

House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
Oversight Hearing on "Operations and Maintenance Backlog within the
National Wildlife Refuge System"

by

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Thank you, Mr. Chairman, for the opportunity to share the perspectives of the Association of Fish and Wildlife Agencies on the operations and maintenance backlog within the National Wildlife Refuge System. I am Dan Forster, Director of the Georgia Wildlife Resources Division and Vice Chair of the Executive Committee of the Association of Fish and Wildlife Agencies. All 50 states are members of the Association.

The Association of Fish and Wildlife Agencies promotes and facilitates sound fish and wildlife management and conservation, and is the collective voice of North America's fish and wildlife agencies. The Association provides its member agencies and their senior staff with coordination services that range from migratory birds, fish, habitat, and invasive species, to conservation education, leadership development, and international relations. The Association represents its state fish and wildlife agency members on Capitol Hill and before the Administration on key conservation and management policies, and works to ensure that all fish and wildlife entities work collaboratively on the most important issues.

The Association and the 50 individual State fish and wildlife agencies have a long-standing interest and involvement in the National Wildlife Refuge System, and its contribution to fish, wildlife and habitat conservation. We were instrumental in deliberations leading to the passage of the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) and in assisting in the drafting of its implementing policies. Hunting, fishing and other wildlife-dependent recreational uses on National Wildlife Refuges are deeply valued by hunters, anglers and outdoor enthusiasts because of the tremendous opportunities refuges provide, especially in areas where public lands are limited. As you are aware, the sale of duck stamps, purchased by sportsmen and sportswomen, has historically provided the bulk of the funding for acquisition of refuges across the nation.

The National Wildlife Refuge System has a long history of important contributions to the conservation of our nation's fish and wildlife. The Refuge System has grown enormously over the past century and, today, our National Wildlife Refuges support some of the best fish and wildlife habitats in the country, as well as outstanding hunting and fishing opportunities. Refuges are important to local communities for wildlife-dependent recreation. Through the Improvement Act, Congress recognized that these recreational activities promote effective refuge management and help the American public develop an appreciation for fish and wildlife. The Association and State fish and wildlife agencies are strongly committed to working cooperatively with the Service on managing the Refuge System.

NWR System Operations and Maintenance Backlog

The Association acknowledges the significant backlog in this area and has consistently supported appropriate increases to the U.S. Fish and Wildlife Service budget in the Association's Appropriations recommendations provided each year to Congress. The Association was also a founding organization of the Cooperative Alliance for Refuge Enhancement (CARE) in 1995. This diverse group of fish and wildlife conservation organizations, sportsmen's organizations, and environmental organizations was formed to support and advocate enhanced funding for the National Wildlife Refuge System, reflecting the value of the System to all our citizens. The Association supports the works of CARE to bring attention to the needs of the System, and commends to you the most recent Annual Report, which synthesizes the compelling needs of the NWR System.

With respect to the backlog and ways to remedy it, let me acknowledge what we all know, and that is the stringent fiscal environment in which we find ourselves. The states have been and continue to endure budget reductions, staff furloughs, staff reductions and other measures, so we understand the budget constraints in which we seek to advance conservation. In this context of reduced and scrutinized state and federal budgets, I would suggest that these circumstances compel even greater cooperation between the FWS and the respective state fish and wildlife agency in order to prioritize fish and wildlife conservation needs while continuing priority public uses of the NWRs, the so-called "big 6" – hunting, fishing, wildlife observation and photography, environmental education, and interpretation. Both the FWS and the States have authorities and responsibilities for managing fish and wildlife on the NWRs. The Improvement Act of 1997 gives clear Congressional direction to and encouragement of that cooperation, creates a framework in which it can and should happen, and acknowledges the value of state fish and wildlife strategic plans in informing NWR conservation and public use programs. Further in my statement I summarize for the record those particular aspects of the so-called Refuge Organic Act (the Improvement Act).

Let me reflect here on the work of the Georgia Wildlife Resources Division with the Fish and Wildlife Service on NWR management to illustrate needs and opportunities to be realized by closer cooperation.

In my own State of Georgia, the 9 national wildlife refuges comprising half a million acres are managed with just 44 staff positions. That's a shortfall of 48 permanent and 18 temporary positions as identified in the Refuge System's 2009 national staffing model. The staffing shortage for permanent positions exceeds 50 percent.

It's important to explain the backlog in operations and maintenance in the context of the priority public uses for wildlife-dependent recreation outlined in the Improvement Act. Without adequate in-house labor, small projects like repairing a boardwalk or information kiosks that support environmental education, wildlife photography and birding opportunities simply don't get done in a timely manner. In addition, tough priority-based decisions are being made concerning annual maintenance projects on roads, trails, and other refuge facilities that impact the quality of our visitors' experience as well as their safety. Freshwater impoundments and associated facilities don't get the maintenance they need impacting public hunting opportunities for waterfowl and other priority uses. In Georgia, the current backlog for deferred maintenance on existing facilities is \$56.3 million. Additionally, more than 90 mission-critical habitat projects totaling \$10.1 million remain unfunded in Georgia.

And while Georgia has not been hit with major catastrophes to the same degree our neighboring Southeastern states have had to endure from Hurricanes Katrina and Rita in 2005, to last year's BP oil spill, to the ongoing floods in the Mississippi Valley, extended droughts and wildfires have afflicted us. You may remember the record setting Big Turnaround Fire at Okefenokee NWR in 2007, and today a wildfire at Okefenokee has burned more than 145,000 acres and is not yet fully contained. Such catastrophic events further inhibit the Service's ability to complete day-to-day maintenance work. Each crisis stretches every available equipment operator, maintenance technician, firefighter, and biologist from our respective agencies.

The Service and my agency in Georgia continue to struggle to do more with less. As we face these collective challenges, we are forging innovative partnerships to accomplish common goals. In the heart of Georgia, we are working together on a greenway-blueway trail plan to conserve land and waters that increase recreational opportunities and eco-tourism in the Ocumulgee River Floodplain near the Piedmont and Bond Swamp National Wildlife Refuges. On the coast, we are working together on both the Atlantic Coast Joint Venture and the Atlantic Flyway Council to conserve migratory bird populations while enhancing bird watching and hunting opportunities on private lands, State areas, and coastal Refuges. On the southern boundary, surrounding our iconic Okefenokee Swamp, we are cooperating with private landowners to battle the ongoing 147,000-acre wildfire on the Okefenokee National Wildlife Refuge. Together, these help us meet "the big 6" priority public uses.

Finally, to contribute to the conservation objectives my state agency has and the science capacity my agency needs to meet those objectives, we have joined forces with the Service and our partners around the conservation table in the fledgling South Atlantic Landscape Conservation Cooperative. We believe the LCC's collaborative, science-based approach to large-scale conservation efforts is the best way to ensure we are spending the right dollar in the right spot. As Congress considers how to address the National Wildlife Refuge System's critical maintenance backlog, please also consider the resource needs of these important partnerships.

National Wildlife Refuge System Improvement Act of 1997

The Improvement Act, completed after years of bipartisan discussion and deliberation, truly represents a benchmark in the history of the Refuge System. It established a statutory mission of the Refuge System to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of fish and wildlife and their habitats. With the Improvement Act, Congress reaffirmed that National Wildlife Refuges are for fish and wildlife conservation first, clearly setting them apart from other federal public lands. In addition, Congress directed the Service that compatible wildlife-dependent recreational uses are the priority general public uses of the Refuge System and shall receive priority consideration in refuge planning and management. No less important is Congress' direction to the Service to effectively coordinate management of fish and wildlife within the Refuge System with state wildlife agencies.

The Improvement Act, and its legislative history, is replete with explicit Congressional direction to the Secretary of the Interior (and thus the USFWS) regarding management of the System, its mission, appropriate public use, and coordination with the State fish and wildlife agencies.

The mission of the NWR System is articulated in law as:

“The mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans”.

The law goes on to further articulate that it is the policy of the United States that:

- (A) “each refuge shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established;
- (B) compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System, directly related to the mission of the System and the purposes of many refuges, and which generally fosters refuge management and through which the American public can develop an appreciation for fish and wildlife.
- (C) compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and
- (D) when the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated, subject to such restrictions or regulations as may be necessary, reasonable, and appropriate.”

The law defines “wildlife dependent recreation” and “wildlife dependent recreational use” to mean “...a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation”. These activities have become popularly known in the jargon as “the big 6”. Clearly Congress intended the Secretary to facilitate these “big 6” activities as long as they were compatible. As the Committee Report (House Report 105-106) further amplifies:

“The term “facilitated” was deliberately chosen to represent a strong sense of encouragement, but not a requirement, that ways be sought to permit wildlife-dependent uses to occur if they are compatible. As Secretary Babbitt stated during the negotiations leading to H.R. 1420: “The law will be whispering in the manager’s ear that she or he should look for ways to permit the use if the compatibility requirement can be met.” By the same token, however, the Committee recognizes that there will be occasions when, based on sound professional judgment, the manager will determine that such uses will be found to be incompatible and cannot be authorized.”

And, with respect to the issue of budget shortfalls and facilitation of the “big 6” uses, the Committee Report contemplated this circumstance and provide this direction:

“New Section 5(3) defines the term “sound professional judgment” as the collection of findings, determinations and decisions that support compatibility determinations. Such determinations are inherently complex and will require the manager to consider principles of sound fish and wildlife management and administration, available science and resources, and compliance with applicable laws. Implicit within this definition is that

financial resources, personnel and infrastructure be available to manage permitted activities. The Committee expects the USFWS to be energetic and creative in seeking such resources, including partnerships with the States, local communities and private and nonprofit groups. The Committee also expects the USFWS to make reasonable efforts to ensure that lack of funding is not an obstacle to permitting otherwise compatible wildlife-dependent recreational uses.”

The law further directs that the Secretary shall, in administering the System, “... ensure effective coordination, interaction, and cooperation with the fish and wildlife agency of the State in which the units of the System are located.” And, Congress further directed that the Secretary, in preparing a comprehensive conservation plan for each refuge, do so not only consistent with the Improvement Act, but “... to the extent practicable, consistent with fish and wildlife conservation plans of the state in which the refuge is located...” Finally, Congress exempted coordination with State Fish and Wildlife Agency personnel pursuant to the Improvement Act from the application of the Federal Advisory Committee Act. We conclude that this is very clear statutory direction that management of the System is done in close cooperation with the state fish and wildlife agencies.

I would direct your attention to USFWS Policy 601 FW 7, entitled “Coordination and Cooperative Work with State Fish and Wildlife Agency Representatives on Management of the National Wildlife Refuge System”. It says, in part:

“Sec. 4 What is the Service’s policy on coordination with the States?

- a) Effective conservation of fish, wildlife, plants and their habitats depends on the professional relationship between managers at the State and Federal level. The Service acknowledges the unique expertise and role of State fish and wildlife agencies in the management of fish and wildlife.
- b) Both the Service and the State fish and wildlife agencies have authorities and responsibilities for management of fish and wildlife on national wildlife refuges as described in 43 CFR 24. Consistent with the National Wildlife Refuge System Administration Act, as amended by the National Wildlife Refuge System Improvement Act, the Director of the Service will interact, coordinate, cooperate, and collaborate with the State fish and wildlife agencies in a timely and effective manner on the acquisition and management of national wildlife refuges. Under the Administration Act and 43 CFR 24, the Director as the Secretary’s designee will ensure that National Wildlife Refuge System regulations and management plans are, to the extent practicable, consistent with State laws, regulations, and management plans. We charge refuge managers, as the designated representatives of the Director at the local level, with carrying out these directives. We will provide State fish and wildlife agencies timely and meaningful opportunities to participate in the development and implementation of programs conducted under this policy. This opportunity will most commonly occur through State fish and wildlife agency representation on the comprehensive conservation plan (CCP) planning teams; however, we will provide other opportunities for the State fish and wildlife agencies to participate in the development and implementation of program changes that would be made outside of the CCP process. Further, State fish and wildlife agencies will continue to be provided opportunities to discuss and, if necessary, elevate decisions within the hierarchy of the Service”.

Conclusion

Let me conclude by reiterating that with respect to the System maintenance and operations in light of budget shortfalls, cooperation with the State fish and wildlife agencies can result in better ameliorating the results of budget shortfalls, but states need to be engaged early by the Service. Both the FWS and State fish and wildlife agencies have authorities and responsibilities for managing fish and wildlife on NWRs. A collective discussion between the FWS and the State fish and wildlife agency can reflect on which respective agencies have what capability and resources to continue effective administration of the individual refuge to meet both its mission and its contribution to the conservation objectives of the State fish and wildlife agency. State fish and wildlife agencies likely will want to assist (or continue to assist) in administration of certain programs as hunting and fishing but many will likely need some provision of federal funding or at least a cost-sharing of some type. Otherwise, this could become an unfunded mandate to the states.

We are concerned that the Service's practice (in response to budget shortfalls) of putting Refuges into "preservation" status could mean no public activities, including the "big 6" mandated by Congress, will be allowed. There needs to be clear direction from the USFWS Director that the provision of these 6 activities are priority public uses and all other uses are secondary to them. Let me reiterate again that we have no argument that the conservation mission of the System is pre-eminent and that the FWS, in cooperation with the State fish and wildlife agencies, is obligated to fulfill that mission. But, it is eminently clear that the "big 6" are the priority public uses and Congress has directed the Service to facilitate those uses.

Finally, the Service is currently moving forward with an enormous effort to develop a renewed vision for the National Wildlife Refuge System, with the national conference, *Conserving the Future: Wildlife Refuges and the Next Generation*, to be held in Madison, Wisconsin in July 2011. The Association and State fish and wildlife agencies are represented on the vision process steering committee, and will participate in the vision conference, to address the states' priorities for the Refuge System. The Service's *Conserving the Future* Conference provides the perfect forum for facilitating discussions on the issues raised in this testimony, reaffirming the importance of the Improvement Act and its direction to the Service regarding management of the Refuge System, its mission, appropriate public use, and coordination with the State fish and wildlife agencies, and how best to implement the Service's new vision.

Mr. Chairman and honored committee members, thank you for the opportunity to share our perspectives and I would be pleased to address any questions.