

**TESTIMONY OF JEROME FORD, ASSISTANT DIRECTOR
FOR MIGRATORY BIRDS, U.S. FISH AND WILDLIFE SERVICE, U.S. DEPARTMENT
OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON NATURAL
RESOURCES, SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND
INSULAR AFFAIRS, ON H.R. 1917, THE JOINT VENTURES FOR BIRD HABITAT
CONSERVATION ACT OF 2011; H.R. 1960, THE NORTH AMERICAN WETLANDS
CONSERVATION EXTENTION ACT OF 2011; AND H.R. 3074, THE CORMORANT
MANAGEMENT AND NATURAL RESOURCES PROTECTION ACT**

March 29, 2012

Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee, I am Jerome Ford, Assistant Director for Migratory Birds, U.S. Fish and Wildlife Service (Service), within the Department of the Interior (Department). Thank you for the opportunity to appear before the Subcommittee to testify on the three bills you are considering today: H.R. 1917, the Joint Ventures for Bird Habitat Conservation Act; H.R. 1960, the North American Wetlands Conservation Extension Act, and H.R. 3074, the Cormorant Management and Natural Resources Protection Act.

Introduction

Migratory birds are among nature's most magnificent living resources, and they play a significant ecological, economic, and cultural role in the United States and in nations around the globe. Like canaries in a coal mine, migratory birds are indicators of the health and quality of our environment. Healthy and sustainable bird populations indicate a healthy environment for humans, too. Birds are also tremendous engines for local economies. Each year millions of Americans hunt waterfowl and watch birds on National Wildlife Refuges, National Parks, National Forests, and other Federal lands, as well as on State and local or private lands. In fact, the 2006 Survey of Fishing, Hunting and Wildlife-Associated Recreation, conducted by the Service in conjunction with the Federal census, showed that 2.3 million Americans hunted migratory birds, spending \$1.3 billion on equipment and trips, while 48 million Americans watched birds, contributing to \$45.7 billion in total related expenditures made by all wildlife watchers.

Through the Migratory Bird Treaty Act of 1918 (MBTA), the Service is 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. The Service's Migratory Bird Program has two primary goals: (1) to conserve sustainable migratory bird populations and their habitats to prevent them from being listed as threatened or endangered and (2) to ensure the availability of opportunities for the citizens of the U.S. 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 North American Wetlands Conservation Act and the Joint Ventures program are two foundational approaches through which the Service carries out its responsibilities to conserve bird species under the MBTA. The Service is also pleased to testify about our work with State fish and wildlife

agencies where private landowners, fishing communities, and aquaculture operators have become concerned about growing cormorant populations.

H.R. 1917, Joint Ventures for Bird Habitat Conservation Act

H.R. 1917 would codify the Service's current role in Joint Ventures operating across the United States. In doing so, it would require the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service, to conduct a migratory bird Joint Ventures Program in order to develop an administrative framework for the approval, establishment, and implementation of Joint Ventures. The Department recognizes the critical role that Joint Ventures play in conserving migratory birds and strongly supports this program. As such, the Department supports this legislation. In order to ensure that the program retains its present character and flexibility, we would welcome the opportunity to work with the subcommittee and the bill's sponsors to discuss possible revisions.

Joint Ventures are regional, self-directed partnerships that work to conserve healthy and sustainable populations of migratory birds. The Service plays a significant role in supporting Joint Ventures. The Service currently approves Joint Venture management plans and provides funds and technical assistance to the Joint Ventures Management Boards and partners to administer the program.

The first Joint Ventures were formed to implement strategies in the North American Waterfowl Management Plan (Plan), agreed upon by the U.S. and Canadian governments in 1986, with Mexico signing on in 1994. The Plan is international in scope, with a focus on regional implementation of habitat protection, restoration, and enhancement projects. In 1998, the Plan was updated to articulate and implement a shared vision of waterfowl conservation guided by biologically-based planning that incorporates a focus on the landscape conditions needed to sustain waterfowl and benefit other wetland-associated species.

After 25 years, the Plan is among the most successful collaborative efforts in wildlife conservation history. Its success rests on the strength of conservation efforts implemented through these regional partnerships. The Joint Ventures include Federal, State, provincial, tribal, and local governments, businesses, conservation organizations, academia, and individual landowners and citizens. As of January 2012, Joint Ventures have guided the investment of more than \$5.6 billion to protect, restore, and/or enhance 18.5 million acres of waterfowl habitat and to conduct research and population management projects.

There are currently 18 habitat Joint Ventures across the U.S., including Atlantic Coast, Upper Mississippi and Great Lakes, Central Hardwoods, Appalachian Mountains, Northern Great Plains, San Francisco Bay, Playa Lakes, Sonoran, Intermountain West, and Gulf Coast Joint Ventures. Although the Joint Ventures originally focused on waterfowl, they now serve the conservation needs of all migratory bird species. In addition, there are three species-focused Joint Ventures, which specifically address black ducks, Arctic nesting geese, and sea ducks throughout their international ranges.

The Joint Ventures work on a range of projects including: (1) biological planning, conservation design, and prioritization; (2) project development and implementation; (3) monitoring, evaluation, and applied research activities; (4) communications and outreach; and (5) fund-raising for projects and activities. The Joint Venture partnerships are developing the scientific knowledge and the conservation partnership base that allow States and other partners to pool resources for regional projects in vital habitats for priority bird species.

Currently, the Service provides base operations funding to support the Joint Ventures as they address local, regional, and continental goals for sustaining migratory bird populations. In Fiscal Year 2012, Joint Ventures in the U.S. collectively received a total of \$14 million in appropriations to plan and deliver bird conservation.

In addition to their contribution to migratory bird conservation, Joint Ventures help plan and implement adaptive habitat management at the landscape scale. From converting commercial salt evaporation ponds to managed saltwater ponds as part of a greater San Francisco Bay restoration effort to developing decision support tools to identify priority sagebrush habitat for the conservation of greater sage-grouse, Joint Ventures are using adaptive-management strategies to address anticipated effects of urban sprawl and habitat fragmentation on bird habitats.

Hundreds of Joint Venture habitat protection and restoration projects provide vital ecosystem services to human communities, too, such as flood control, buffers to erosion, groundwater recharge and carbon sequestration. Joint Ventures are leaders in identifying and addressing the data gaps that help land managers, private landowners, decision makers, and other partners strategically implement critically needed bird habitat conservation projects.

Throughout the 25-year history of the current Joint Ventures program, it has expanded to 21 joint ventures, because States, environmental organizations, and other partners across the country have witnessed the success of the program. Program reviews have shown the positive results not just in the addition of new Joint Ventures, but also through the protections provided to additional species.

H.R. 1960, the North American Wetlands Conservation Extension Act

The Department strongly supports H.R. 1960, which would reauthorize the North American Wetlands Conservation Act (NAWCA). NAWCA was originally passed by Congress in 1989 to support partnership efforts to protect and restore habitats for wetland-associated migratory birds. NAWCA provides matching grants to organizations, agencies, and individuals to carry out wetlands conservation projects in the U.S., Canada, and Mexico. Since its inception, this program has been among the most successful leveraged funding mechanisms for the conservation of wetland habitats that benefit waterfowl and other birds, as well as other wildlife species.

Over the past 22 years we have witnessed remarkable achievements in conservation through this landmark legislation. Partnerships applying NAWCA funds to wetland conservation projects include nationally recognized conservation organizations, State fish and wildlife agencies, local governments, grass-roots organizations, and private landowners. They have supported thousands of cooperative projects across North America, leveraging billions of partner dollars and affecting more than 27 million acres of bird habitats.

Like the Joint Ventures, NAWCA supports activities under the North American Waterfowl Management Plan. However, NAWCA also focuses on the conservation of wetlands nationwide for all birds and wildlife dependent upon wetland habitats. NAWCA is widely recognized for its support of other bird conservation plans, including Partners in Flight, the North American Waterbird Conservation Plan, and the U.S. Shorebird Conservation Plan. The program's connection to these conservation plans was formalized in the 2002 reauthorization of NAWCA.

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

NAWCA projects provide wetland habitat where it is needed across the country and the continent, including in the northern breeding grounds, along widespread migration routes, and in southern areas where some species spend the winter months. In the critical waterfowl breeding grounds of the prairie pothole region in the north-central U.S., NAWCA has conserved more than 2.1 million wetland and associated grassland acres by leveraging \$104 million in Federal funds to generate another \$170 million in partner contributions since the start of the program in 1991.

For example, the Missouri Coteau Habitat Conservation Projects have protected and restored wetland and native prairie grassland habitats, which are critically important components of North Dakota's prairie pothole ecosystem. Protecting native prairie surrounding vital prairie pothole wetlands provides essential nesting habitat for waterfowl and other species and minimizes the influx of sediments, herbicides, and pesticides into these wetlands. NAWCA projects along the Samish River in Washington State offer both breeding and migrating habitat. The Whatcom Land Trust has used NAWCA grant funds to add about 100 acres to an existing preserve, permanently protecting more of the freshwater and riparian habitats that provide critical feeding and breeding areas for waterfowl and other migrants.

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

The key to NAWCA's accomplishments is that it fosters cooperative efforts. Project proposals are developed through local partnerships, basing their objectives on the bird conservation goals and information created on a continental scale, through the North American Waterfowl Management Plan and the other continental bird plans, and using the best science available. These proposals are

recommended by a Council of partners, and they are also shared with the Joint Ventures. The Joint Ventures review the proposals based on how well they reflect the habitat goals of the Joint Ventures in the geographic regions in which they occur.

In 2006, Congress reauthorized appropriations for the Act through fiscal year 2012, reflecting the continued support of Congress and the public support for NAWCA's goals. H.R. 1960 will extend authorization for the Act through fiscal year 2017. We support this bill and look forward to continuing to administer this outstanding program to build on its impressive legacy of accomplishment for both the American people and the wildlife it treasures.

H.R. 3074, the Cormorant Management and Natural Resources Protection Act

This legislation would delegate authority over the management of double-crested cormorants (*Phalacrocorax auritus*) from the Secretary of the Interior to States for which the Secretary has approved a management plan for this species, notwithstanding existing statutory authorities. The Secretary would be required to approve the plan if it is consistent with existing, applicable treaty and statutory obligations. The bill allows 60 days for the Secretary to review the plan and respond to the State submitting the plan, or the plan is deemed approved. The Department does not support passage of this legislation.

The Service estimates the current continental population of double-crested cormorants to be approximately 2 million birds, with nearly 70 percent centered in the Great Lakes Region and in the prairie region of central Canada. The USGS Breeding Bird Survey shows an average rate of increase for the population of 7 percent annually from 1975 – 2000. More recent monitoring data has shown that the rate of population growth of double-crested cormorants in the U.S. has slowed since that time, and has declined in some portions of the Great Lakes.

The species, like all six species of cormorants in the U.S., is protected under the MBTA. Today, over 1,000 native species of birds are listed in the Code of Federal Regulations as protected by the MBTA. The MBTA prohibits the “take” of protected species without Federal authorization, and “take” includes killing or possession of whole birds and eggs and the possession of parts, feathers, and nests of protected birds. Under the authority of the MBTA, the Service, through the regulatory process, can provide authorization to kill protected species under specified conditions. Double-crested cormorants were first Federally protected in 1972 through an amendment to the Mexican treaty.

In recent years, concentrations of cormorant populations, particularly at nesting colonies and on wintering grounds in the southeastern U.S., have generated concern among landowners, aquaculture producers, and anglers. The species often nests in colonies with other waterbirds, including herons, egrets, gulls, terns, and pelicans, which are also protected under the MBTA. The ground under the trees in which they nest is typically littered with droppings during their nesting period, and vegetation may be destroyed. They consume fish, and they can cause losses to aquaculture production. Some recreational and commercial fishermen perceive that cormorants can significantly affect the number of fish available, and therefore, reduce fishing opportunities. Research on the impact of cormorants on free-swimming fish populations is difficult and expensive to conduct, and research findings have been mixed. In a few cases, cormorants have

been linked to declines in fish populations, but in other cases, no discernible correlation has been found. It is challenging to measure cormorant impacts and to separate them from other factors that can affect fish populations, such as invasive species, habitat degradation, and fishing pressure.

In response to public concern, the Service issued two depredation orders for double-crested cormorants: an Aquaculture Depredation Order, which applies to commercial aquaculture stock and a Public Resource Depredation Order, which applies to public resources – including fish, wildlife, plants, and their habitats – that are demonstrably impacted by cormorants. The Aquaculture Depredation Order was established in 1998 and covers 12 southeastern states and Minnesota. In 2003, the Public Resource Depredation Order was established for 24 states, after the Service completed an Environmental Impact Statement (EIS). Outside the area covered by these Depredation Orders, or to assist private landowners in controlling cormorant damage to private property, individuals may apply for Depredation Permits. To do this, an applicant must contact the U.S. Department of Agriculture (USDA) Wildlife Services office in his or her state. USDA Wildlife Services will document the problems and propose non-lethal and/or lethal practices to alleviate the problem. The Service uses this and information about the species and the health of the population to issue a permit, if appropriate, to kill a specified number of cormorants.

The MBTA requires that protected bird species be maintained at sustainable levels, so the Service must balance the need to resolve complaints about cormorant-caused damage with the sustainability of the larger population. Cormorant populations are monitored through bird surveys conducted by Federal and State agencies, universities and private organizations, including the Great Lakes Colonial Waterbird Survey, Atlantic Coast Colonial Waterbird Survey, winter roost surveys, and the USGS Breeding Bird Surveys.

The Service is very responsive to private landowner concerns about cormorants, as well as to broader concerns related to commercial aquaculture and conservation of other public resources. We work within the parameters of the MBTA to be as flexible as possible in our response. The approach we use to address private landowner concerns is consistent with the manner in which we work with USDA Wildlife Services and State natural resource agencies to address other nuisance issues caused by protected species of birds. Because the two Depredation Orders currently in place will expire in 2014, the Service is currently engaged in a new National Environmental Policy Act (NEPA) review to assess their effectiveness and to consider other alternatives for addressing cormorant damages in the future. To do this, we are working with the public, academia, conservation organizations, and other agencies to consider the most recent scientific information, as well as the needs, desires, and preferences of stakeholders. In the Great Lakes region, we have worked with USDA Wildlife Services and State and tribal resource agencies to develop Environmental Assessments for cormorant management in five states, and each document is substantively and procedurally similar to State management plans. However, they have been crafted within the national conservation goals for MBTA protected species and NEPA requirements for public transparency and involvement in the management of public resources.

The Department interprets H.R. 3074 as providing no greater support to, or efficiencies for, cormorant management than is currently available through the Service's implementation of existing Federal statutes. The U.S. acceded to the Migratory Bird Treaties on the basis that the conservation of protected species and taxonomic families of birds listed in the treaties cannot be

accomplished on a parochial basis. By acceding to these treaties, the U.S. has agreed that bird conservation cannot be accomplished within one nation, let alone within one state. The obligations of these treaties require that monitoring and conservation be targeted to ensure sustainable populations of protected species over time, across jurisdictional boundaries, and that national priorities be set to ensure this is achieved. Therefore, we believe that H.R. 3074 is inconsistent with the U.S. treaty obligations.

Conclusion

The continental and regional/landscape level model of conservation, embraced by the several continental bird conservation plans and exemplified by NAWCA and Joint Ventures, is now serving as a model for developing and implementing conservation priorities that benefit all wildlife species. The governance model of the Joint Ventures has proven an efficient and effective framework for identifying complex conservation challenges and addressing them through the combined resources of many partners, including partners with NAWCA grants.

Thank you again for this opportunity to testify. The Department greatly appreciates the Subcommittee's continued leadership and support for the conservation of the nation's migratory birds. We look forward to working with the Subcommittee as these bills continue to be considered, and I would be happy to answer any questions you may have at this time.