congress from the State of Virginia**

My legislation, H.R. 3433 provides for a simple, timely and essential change to the North American Wetlands Conservation Act.

Under current law, Congress appropriates money each year to be spent on projects to acquire, enhance, protect and restore wetlands in Canada, Mexico and the United States.

In fact, this remarkable program, which is now celebrating its 20th anniversary, has funded over 1,600 projects to conserve more than 20 million acres of wetlands and associated uplands across North America. This conservation has helped ensure improved waterfowl hunting across North America.

Since 1989, this landmark law has required that each Federal dollar spent on a conservation project be matched by non-federal money.

However, due to the irreplaceable nature of the breeding waterfowl habitat in Canada, a decision was made not to require matching funds from Canadian sources. Therefore, projects in Canada have been matched by conservation dollars from the United States.

According to the U.S. Fish and Wildlife Service, the North American Wetlands Council has approved conservation projects in Canada worth nearly \$70 million during its current five-year funding cycle which began in 2007. Under law, this means that \$70 million in private matching funds must be provided.

Under my legislation, the North American Wetlands Conservation Act would be amended to allow up to 50 percent of the non-federal share of projects in Canada to be paid for by Canadian conservation supporters. My legislation will allow and encourage our Canadian conservation partners to fund a greater number of important wetland preservation projects north of the border.

The authorization of appropriations for the North American Wetlands Conservation Act does not expire until September 30, 2012. We simply cannot wait to make this change because the non-matching share imbalance will continue to grow and must be paid before the authorization expires.

The language of this legislation has been fully vetted and it is my understanding has been endorsed by all interested parties including the Fish and Wildlife Service, the member of the North American Wetlands Conservation Council which includes, Ducks Unlimited, as well as the National Audubon Society and the American Bird Conservancy.

Mr. WITTMAN. I will begin with Mr. Sutherland. Would you tell us a little bit about why you think changes to NAWCA, as proposed in H.R. 3433, are needed?

Mr. SUTHERLAND. Thank you. Yes. The primary need is really an opportunity. The Canadians, starting 20 years ago, really weren't raising a lot of money to go toward NAWCA programs. Over the 20 years that the program has existed the Canadians, with encouragement from the U.S. Government and from NGO's like Ducks Unlimited, have started raising increasing amounts of money that can be used as match to these programs, to these projects.

As I said earlier, projects in Canada are extremely biologically important to the North American waterfowl resource and important to the resource of a lot of other birds as well. Therefore, we want to maximize as much habitat out on the landscape, the Canadian prairie and other Canadian landscapes, as we can.

Letting the Canadian dollar, the Canadian raised dollar, help match the NAWCA projects in similar ways to the way the Mexican dollar can match NAWCA projects in their country would just expand the situation, expand the number of projects, and that would be very useful and very helpful to the birds.

Mr. WITTMAN. Thank you. Mr. Schmidt, can you tell us a little bit, maybe building on Mr. Sutherland's response? Tell us a little bit about the significance of Canadian waterfowl habitat and why that is important to the U.S. to be looking at enhancing that habitat.

Mr. SCHMIDT. Yes, indeed, Mr. Wittman. That is second to none in terms of its importance to this continent's waterfowl population.

In the absence of the legislation that you have supported and sponsored here, I feel like we would see a consequence that would result in not the investment that we need in those high priority areas, so they are critical.

Mr. WITTMAN. Another question. This is on H.R. 2213. Tell us a little bit about the major threats that you think our neotropical migratory birds are facing. How many of those species are currently on the endangered species list or under consideration for threatened status?

Mr. SCHMIDT. I would say first and foremost is habitat loss throughout the breeding/wintering areas of these species.

As you no doubt recognize, it requires suitable habitat throughout their life cycle. That means cooperation among countries, frankly, and among peoples and so in the absence of that cooperation and recognition I think habitat loss would be the key, one key element of declines for these populations, although there are many other reasons for concern.

And then your second question I will have to get back to you on the specifics. I can tell you that 341 neotropical migrant birds are covered through this Act, and I think we have something like 50 or 60 that are on our birds of conservation concern, which are sort of the precursor to, say, the listing under ESA. I believe it is a handful, but less than 10, are on the endangered species list itself.

I can get back to you with the specifics associated with that, but I think the numbers reflect our general concern for the suite of species and the need for this kind of legislation.

Mr. WITTMAN. Very good. Can you tell us how much money the U.S. Fish and Wildlife Service spends each year to administer the Neotropical Migratory Bird Conservation account, and do you think there is a sufficient amount to meet administrative expenses?

Mr. SCHMIDT. The law limits the amount we can actually spend to administer it to three percent or \$100,000, whichever is larger. Three percent of the actual appropriations. I think last year I think our administrative costs were about \$142,000, what we could expend to that, which is the three percent limit.

Of course, in this program I think you can recognize the range of projects in the geographic scope requires a pretty significant oversight to ensure that the American taxpayers' money is being used wisely and so that certainly is a concern for us in terms of the overall administrative constraints to make sure that we are expending these the way you and the rest of the Congress and ourselves want to make sure that they are spent.

Mr. WITTMAN. Madam Chairwoman, just as a follow up to that, so what you would say is that because of the scope and the complexity of that the administrative dollars available may fall a little bit short of how to really do as much as we can with those resources. Am I correct in that understanding of your response?

Mr. SCHMIDT. We could do a better job of overseeing the program with additional resources. We will use what is available to us under the law.

Mr. WITTMAN. Very good. Thank you, Madam Chairwoman. I yield back.

Ms. BORDALLO. You got that on record, right? One final question before we wrap up this morning.

Mr. Schmidt, what steps has the Service taken to increase the visibility of the Junior Duck Stamp Program and the availability of its curriculum materials? Will the increase to \$500,000 for program administration allow additional resources for promotion of the program?

Mr. SCHMIDT. Thank you for the question. We have tried as best we can within the financial constraints that we have. Until this year the Fish and Wildlife Service has not requested and received funding for this program, so it has been constrained.

Specifically, we have moved the Junior Duck Stamp contest around the country in the last several years to try to raise the profile and the visibility of this program. We have done some of the outreach that Ms. Cutchin has mentioned. We have had a touring exhibit. We have improved our website and we are in the process of improving the curriculum as well, so I think all of those things have contributed to a greater outreach.

We can do more, and with the request for funding and the support from the Congress this year that appears to be imminent in the Fiscal Year 2010 budget I feel certain that we can expand that.

In fact, we have developed a strategic plan that if this money is appropriated we will implement to reach out further than we ever have before in terms of gaining support from other teachers who can fit that into their work and their expectations from their school boards. We want them to take advantage of this program.

Ms. BORDALLO. Good. Those were very positive remarks, and they are all on the record.

I thank all of the witnesses for their participation in the hearing today. Members of the Subcommittee may have some additional questions for you, and we will ask you to respond to these in writing. In addition, the hearing record will be open for 10 days for anyone that would like to submit additional information for the record.

I want to thank the Ranking Member, Mr. Wittman, for sitting with me during the duration. If there is no further business before the Subcommittee, the Chairman again thanks the Members of the Subcommittee and our witnesses for their participation here this morning, and this Subcommittee now stands adjourned.

[Whereupon, at 11:51 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A letter submitted for the record by Jeff Berlew, Angola, Indiana, on H.R. 1054 follows:]

September 15, 2009

Attn: Don Young

RE: H.R. 1054

I had thought of going polar bear hunting for years, but I finally got serious in 2006 and looked for a hunt. I found out that the earliest dates were spring of 2008. I sent a check for \$5,000.00 to the outfitter to save my spot with the understanding that it would be fully refundable if the Fish & Wildlife service outlawed imports.

The fall of 2007 all of the dates needed to be locked down. I was able to delay final payment until February 2008 because the final decision was to be made by then. Well the day came and went and the decision was delayed until after the bear season.

I could have canceled my hunt and rebook for 2010 (next opening) or proceed with my hunt. Well I proceeded with my hunt and was successful in getting a really nice bear.

I did all of the paper work and sent it all in to the Fish & Wildlife with my check. Everything was approved; I was just waiting the 30 day period to get my import permit. In the meantime my legally, hunted polar bear skin was tanned and boxed for shipment to my taxidermist. Then the ruling and they sent my check back to me 10 days before the 30 day waiting period was up.

I went on this hunt to experience the north environment and to hunt a polar bear. I never thought that a decision against the inspection of these bears would ever apply to bears that were already dead and legally harvested. I was sure my government would protect its citizen's rights, as long as everything was done legally and according to the rules as they were posted. Well, boy was I disappointed in what my rights really mean. (Nothing)

I guess it doesn't pay to follow the rules does it.

Very Disappointed American Taxpayer,

Jeff Berlew
185 Lane 220 Lake Gage
Angola, IN 46703
Phone: (260) 829-6493

[A letter submitted for the record by James M. Box, Bloomfield, Iowa, on H.R. 1054 follows:]

The Honorable Don Young
House of Representatives
Washington, DC 20515
In Re: H.R. 1054

Dear Congressman Don Young:

I am writing to recount my personal story of why I would very much like H.R. 1054 to be passed by Congress and signed into law by the President.

For me personally it was the trip of a lifetime, I saved the money as I could and kept applying for a permit from a native village for several years before being notified that I could indeed make plans to go. Yes I took the trophy I waited so long for, that which I read about in stories since my youth, but it was so much more. Meeting and dealing with the people, them explaining that this was their source of income for the family for the year and how the monies were put to use in the "community". They shared with me all facets of life including the celebrational dinner after we got the bear. Who knew that bear paw soup was an absolute delicacy. No part went to waste. I treasure the time and memories I have from that legal hunt. I was shocked to learn so quickly afterward that my beautiful trophy would languish in a freezer in Edmonton. What good does that do anyone? How could a legally hunted trophy, one that was legal when I went on my long awaited trip be so swiftly judged unfit to be imported to the US?

Congressman Young, I hope you can successfully pass and sign into law H.R. 1054 and that the bear that fits with my memory will be imported into this country soon.

Thank you for being a voice of reason.

Sincerely,

James M. Box
1984 Little Soap Rd.
Bloomfield, Iowa 52537

[A letter submitted for the record by Tim Decker, Apple Valley, California, follows:]

Tim and Jan Decker
14989 Riverside Drive
Apple Valley, California 92307
(760)-242-4464
tjdecker@verizon.net

September 15, 2009

Committee On Natural Resources
Congress of the United States

Subject: H.R. 1054, Proposed Amendment to the Marine Mammals Protection Act (MMPA)

I am writing in support of House Resolution 1054, introduced on February 12, 2009 by Representative Don Young of the State of Alaska. I am one of the approximately forty-five American hunters whose legally-taken polar bear trophies are in Canada and cannot be imported because of the U.S. Fish and Wildlife Service's ruling on May 14, 2008.

My polar bear hunt took place in late March and early April of 2008, and was the culmination of a life-long dream that started when I saw a polar bear hunt on ABC's American Sportsman when I was about ten years old. For more than forty years I dreamed of going to the top of the world to hunt one of these magnificent bears, and in 2008, I realized part of that dream. I say "part of that dream" because I cannot import my trophy, despite the fact that it was completely legal to import sport-hunted polar bears on March 23, 2008, the day I took my bear.

I started actively following the importability of polar bear trophies in 1972 when the President signed the MMPA into law. From the early 1970's to the mid-1990's, I was convinced that my dream of being able to hunt a polar bear and bring the trophy home would remain just that—a dream. When the USFWS began allowing importation of sport-hunted bears from Canada in the mid-1990's, I began actively planning my hunt. I put a deposit down in January of 2002, but had to wait until the spring of 2008 to get one of the highly-sought-after permits.

When I departed for Resolute Bay in Nunavut Territory, polar bears from the Lancaster Sound population were completely importable, and that was the status on March 23, 2008 when I completed my quest to take one of the most magnificent trophies in the world in totally fair chase. I immediately began the application process to get my trophy into the United States when I returned to California, sending the application to the U.S. Fish and Wildlife Service on April 11, 2008.

When the USFWS notified me in July of 2008 that it was administratively stopping the processing of my application, I was crushed. I am not a wealthy man. To date, I have spent more than \$48,000.00 to make this dream a reality, and, to put that figure in perspective, it represents 30% of my family's income for all of 2008. Years of planning, months of preparation, days and nights spent in temperatures reaching as low as -45 degrees Fahrenheit, and frostbite on two of my fingers and my nose all appeared to be for naught. Like hunters from time immemorial, I want to have the physical trophy as a constant reminder of my time in the High Arctic. Not allowing me or the other affected hunters to import our trophies will not bring those bears back to life.

Sincerely,

Timothy R. Decker

Copy Furnished: The Honorable Jerry Lewis

[A statement submitted for the record by Jeff Flocken, Washington, D.C., Office Director, on behalf of the International Fund for Animal Welfare, on H.R. 1054 follows:]

Statement submitted for the record by Jeff Flocken, Washington, DC Office Director on behalf of The International Fund for Animal Welfare (IFAW), on H.R. 1054, A Bill to Amend the Marine Mammal Protection Act of 1972 to Allow Importation of Polar Bear Trophies Taken in Sports Hunts in Canada

Polar bears, the largest predators on land, have become the worldwide poster child for the impact that global warming is having on our planet. These majestic animals are completely dependent on their Arctic sea-ice habitat, a habitat that is rapidly shrinking as global warming melts the sea ice that polar bears need to breed, den, and hunt. The result is drowning bears, starvation, litters of fewer offspring, and lower cub survival rates.

There are estimated to be between 20,000 and 25,000 remaining polar bears in the world and that number is decreasing. And while melting sea ice, habitat degradation, and pollution have placed polar bears in the fragile state they are in, commercial trade and trophy hunting continue to result in hundreds of polar bear deaths annually—thereby acting as a catalyst to the species' extinction.

While polar bears are of great socio-cultural importance for the Inuit, polar bears did not factor into the diet of pre-modern Inuit in any significant fashion, and the take was significantly lower. In recent years, however, sport hunting in Canada and Greenland has dramatically increased the number of polar bears taken from the wild.

Since the 1973 "Agreement on the Conservation of Polar Bears" was enacted, Norway, the United States and Russia have banned the non-subsistence killing of polar bears. Further, as of April 2008, Greenland has instituted a temporary ban on the export of polar bear trophies. Today Canada is the only country actively involved in the polar bear trophy-hunt.

Congress, at the behest of special interest groups, created a loophole in the Marine Mammal Protection Act in 1994 to allow Americans to hunt polar bears in Canada and bring home their trophies despite the effective ban then in place. Since 1997, over 960 permits were issued to American hunters by the U.S. Fish and Wildlife Service (FWS) for the importation of trophy-hunted polar bear heads and hides.

In September, 2007, the U.S. Geological Survey (USGS) released a series of reports commissioned by the Department of the Interior concluding that by 2050, less than 45 years from now, we will have lost fully two-thirds of the world's polar bear populations. The USGS predicted that the remaining polar bears would disappear gradually after that, with only a small population hanging on to see the next century. Soon after, the International Union for Conservation of Nature (IUCN) Polar Bear Specialist Group reached similar conclusions—specifically, that the polar bear population could drop 30 percent in the coming 35-50 years and that polar bears may disappear from most of their range within 100 years.

Following these dire scientific predictions, the FWS listed polar bears as a threatened species under the Endangered Species Act (ESA) on May 15, 2008. The listing triggered a provision of the Marine Mammal Protection Act (MMPA) automatically designating polar bears as "depleted" which resulted in a ban on all imports of sport hunted polar bear trophies into the United States.

Between February 15, 2005, when a coalition of wildlife conservation groups filed a petition for the FWS to consider listing of the polar bears as a threatened or endangered species under the ESA, and May, 2008, when the FWS listed polar bears as threatened, the FWS put prospective polar bear hunters on notice of the petition for listing and the prohibitive consequences that listing would have on their ability to import trophies. FWS accomplished this through direct response to inquiries and targeted outreach at events where hunters were present—such as the Safari Club International annual hunters' conventions in 2007 and 2008, where FWS had an outreach booth to inform Safari Club International's members about the proposed listing and its implications.

Despite this public notice, and considerable media attention on the plight of the polar bears between the time the petition was filed and the listing, numerous hunters chose to proceed with their hunts of this imperiled animal. In some cases these hunters may have been encouraged by industry salespersons and operators to take bears before the listing. As movement towards listing was made, publications written and read by trophy hunt retailers, guide companies and potential hunters wrote extensively about the risk that the opportunity to hunt polar bears might soon be

a thing of the past. A desire to beat the deadline undoubtedly played a part in the number of polar bears killed by trophy hunters in Canada in the 2006-07 hunt year reaching 150. This stands in marked contrast to the average number of polar bears, 102, killed by trophy hunters each year in the five previous hunt years.

H.R. 1054 seeks to allow importation of sport hunted polar bear trophies from approximately 43 hunters who submitted permits between November 2007 and May 2008. These hunters submitted their requests after wide-spread media attention to the imperilment of the polar bear and targeted information campaigns about the pending listing had already taken place. It is likely that most of, if not all of these hunters filed these requests knowing that their permits could be denied.

IFAW is also actively involved in litigation defending the polar bear listing in the federal courts for the District of Columbia. While litigation is pending, pursuing this legislation is inappropriate. If the sport-hunting groups prevail in the current ESA listing litigation, this bill would be entirely superfluous. If the species were no longer listed as threatened under the ESA, the species would no longer be depleted under the MMPA and FWS would reinstate the polar bear trophy import permit program.

Passing H.R. 1054 would set a dangerous example to the world by rewarding opportunistic, last-minute killing of a species known to be threatened with extinction. Moreover, if Congress passes this bill, hunters will have every right to assume that they can continue to hunt bears in Canada with the expectation that the U.S. government will later allow the import of these animals.

There are still real opportunities for the U.S. government to build on their commitment to saving polar bears that we should be focusing on instead. Despite their low numbers, polar bears are only listed on Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as an Appendix II species. The FWS should submit a proposal to the CITES Conference of the Parties (COP) calling for polar bears to be moved from Appendix II to Appendix I, which would prohibit international commercial trade of the species.

Export and import data from reporting countries shows that between 300 and 400 polar bears are commercially traded each year. Data from the UNEP-WCMC CITES trade database indicates that in 2007, more than 1552 polar bear specimens of 23 types were exported for "commercial" purposes, and 162 of 14 types for "hunting trophy" purposes. Commercial exports in 2007 included 851 skin pieces, 554 skins (one of the largest number exported in any year on record), 137 claws and eight bodies; in other years commercial exports included trophies, teeth, skulls, bones, carvings, gall bladders and live animals. Hunting trophy exports in 2007 included 128 trophies (the largest number exported in any year on record), 7 skins, four bones, and 23 skulls. With extinction looming, a precautionary approach to the conservation of this species calls for an immediate end to this trade.

On July 15, 2009, FWS indicated in the Federal Register that they are considering proposing polar bears for an uplisting at the March 2010 CITES COP to be held in Doha, Qatar. The FWS has until October 14th to notify the CITES Secretariat of their commitment to submit a proposal for consideration at the COP to transfer the polar bear from Appendix II to Appendix I. Such an uplisting will ensure that international trade will not continue to exacerbate the negative impact habitat loss has on the species.

Congress has already legislated an appropriate interplay between the ESA and MMPA. Permitting U.S. sport hunters to continue to import polar bear trophies after the listing of a species is contrary to the principles of conservation inherent in both the ESA and MMPA. The best scientific information regarding current and future threats to the polar bear clearly indicates that the species is threatened throughout its range. The International Fund for Animal Welfare respectfully requests on behalf of its 1.2 million supporters that the members of the House Committee on Natural Resources, Subcommittee on Insular Affairs, Oceans, and Wildlife, oppose H.R. 1054—a bill that would reward the needless killing of an imperiled species. Instead, we hope that the Subcommittee will encourage the Administration to find ways to further protect and conserve endangered polar bear populations, such as proposing an uplisting of polar bears from Appendix II to Appendix I at the CITES COP15.

[A document submitted for the record by The Humane Society of the United States, Outreach by Hunting Group on Polar Bears, follows:]

**Humane Society of the United States
Submission for the Record
Outreach by Hunting Group on Polar Bears
January 2006 to April 29, 2008
(Documents Attached)**

January 2006—The Hunting Report—“The real flashpoint is that petition to uplist the polar bear to threatened...”

January 9, 2007—Conservation Force website: The Truth About That Polar Bear Petition—“A 169-page petition to list all polar bear under the U.S. Endangered Species Act was filed on February 16, 2005 by the Center for Biological Diversity...”

January 2007—Conservation Force “Dear Supporter” letter “RE: Polar Bear Emergency...The USF&WS is taking the Endangered Species Act where it has never been. It is proposing that all the polar bear in the world be listed...”

September 21, 2007—Safari Club International. “SCI Action Alert” E-mail—“SCI needs your help to prevent an unnecessary and potentially harmful listing of polar bears under the Endangered Species Act.”

October 4, 2007—Safari Club International. “In the Crosshairs” E-mail bulletin—“the U.S. Fish and Wildlife Service announced it will give the public additional time to review and comment on nine new research papers analyzing polar bear population status and threats by extending its currently open public comment period until October 22, 2007.”

October 19, 2007—Safari Club International. “In the Crosshairs” E-mail bulletin—“On October 22, 2007, SCI and SCIF will submit additional comments opposing the proposed listing of the polar bears as threatened under the Endangered Species Act...”

October 23, 2007—Safari Club International. “In the Crosshairs” E-mail bulletin—“Yesterday SCI submitted another set of comments opposing the U.S. Fish and Wildlife Service’s proposed listing of the polar bear under the Endangered Species Act...”

October 31, 2007—U.S. Sportsmen’s Alliance. “On Target” e-mail newsletter—“The USSA continues its objections to a proposal to use the Endangered Species Act to prohibit the hunting of healthy bear populations.”

December 2007 Conservation Force—“The Hunting Report” Newsletter, Volume 27, Number 12. Page 9—“American hunters are asking us whether they should even look at polar bears in light of the current effort by U.S. Fish and Wildlife Service to list this species as threatened...”

January 2008—Conservation Force—“The Hunting Report” Extra Bulletin—“The most demanding development was the proposal to list the polar bear that was published in the last few days of 2006...”

January 7, 2008—Safari Club International. “In the Crosshairs” E-mail bulletin—“U.S. Fish and Wildlife Service Postpones Decision on Polar Bear Listing.”

February 2008—The Hunting Report—“US Fish and Wildlife Service Postpones Polar Bear Decision: The U.S. Fish & Wildlife Service...should have announced its decision whether to list polar bear as a threatened species...but instead announced a delay until the end of January...”

February 22, 2008—Safari Club International. “In the Crosshairs” E-mail bulletin—“Polar Bear Update.”

April 17, 2008—Safari Club International. “In the Crosshairs” E-mail bulletin—“SCI Among Coalition Defending Polar Bear Hunting in Senate Hearing.”

April 29, 2009—Safari Club International “In the Crosshairs” E-mail bulletin—“On April 28, 2008, a U.S. District Court in California ordered the U.S. Fish and Wildlife Service to publish a final decision on the proposed listing of polar bears under the Endangered Species Act by May 15, 2008 and makes that listing decision effective immediately...”

[Statements submitted for the record by The Honorable Ron Kind, a Representative in Congress from the State of Wisconsin, on H.R. 1054 and H.R. 2213 follows:]

Statement of The Honorable Ron Kind, a Representative in Congress from the State of Wisconsin, on H.R. 1054

Madame Chairwoman I commend the Committee for reviewing this legislation. In May 2009, the U.S. Fish and Wildlife Service listed polar bears under the Endangered Species Act (ESA). Prior to this listing, a number of American citizens participated in authorized hunts from approved polar bear populations. With the ESA listing, the polar bear is now labeled a “depleted species” under the Marine Mammal Protection Act (MMPA), and thus banned from importation.

As policymakers, we should not deny American hunters who engaged in a lawful, regulated activity the ability to import their legally taken polar bear trophies. This bill would simply amend the MPPA to authorize the Secretary to issue import permits to the approximately 41 hunters impacted by the Endangered Species Act listing.

Conservation is important and by allowing these bears into the U.S., up to \$41,000 would be raised to support conservation and research activities for the U.S.-Russia polar bear population. Sport hunting and importation brings millions of dollars to local communities and international polar bear conservation efforts. These already harvested bears provide no conservation value sitting in cold-storage warehouses in Canada. The 41 hunters impacted by this regulatory change, conducted their hunt in accordance with science-based management practices; we should allow them to obtain their legal property.

Statement of The Honorable Ron Kind, a Representative in Congress from the State of Wisconsin, on H.R. 2213

Madame Chairwoman, I applaud the Subcommittee on holding this important hearing today and would like to express my ardent support of H.R. 2213, to authorize the Neotropical Migratory Bird Conservation. This important legislation would reauthorize this valuable program and maximize the impact of its conservation goals.

This Act was first passed by congress in 2000 and has a proven track record of reversing habitat loss and degradation. It has also advanced innovative management and habitat restoration strategies for the broad range of Neotropical birds. This non-controversial, widely supported legislation would provide the United State Fish and Wildlife Service with the necessary funding to effectively fund conservation projects benefitting America’s migratory birds.

Nearly five billion Neotropical migratory birds migrate between their breeding grounds and their overwintering habitats. The long-term survival of these birds is dependent on the continued preservation of essential habitat. The Neotropical Migratory Bird Conservation Act facilitates the funding for on-the-ground conservation projects, public awareness and enhanced coordination among states. This program was last reauthorized in 2006 and the demand for this program far exceeds available funding. We must continue to support successful programs such as this. Providing increased authorized funding is needed to ensure the 341 species of migratory birds continue to be protected.

Migratory birds contribute to our environmental and economic well-being. Many of these species protect crops and forests by feeding on insect pests. In addition, birds support a significant component of the economy. I know throughout my congressional district, which borders more shoreline along the Mississippi River than any other district, bird watching has become a large part of our recreational economy. In fact, the upper Mississippi river basin is North America’s largest waterfowl migrating route; each year 40% of all waterfowl species pass through the basin during migration. Additionally, Americans spend more than \$36 billion each year participating in bird-related recreation—birding is the fastest growing outdoor recreational activity in many parts of the country.

Finally, this legislation would provide very modest, staggered increases in funding over five years. While I feel more funding is needed for this important program, reauthorization of the program is of the utmost importance. Therefore, I urge all my colleagues to support this bill.

[A letter submitted for the record by Tom Kooistra on H.R. 1054 follows:]

Mr. Don Young
U.S. House of Representatives
Washington, DC

Dear Mr. Young

My hunt for polar bear was truly a hunt of a life time. I am not a rich person and I needed to save for several years to afford the hunt. I could only go once. For the area that I hunted, you are put on a waiting list, and my name came up for 2008. We knew that the polar bear was being considered for threatened status, but the deadlines for the decision kept being postponed. I finally made the decision to go as the season had started and everyone felt that the USF&W would now wait till after the season was over to list the bear. After I got my bear in Late April, I applied for an import permit and was on the 30 day waiting period in the Federal Register when the polar bear was listed. If we had been given the usual 30 day period before the listing went into effect, I probably would have been able to import my bear.

The question is why I went polar bear hunting. The reasons are several. The polar bear is considered to be one of the great trophies in the world and I had the chance to try for one. There was the opportunity to experience the high arctic with the mid-night sun and hunt on the ice with sled dogs and the Inuit people. To dress in caribou hides. This was something few people get to do. This is a hunt I will always remember. This is why I would like to import my bear, to have it mounted and show respect for the animal and the hunt, not just kill it and waste the hide.

Sincerely,

Tom Kooistra

[A letter submitted for the record by Ron Kreider, Lancaster, Pennsylvania, on H.R. 1054 follows:]

September 14, 2009

Dear Congressman Young,

I am one of the U.S. citizens that legally hunted polar bear in Canada in March, 2008 and have subsequently been denied to import the trophy into the U.S..

I booked my hunt with the Inuits in Ulukhaktok, NWT, Canada approximately 3 years prior to having the privilege of securing the Canadian permit to hunt and harvest a polar bear. It was a lifelong dream to be able to hunt one of these animals and I was fortunate to be able to experience life in the arctic as well as to harvest a bear in the process. What I never imagined when I booked the hunt and sent the large downpayment for the \$32,000 hunt was that the U.S. government would eventually deny me the right to bring my perfectly legal game animal back into the U.S. If I would have know that this would happen, I would have never sent the money to Canada in the first place.

I shot the polar bear on April 1, 2008 and subsequently filed for a CITES import permit to U.S.F & W as soon as I returned home. They received my application fee and stamped my application on April 16th. It typically takes about 60 days to get the permit however on May 15 (30 days later) is when they listed the polar bear as threatened which immediately stopped the process. In fact, U.S.F.&W. mailed my check back to me. I just needed 4 more weeks to allow the process to work and I would have had my permit!

I have already spent \$ 5,000.00 with my personal attorney just to try to preserve my right to appeal and to eventually get my legally hunted bear back to my house.

Last year when I was hunting Big Horn Sheep, I stopped in Edmonton, Alberta to locate my polar bear hide at the taxidermist, and then took pictures of it. We are now trying to figure out and to understand the cost and processes we must go through to preserve the hide for the next couple of years until justice is served.

This is a very sad story about American politics. Thank you for your efforts.

Ron Kreider
Lancaster County, Pennsylvania

[A letter submitted for the record by Ethel Doris Leedy, Delta Junction, Alaska, on H.R. 1054 follows:]

September 17th '09

Congressman Don Young,

I thank you for your interest in my polar bear trophy being held in Canada.

I have been an avid hunter since I was twelve years old and in Nov. 8th I will be eighty one.

My main object for taking a polar bear was to complete the North American 29.

My polar bear hunt (by dog sled) was booked early January 2007 with Jerome Knopf of Canada North Outfitting.

It was set up to be the first ever all ladies polar bear hunt. My guide was a mother, assistant guide a grand mother and myself being a great grand mother.

The polar bear was taken May 11th Mother's day 2008 before the May 15th deadline.

My guide tell me there are lots of polar bears and I witnessed this was true. receive the permit and

the natives are going to shoot the polar bears anyway. This money helps them survive.

It is very important to me to live with my polar bear and relive the

memories of the hunt and the
wonderful people of Resolute Bay.
Thank you once again hope
your Bill passes.

Sincerely
Ethel Doris Leedy

1413 Aspen Ave.
P.O. Box 1091
Delta Jct., Ak.
99737

[A letter submitted for the record by James Richard Martell,
Glenns Ferry, Idaho, on H.R. 1054 follows:]

September 17, 2009

Congressman Don Young
2111 Rayburn Building
Washington, DC 20515

Dear Congressman Young,

I am writing to thank you for your efforts to have the Marine Protection Act amended to allow the import of my polar bear.

I was fortunate to be able to go on the hunt of a lifetime for the magnificent polar bear in February/March of 2008. It actually would take three separate hunts to harvest my bear. This was one of the hardest hunts I had ever taken. Temperatures were down to 40 degrees below zero and I ended up with frostbite, ending my first trip. Returning to the Northwest Territories a few weeks later found undesirable weather conditions, which ended hunt number two. After a call from my Canadian guide telling me he was seeing polar bear I returned for the third time. I was finally successful in harvesting a beautiful bear and it had been a wonderful experience but also totally harsh and exhausting.

Returning home I applied for an import permit from the U.S. Fish and Wildlife Service on March 25th, 2009. Nearly a month later the permit was published in the Federal Register. Three weeks later the polar bear was added to the Endangered Species Act but I believe that I should be able to bring home my trophy because I did harvest it legally and before this act was imposed. My trophy is now in storage in Canada and will become useless to me and anyone else. The harvesting of my polar bear did not increase overall polar bear mortality as foreign hunters and the native community have access to the same number of permits.

Thank you again for your efforts to help us get our polar bear trophies home.

Sincerely,

James Richard Martell
725 S. Martell Lane
Glenns Ferry, Idaho 83623

[A letter submitted for the record by James Mazur, Sheridan, Wyoming, on H.R. 1054 follows:]

September 27, 2009

Congressman Don Young
Washington D.C. 20515

Dear Sir:

I am one of the hunters who legally harvested a Polar Bear in Canada in April of 2008. I understood the issue of legally importing the trophy into the United States. I had submitted my request to import to the U.S. fish and Wildlife Service and was advertised in the Federal Register and was awaiting the 30 day waiting period when the USFWS changed the status of the Polar Bear and refunded my application fee and refused my application to import. Since then the hide has been tanned and is in storage in Calgary, Alberta Canada(at Boland Taxidermy). I thought at the time that the action was unfair since I had harvested the bear in the first place when it was legal in both Canada and the United States. In fact, I was stunned to learn of any action to ban the import of the bear until the end of my hunt when I was talking to a fellow U.S. hunter who was just starting his hunt. He said there was some legal action in process to change the status of the Polar Bear and that I had better hurry to get my paperwork done. Unfortunately I was too late.

But as you have already surmised I have paid storage fees continuously for a year because I thought that eventually somebody in the government would do the right thing.

It is not my style to complain about the fairness of the decision. Both the Canadian government and the Inuit community steadfastly claim that under the current rules, the Polar Bear is neither threatened nor under stress. Whether that will occur in the future is still to be determined. However, if it does occur and it is due to the retreating Ice Cap, limiting the polar hunting at this time will only add to the stress put on the Polar Bear herd due to the increased population and decreasing food supply. Common sense ecology has never been a strong point of certain untrained individuals.

The Polar Bear is one of the toughest trophies out there. I personally drove a snowmobile over 200 miles to get to the spot on the ice where we transferred to dogsled for the actual hunt. It was a 12 hour ride in -40F weather. Both the dogsled and the snowmobile rides are tremendously bumpy and are a severe test of endurance. There were just 2 camps in a 40 mile radius out on the ice. Not much room for error if there was an injury or simple rip of clothing. I paid approximately \$30,00.00 to participate in the hunt. Approximately \$5000.00 went to the Inuit governors who received the tag from the Canadian government. The rest went to three Inuit hunters who organized and conducted the hunt (James Pokiak, Tuktoyaktuk, Northwest Territories). I consider the very high cost of the hunt was well distributed among the Inuits as neither James nor any of his assistants were in even close to being rich. They lived more like middle class, as I learned when I stayed at their house for a period of 4 days.

I am not rich. Although I am also not poor, a \$30,000.00 hunt does represent a massive expenditure of funds. I had saved for quite a while to afford this trip. The appeal, to me, was the experience of the Arctic as well as the rarity of the trophy. There are many other hunters who would have flown out to the remote camp (at \$5000.00) each way and spend the least amount of time out in the weather. I could neither afford to do it and even if I could, I would not have done it. It was the total experience that I wanted. I also did not consider that I might have been one of the last hunters out there. The ample population of bears and the fact that there are always tags available someplace in Canada led me to believe that the opportunity to harvest a Polar Bear would be available in the future. The reason that I went when I did was that I was 64 years old and I had finally saved sufficient funds to afford the trip. As tough as it was, I wonder whether I would ever do it later.

In summary, my Polar Bear hunt was a hunt of a lifetime. It required a significant expenditure of funds, and it was done when all aspects of the hunt (the tag and the import of the trophy) was merely a matter of paperwork. I was crushed by the sudden change of status which I considered patently unfair. I heartily applaud your efforts to right what I believe to be a wrong and allow the import of my trophy which was legally taken. I had assumed it would be legally allowed to be imported at the time of my hunt booking as well as the entire time I participated in the hunt.

As for the core issue of the Polar Bear status, I hope you would take some action to provide some sound ecological facts about the actual effects of the shift in the ice floe on the Polar Bear population. If it would save the population to forbid hunting until and if the Ice Cap stabilizes, you have my full support. As a hunter I am interested in real animal conservation.

Sincerely:

James Mazur
5 Sherri View Dr.
Sheridan, Wyoming 82801
utahmazurs@msn.com

[A Letter submitted for the record by Jeffrey J. Sevor, DMD, on H.R. 1054 follows:]

September 15, 2009

Don Young
Congressman For All Alaska
2111 Rayburn Building
Washington, DC 20515

Dear Mr. Young,

Thank you for taking up the cause of not being able to bring my legally harvested Polar Bear trophy into the United States. Many of us are in the same boat and it is refreshing to see someone take an interest in this problem. As a traveling hunter, I know full well the conservation and economic positive effects that sport hunting can provide to species preservation and indigenous communities.

My personal decision to hunt Polar Bear was based on my ability to experience the Arctic climate as well as the ability to interact with the Inuit community. My hunt was scheduled in April 2008. At that time the rules under the Marine Mammal Protection Act permitted the importation of my Polar Bear trophy. All local and U.S. federal laws were followed in my successful Arctic experience. A few weeks after my return to my home in Florida, I was shocked to see Secretary of the Interior Dirk Kempthorne decided to list the Polar bear as a threatened species under the Endangered Species Act. This was done in spite of Polar Bear numbers being at record high levels. This is an unprecedented move in species management.

As to my personal situation, federal law was violated when a 30 day notice period was not observed and the law in fact became retroactive by not allowing me the importation of my legally permitted and harvested bear. The species management issue aside for now; this is completely unfair. What benefit is it to the harvested bear or the United States of America to block a legally taken animal from coming into the country? Too often the USFWS is at odds with and entertains an adversarial relationship with the law abiding U.S. citizen hunter. On the other hand this same USFWS still allows the importation of live Burmese Pythons into the country. These live specimens are currently devastating the ecosystem of my South Florida.

I ask only for fairness and common sense in these decisions. Thanks again to Congressman Young for taking up this issue.

Sincerely,

Jeffrey J. Sevor DMD

[A letter submitted for the record by Ted Stallings on H.R. 1054 follows:]

September 21, 2009

Congressman Don Young
Congress of the United States
House of Representatives
2111 Rayburn Building
Washington, DC 20515

Dear Congressman Young:

In response to your letter concerning H.R. 1054, I would like to make you aware of the circumstances leading to my desire to hunt a polar bear.

I was born in New Mexico in 1958, grew up on a farm and ranch learning to respect the outdoors. I began hunting, fishing and enjoying the wildlife as a child with

my father. My father also brought me into his crop dusting business and taught me to fly at an early age. From my youth to present day, our business expanded from farm and ranch spraying to the businesses that I currently own and operate, Aero Tech, Inc., Aero Tech, LLC and Aero Tech Transport. Our focus is fighting fires, fire rehabilitation and controlling noxious weeds and invasive insects for state and federal government agencies throughout the USA and other countries.

As I grew older and became more successful in the aviation industry, I was able to expand my experiences in the world of hunting. At the age of 30, my goal was to take all 31 North American species of animals. As you know, the "North American 31" requires the harvest of a mature representation of all 31 North American game species.

In 1990, while spraying gypsy moths for the Commonwealth of Pennsylvania, I experienced an unfortunate aircraft accident, which almost cost me my life. I was severely burned over 84% of my body and given less than a 1% chance to live for the first five weeks. After many surgeries and answered prayers, they decided I was going to live, but I was told I would never walk due to spinal injuries suffered during the accident. After eight months of hospitalization, multiple surgeries and extensive rehabilitation, I was released. I was told that I would never be able to ride a horse again or endure temperatures below 60° or above 80°.

During rehab, I began to get my life back on track and set my goals. Thru the Grace of God, I slowly learned to walk again, started flying and riding horses again. Four years after my accident, I won New Mexico State Championship Team Penning Championship on horseback. In 1997, while snow skiing with my son I began to realize that my body could indeed handle some colder temperatures. That is when I began dreaming of fulfilling my polar bear tag. Having already taken my grizzly bear, black bear and brown bear, the only one remaining was the polar bear to fulfill my lifelong dream. I began planning my hunt. Polar bear hunting generally ends the last of May due to the beginning of summer. I visited with several outfitters and explained my situation, still not knowing if I could withstand the cold. We decided to plan my hunt as close to the end of the season as possible so the temperatures would be more bearable.

In 2006, I booked my first polar bear hunt, with an importable license, to Tuktoyaktuk Northwest Territories Canada. I planned the hunt for late May because this is the warmest period of the polar bear hunting season where temperatures averaged 15° below zero. However, at that time of year, the ice begins to break up and traveling by dog sled was slow. We experienced rough ice and could not travel the 60 miles to open water where the bears were known to be. After trying several avenues and enduring the elements for days, we simply had to give up and turn around.

I learned a lot about myself and about polar bear hunting. I realized, with specially made clothing, used by Mount Everest climbers, I could tolerate the cold and that if I really wanted a bear, I needed to go further north and go earlier in the season when the bears would still be moving on the ice. The bears consider 15° below as warm and do not move as much as they do when it is really cold!

After extensive research, I was fortunate enough to schedule another polar bear hunt, with an importable license for 2008, to Norwegian Bay, Nunavut, Canada. This hunting area encompasses from the North Pole to approximately 800 miles south to the lower tip of Norwegian Bay toward Grise Fiord. Grise is the coldest and northern most inhabited settlement on earth and is known for its high concentration of polar bears. If I survived this, my goal would be fulfilled. The temperatures would average 45° below zero in April. The polar bear is common there. In fact, they are so numerous, they are a major problem for the locals in the village of Grise.

In early April I departed on my hunt. After two days of airlines, I arrived in Resolute, Nunavut, Canada where I stayed for four days attempting to climate myself to the temperatures. I then flew another 7 hours on Boric Air, a chartered twin Otter airplane on skis, to where I met my Inuit guides who had been traveling for 3 days by dog sled from Grise Fiord just to get to the beginning of the hunting area. The airplane never shut down, it dropped me off and departed. I have always found the Inuit people to be very sensitive and innovative people. The hunt was scheduled for 12 days. We traveled constantly and moved on the ice in temperatures averaging 45° below zero. Just being in 45° below temperatures, 24 hours a day, with nowhere to be but outside was a true experience. We spotted numerous bears every day, but I was determined not to take a bear unless it was a mature, trophy boar. On the sixth day and after over \$100,000 invested, I took my trophy polar bear. My guides were ecstatic about the size as it squared 11 feet, bigger than any bear which they had seen or harvested in years. Upon further examination of the bear, they noticed a tattoo inside the lip from where the bear was captured and tattooed as a cub. The

tattoo number was called into the game department where the data was kept and the bear was recorded to be 22 years old; one of the oldest bears ever harvested. It was a dream of a lifetime and completed my slam of bears.

When I first planned my hunt, I had heard of the possibility of the polar bears being listed as endangered as early as June 28th of 2008. I made sure my first polar bear hunt was from an area which was importable and that I had an importable tag. When my first hunt was unsuccessful, I made sure my second polar bear hunt was importable as well. It was my understanding that once the bear was harvested, it could take a maximum of 60 days to get the permit processed with the U.S. Fish & Wildlife. With my hunt being in April, I was still within the maximum 60 day time period allowed to process my permit, even though the April cold would cause me to life threatening temperatures. I harvested my bear on April 16th and had my permit into the U.S. Fish and Wildlife by April 21st. I believed that was plenty of time for the maximum 60 day process allotment. Then, to everyone's surprise, the California judge ruled early, on May 13th to stop the importation of polar bears into the USA.

Today, I have a bear sitting in a freezer in Canada where it is 45° degrees warmer than where I harvested the bear at 45° below zero. It does not make since that I am allowed to send the bear to any country in the world except the USA. It is truly an injustice to the bear, as well as to me, to not be able to show it to the people of America and share my experiences with the "creatures and people of the North". The bear was a legally taken trophy bear from an importable area and it is already dead. It cannot be any deader than it is today. Please allow me mount it life size, display it in a showcase and bring it home to be seen and appreciated in my home country.

Ted Stallings

[A letter submitted for the record by Larry R. Steiner, Safari Club International, on H.R. 1054 follows:]



Adirondack - Catskill Chapter

Larry R. Steiner, President,
24 Church Street, PO Box 466, Otego, NY 13825 ·
(607) 988-6334 · Fax (607) 988-6592 ·
steinersci@stny.rr.com



Don Young, Congressman
2111 Rayburn Building
Washington, D.C. 20515

September 14, 2009

Dear Congressman Young,

My dream as a sportsman and hunter, was to experience a polar bear hunt, and after a 30 year wait, this dream came true. In April of 2008 I harvested a legal polar bear in Canada. On April 21st, 2008 I filed for an import permit with the Department of Interior US Fish and Wildlife Services. On May 15th, 2008 the US Fish and Wildlife Service closed the border for importation of polar bear parts, even legally taken ones before that time.

This was a once in a lifetime experience for me and I am saddened that I cannot retrieve my polar bear trophy.


I feel that the United States Government has effectively stripped me of my property.

I am very happy you have introduced HR 1054 on behalf of myself and the other hunters (approximately 45 in number), to retrieve our legally taken polar bears.

It is my understanding that any changes in the laws are to appear on the federal registry for a period of 30 days before enacted as law, according to sources at US Fish and Wildlife.

This law banning the importation of polar bear was made on May 15th, 2008, without the 30 day public comment waiting period.

Sincerely,


Larry R. Steiner

[An email submitted for the record by Darwin J. Vander Esch on H.R. 1054 follows:]

September 10, 2009

Mr. Don Young,

Thank you for your email and introducing legislation, H.R. 1054.

Yes, I am one of the many hunters that went to Canada in the spring of 2008 to Polar Bear Hunt. I have been hunting and enjoying the outdoors since I was 5 years of age. My wife and I own Heavens Gate Outfitters, in Riggins, Idaho. We provide a packing and hunting service here in Idaho and Alaska. Our trips vary from camping, fishing, sight seeing, and hunting of elk, deer, blk. bear, mnt. lion, mnt. goat, sheep, bobcat, coyote, Alaskan brown bear, to various upland game birds. Hunting of wild game is a very good tool for managing our wildlife.

As everyone should know there must be a checks and balance in everything we do and this also applies to managing our wildlife. I love to see and enjoy nature at it's best, and that is why I limit the hunts that we do, what good does it do for me to go out and kill everything there is, I would put myself out of business. We have great Wildlife and Fish and Game Departments thru out the U.S. and Canada that regulate the taken of our wildlife populations and watch the checks and balances, and they should be the ones to decided what needs to be done and not some activist group.

When the Judge in California made the ruling that the bears needed to be re-listed, there was no allowance or consideration ever given for those Polar Bears that were already harvested. Isn't it ironic that a group of people that do not like anything wasted would not consider the waste of these Polar Bear hides and the disgrace to them, by leaving them to go to waste in Canada and not allowing them to be imported so they can be mounted and shown for there great beauty of the species, or used as a schooling tool.

There is no hunter out there, that wants to see populations of animals wiped out. Hunters spend millions of dollars a year to provide habitat and research to better our wildlife populations, to ensure there continued life for all to enjoy.

I have dreamed of hunting thru out the world since I was a little boy reading Fur, Fish and Game magazines. The Polar Bear has always been a dream hunt of mine. I saved 25,000.00 dollars for this hunt and borrowed 20,000.00 to pay for the trip. This hunt provided much needed funds for the communittee of Griese Ford, Northwest Territories, Canada and the Inuit People that live there. This trip was by no means easy, as you had to servive night and day on the ice at 45 to 55 below zero F. I hunted from the 21rst of March to the 24th 2008. I had applied for my import permit and was 8 days from getting it back from public notification when the bears were listed. This can't be a one way street, how dishonoring is it to have these Polar bear hides left in canada going to waste, and with no consideration for our hard earned money that we are allowed to spend on what is legal to do, and have paid taxes on, to have a someone in Washington turn a blind eye on us and not say (if we list the bears what will be done with the legally harvested hides that American Citizens have already taken) It was my understanding that these bears harvested would be allowed to be imported. It is important that all the Polar Bears Harvested before the relisting be given reconsideration and allowed to be imported as not to dishonor those great bears in any way by wasting there hides, and there can't be anyone out there in thier right mind that doesn't agree with that statement.

All good hunters want to honor the game that they challanged wits with, then harvested, and see those animals preserved for generations to see and used to educate.

I do not impose my idioligizes on anyone else, and only ask that I be allowed to enjoy the outdoors in a way that is not detrimental to nature and allows everyone to enjoy it whether they hunt or not.

I thank you for your time and help, if you need anything else from me please call 208-628-3062 or email anytime hgo@frontiernet.net, Thanks

Darwin J. Vander Esch

[A letter submitted for the record by Tim Walters on H.R. 1054 follows:]

September 9, 2009

Dear Congressman Young,

I polar bear hunted in the spring of 2008 out of Resolute, Nunavut. My hunt was scheduled to start on May 8 and scheduled to leave home on May 6. On or about April 28, I learned that a judge had ordered USFWS to make a determination on the polar bear listing by May 15, 2008. I quickly did some research and felt that the bear would not be listed so I preceded with my hunt plans. The entire cost of the hunt and everything related was approximately \$50,000.00. I would have been able to recover all but about \$5,000.00 if I had not gone on the hunt. My understanding was that bear were still importable to the US. USFWS was helping by allowing hunters to pre-apply for the application for the import permit because of the length of time associated with obtaining the permit (3-4 months). The reason that I wanted to go on the hunt was to experience hunting in the Arctic, and possibly bring home a beautiful trophy. My hunt started at 5:00P.M. May 8 and I took a polar bear at 1:30 A.M. on May 9. Two guides and I had seen five bear prior to the one I took. They ranged from a sow with a cub to a lone juvenile bear and two adult bear together. This appears to be quite a broad range in age. This is only eight and half hours on the ice and 41 miles from Resolute. I asked my guides what they thought of the bear population, and they both said there is more bear each year. The hunt was all I expected and was more special being able to take a bear with archery equipment. The disappointing part was learning that six days later the bear was listed as endangered and was non-importable to the US. Had the judge who ordered USFWS to make a determination by May 15 allowed the season to end and then list the bear, I doubt that many more bear would have been killed and we may have avoided this problem. I feel that this judge is punishing hunters who are caught up in this. I have legally obtained personal property (my bear) in Canada that cannot be imported into this country. I feel this is wrong and my rights as a U.S. citizen have been violated. I have had my bear hide tanned in Canada to preserve it. This cost \$1,000.00 and could have been spent in the U.S. instead. For those who object to the importation of bears, the import fee is \$1,000.00 that I understand goes to polar bear research. I don't understand the objection, other than the punishment of legal hunters. These bear are dead, there is no way to put them back on the ice and makes no sense that they stay in Canada.

I will be on vacation and will be back on September 21, please contact me on that day if I can be of any assistance. My hopes are that you are successful on your attempt.

Thank you again

Tim Walters

