



The voice of fish and wildlife agencies

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**Testimony of
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**Legislative Hearing on H.R. 2264, *the Bear Protection Act of 2019*, and
H.R. 1776, the Captive Primate Protection Act,
before the Subcommittee on Waters, Oceans, and Wildlife
Committee on Natural Resources
United States House of Representatives
June 25, 2020**

Good morning Chairman Huffman, Ranking Member McClintock, and members of the Subcommittee, and thank you for the opportunity to testify on legislation under consideration by this Committee. I am Gordon Batcheller, Executive Secretary of the Northeast Association of Fish and Wildlife Agencies, and today I am representing the Association of Fish and Wildlife Agencies (the Association), of which all 50 state fish and wildlife agencies (state agencies) are members. Prior to my current position, I was the Chief of Wildlife for the New York Division of Fish and Wildlife. During my tenure with New York, I also served on the Association's Furbearer Technical Working Group, was a member of the CITES Working Group, and a member of the International Relations Committee among others. The Association's mission, which has not changed significantly from its founding in 1902, is to protect state agency authority to conserve and manage the fish and wildlife within their borders. In meeting that goal, we strive to facilitate cooperation between state and federal agencies, conservation NGOs, and private landowners.

The stated purpose of H.R. 2264 is to: "To conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes."

Background

There are 8 species of bear in the world. Three occur in North America: brown bear, polar bear, American black bear. The other species occur in South America and Asia.

The bill proposes to restrict trade in “bear viscera,” defined as including all internal tissues (thus excluding pelts, skulls, claws). In practical terms, the bill targets gall bladders/bile as those tissues constitute the only significant marketable product. From a U.S. perspective, the impacts of the legislation primarily concern the American black bear. Therefore, this testimony focuses on this species, and not on the polar bear or brown bear.

Bear gall bladders/bile are used as a traditional medicine, and are highly valued amongst some ethnic groups, especially Asian. Unlike some other commercialized wildlife products purported to have medicinal value, black bear gallbladders are *known* to have legitimate medicinal value. They contain a compound, ursodeoxycholic acid (UDCA), used in traditional Asian medicine for more than 3,000 years to treat liver disease and other abdominal conditions (e.g., prevention of colon cancer). This market is especially important to persons of Chinese and Korean ancestry, including those living in U.S. Asian communities. UDCA is also manufactured synthetically and used in the United States and other countries to treat liver disease, gallstones, and chronic hepatitis.

The bill sponsors believe that their bill will contribute to reducing the trade in bile derived from wild-caught or captive-held bears, thereby enhancing their population and conservation status. The trade in bear gall bladders/bile is especially linked to the Asiatic black bear, which is listed in Appendix I to the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES). CITES is a global regulatory trade treaty designed and successfully proven to facilitate the conservation of species while providing for regulated sustainable use of wildlife.

The bill would end trade in those tissues, both to/from the United States, and interstate. The bill, though well intentioned, is likely to have no effect on the worldwide conservation status of bears or the conservation status of the Asiatic black bear, and potentially could cause harm by stimulating an even worse black market for the trade of such tissues.

The Trade in Bear Parts—The Opinions of Experts

According to the International Union for Conservation of Nature/Species Survival Commission Bear Specialist Group (IUCN/SSC) in their report “Bears: Status Survey and Conservation Action Plan,” Chapter 4, “The Trade in Bears and Bear Parts,” the following are key considerations needed to effectively address population declines in certain bear species:

- Trade in bear parts is already regulated by CITES via Appendix I and II controls. Regulatory regimes to implement those controls should be standardized and maintained.

- Outreach to consumers of traditional medicines should be expanded to explain impacts on Asiatic black bear populations.
- Farming of bears for bile production will not make a significant contribution to the conservation status of Asiatic black bears.
- More information on the conservation status, management, and needed actions to stabilize Asiatic black bear populations is urgently needed.

The IUCN/SSC Bear Specialist Group “strives to promote the conservation of bears living in their natural habitats across their worldwide distribution.” This group of scientific experts is co-chaired by Dr. David Garshelis, Minnesota Department of Natural Resources. He is recognized as an expert on black bear management in North America, as well as on the other bear species, including the Asiatic black bear. Except for minor grammatical changes, H.R. 2264 is identical to H.R. 3029 (110th Congress, 1st Session), and Dr. Garshelis testified before the House Subcommittee on Fisheries, Wildlife and Oceans on March 11, 2008, to provide expert opinion about this previous legislation considered by Congress, the “*Bear Protection Act of 2007*.” That testimony is appended as Submission for the Record Document 1 and is still applicable today.

In that testimony, Dr. Garshelis stated that “We believe there is time to act on behalf of Asian bear conservation in a meaningful way, and to reverse their downward slide.” Here are the top priorities for conserving the Asian bear species:

- *Survey portions of the geographic range where the continued existence of bears is unknown.* Although China comprises the largest area of range for Asiatic black bears, up to half of the assumed range in China may not even be occupied by bears (Appendix I). We recently learned that another Asian bear species, the Sloth bear (*Melursus ursinus*), may have disappeared recently from Bangladesh; this loss was undetected by authorities because they have no knowledge of where bears actually exist. These examples demonstrate the poor state of knowledge about these species. It is not only important to know where bears exist, but also to train local biologists on how to detect bear presence, so changes in distribution can be readily ascertained and conservation actions focused.
- *Obtain information on bear population trends.* Very little data are available on population trends of any Asian bears, but with few exceptions, present evidence indicates that most populations are declining: area and quality of forested habitats are generally in decline, poaching levels remain high, and knowledgeable local people typically indicate that poaching has caused visible declines in bear numbers. One great hindrance to bear conservation, though, is the reluctance of government authorities in Asia to admit that populations are in decline. We believe that there are ways to more effectively monitor population trends, and that if government authorities were provided better data showing what are likely to be alarming declines in bear numbers, more action would be taken, and such action could be directed at the areas most in need.
- *Conduct direct, on-the ground conservation work on issues affecting bears in Asia.* We see several potential ways that Asian governments could improve conservation of bears.

These include: assistance with reducing human-bear conflicts (bears raiding crops and damaging property); improved training, increased staff, and provision of better equipment for park guards and local authorities dealing with poachers; better training for patrolling staffs of nature reserves for monitoring bear occurrence and finding bear poaching activities; establishment of reserves to protect bears in key areas where populations are small and disjunct; increased CITES enforcement staff to thwart imports and exports of bear parts; increased resources to combat illegal wildlife trafficking enforcement; and increased education about the status of Asian bears and effects of the bile trade, provided through television programs, signs, school programs, and local community activities.

- *Address the bear farming issue.* The Chinese government asserts that bile produced on bear farms reduces the demand for wild bile, and hence the impetus to poach wild bears. The counter-argument is that this large quantity of relatively cheap bile and the active promotion and marketing of the sale of this bile entices more users, with some ultimately desiring and being able to afford wild bile. A rigorous study is needed to resolve this important debate, because if the latter, counter-argument were correct, it would provide a conservation rationale (not just an animal welfare rationale) for closing these farms. Meanwhile, thousands of bears reside on farms, many in inhumane conditions. A non-governmental organization has raised funds to house a few hundred bears that have been removed from some of the worst farms. Vietnamese and Chinese authorities are willing to remove thousands more, but large captive facilities are needed to house them and because these bears would be incapable of surviving in the wild.

I spoke with Dr. Garshelis on June 22, 2020, and confirmed that his March 11, 2008 testimony remains highly germane, and thus should be given due consideration and study by members of this Subcommittee.

In short, like nearly all worldwide wildlife conservation issues, the problems are complex. To that point, we strongly caution about taking a simplistic and potentially meaningless approach to this complex and important Asian bear conservation challenge and create unintended consequences for the conservation of bear species in North America.

Conservation Status of American Black Bears

The American black bear is secure, and in fact, thriving. All “range states” in the United States report that their bear populations are either stable, or in many cases, increasing. IUCN estimates that the American black bear population in the United States is between 400,000 to 500,000 animals. The North American population is estimated at 850,000 to 950,000 animals.

Hunting is allowed by 31 states and 12 Canadian provinces, with an annual sustainable hunting harvest of between 40,000-50,000 black bears. The primary concern of state agencies in managing the American black bear is providing balance between the interest of hunters in harvesting a black bear; mitigating harmful impacts of black bears on citizens, including residential and agricultural property damage and public safety concerns; and the importance of

sustaining healthy black bear populations as an important component of our wildlife heritage and ecosystems.

State agencies regulate the harvest of black bears using several methods, including: regulating the methods of take; requiring hunters to report their harvest and in some cases to present their harvested bear to a biologist for the collection of detailed information about the bear; adjusting hunting season dates and duration; stipulating the area of a given state where bears may be hunted; and in some cases, establishing quotas for harvest. While unlawful harvest may occur from time-to-time in all states, black bears are thriving in most of their range, and their populations are minimally impacted by unlawful taking to derive bear parts, including bear gallbladders. Therefore, the proposed legislation will have no significant conservation benefit to the American black bear.

Unintended Consequences

The bill would end the legal trade in bear parts to/from the United States, and within the states. The bill would not end the demand for bear gallbladders/bile as used in traditional Asian medicine. Thus, it is reasonable to be concerned that the bill, should it become law, could spawn a robust black market to meet those ongoing demands. Instead of helping bear populations worldwide, it could harm them.

It also could be argued that ensuring a legitimate and regulated market for bear gallbladder/bile gathered from bears harvested pursuant to the rigorous management controls in place in those states where harvest is permitted, would reduce pressure on the rare species of other nations. While most state agencies have adopted general laws to restrict the commercial trade in wild game and fish species (with the general exception for the sale of certain products, including furs, hides, antlers, and skulls), twenty-seven states allow the “gift or gifting” of black bear gallbladders, and seven allow their sale and trade in the market. The Association holds that state agencies are the sole competent authorities for the conservation and management of fish and wildlife within their jurisdictions, and the imposition of federal controls on state agency programs is neither appropriate or constructive. On the matter at hand, we urge the Subcommittee to avoid federal interference with the wildlife conservation responsibilities of state agencies, including their internal considerations of appropriate measures to ensure the long-term security of all bear populations within their borders. State agencies monitor fish and wildlife population dynamics and are best positioned to regulate sustainable harvest of species within their borders as a public trust resource for the benefit of present and future generations.

Moreover, the *encouragement and facilitation* of a legitimate market for black bear gallbladders/bile could help state agencies manage a problematic species responsible for numerous human/wildlife conflicts. Such an assessment and initiative should remain within the sole province and authority of state agencies, and we are strongly opposed to federal laws that truncate or abridge those authorities.

It is not difficult to imagine the emergence of stronger illegal markets for bear gallbladder based on recent findings summarized in a scientific paper published in the journal *Global Advances in Health and Medicine* by Sheila Vang and associates, “The unexpected uses of urso- and taurosoodeoxycholic acid in the treatment of non-liver diseases.”¹ To quote from one portion of the abstract:

“Several studies have demonstrated that TUDCA serves as an anti-apoptotic agent for a number of neurodegenerative diseases, including amyotrophic lateral sclerosis, Alzheimer’s disease, Parkinson’s disease, and Huntington’s disease. In addition, TUDCA plays an important role in protecting against cell death in certain retinal disorders, such as retinitis pigmentosa. It has been shown to reduce ER stress associated with elevated glucose levels in diabetes by inhibiting caspase activation, upregulating the UPR, and inhibiting reactive oxygen species. Obesity, stroke, acute myocardial infarction, spinal cord injury, and a long list of acute and chronic non-liver diseases associated with apoptosis are all potential therapeutic targets for T/UDCA. **A growing number of pre-clinical and clinical studies underscore the potential benefit of this simple, naturally occurring bile acid, which has been used in Chinese medicine for more than 3000 years** (emphasis added).”

The bill would prohibit the transfer of internal bear tissues from one state to another, even for the cause of scientific and medical research, including the type of promising research cited above, but not limited to research associated with gallbladders. The bill would preclude the interstate transfer of other bear internal tissues for different lines of research that would benefit our understanding of bear population dynamics as well as habitat use and shifts. It would also prohibit the “gifting” of bear viscera from a hunter in one state to a friend or relative in another. As highlighted here, bear gallbladders have known medicinal value and such trade is undoubtedly occurring now, and an increase in such trade should be carefully regulated according to individual state sustainability needs and contemplated and accommodated, not precluded. There is no reason why such legal trade should be ended. Instead, the state agencies have consistently demonstrated the ability to regulate the sustainable harvest and use of game species, regardless of the types of such uses. As has been demonstrated by reviewing the current legal framework for bear management, state agencies are fully capable of tailoring restrictions as deemed appropriate for their circumstances. This legislation would remove such flexibility from those state agencies and impose an unnecessary, and potentially damaging, layer of federal regulation on a United States conservation system that is not broken.

The great complexity of global bear population problems, the fact that the trade in bear parts is already regulated via CITES, and that H.R. 2264 could have serious unintended consequences and “back fire” by creating incentives for a higher level of illicit trade of bear parts suggests that *the Bear Protection Act of 2019* is not an appropriate response to global bear conservation concerns. CITES has robust trade review processes that are utilized to evaluate when the regulated and legal trade of a species is having an adverse effect on the conservation of that

¹ Global Adv. Health Med. 2014 (3):58-69. (Submission for the Record Document 2)

species, which leads to changes in the trade status of that species under CITES. This serves as another layer of protection and another incentive for sustainable use and trade of wildlife. Moreover, the removal of the potential for increased trade of bear parts from abundant/overabundant species could remove an additional incentive for harvesting these species via our highly regulated state agencies' management systems. The clear and growing evidence that the use of bear gallbladders for medicinal purposes is both legitimate and important should give pause to all concerned with this matter.

Instead, we believe that adopting the measures outlined by the scientific experts as outlined in the March 11, 2008 testimony before the Subcommittee, including increasing resources available to nations that harbor bear species-at risk, would go much further in yielding tangible benefits than the legislation under consideration by the Subcommittee. To that end, we encourage the Subcommittee to consider all available options to augment funding and support of bear conservation programs, especially in Asia. A number of nongovernmental conservation organizations are well positioned to channel available funding to practical conservation measures in those countries where it is most needed. The IUCN/SSC Bear Specialist Group should be considered a primary resource to identify where those conservation measures are most urgently needed.

Perspectives on H.R. 1776, the *Captive Primate Safety Act*

We are deeply concerned that this bill strikes "State-licensed wildlife rehabilitators" from current law, which would eliminate state-licensed rehabilitators from rehabilitating and reintroducing species into the wild that are affected by this bill. AZA-certified zoos are not designed, equipped, or well-positioned to provide wildlife rehabilitation functions such as those provided by state-licensed wildlife rehabilitators. We oppose striking "State-licensed wildlife rehabilitators" from current law as this bill proposes. The problems this bill seeks to address are outdated caging standards issued by the US Department of Agriculture (USDA) which some states and subsequently small zoos adopted decades ago. We acknowledge that these USDA standards are in need of updating to meet animals' needs and provide appropriate humane conditions. However, this bill will not address or fix that problem, and we recommend this committee engage committee of jurisdiction -- the House Committee on Agriculture, to update these outdated caging standards and improve the animal welfare conditions of animals held in captivity.

Perspectives on H.R. 6761, the *Murder Hornet Eradication Act*

We greatly appreciate the intent of H.R. 6761, and agree that our nation must take swift action to prevent murder hornets and other related species of wasps that are potentially invasive and capable of devastating our native bee species from becoming established in the United States. We believe the funding provided in the bill is sufficient to address the problem and provide the following recommended improvements for consideration.

Funding should be directed to the US Geological Survey's Patuxent Wildlife Research Center (USGS PWRC) to develop a nationally, coordinated surveillance design and associated protocols that will effectively detect murder hornets and other devastating wasp species in likely points of entry. The USGS PWRC is unique within all of the Department of the Interior and has the expertise and capacity to design a statistically robust nationwide survey for the murder hornets and related wasp species and then work directly with states to conduct the surveys, process the samples from traps in a timely manner, and identify/develop appropriate control methods to eradicate murder hornets and related species using information obtained from the indigenous ranges of the hornets in Asia. There are no standardized protocols or sampling designs for murder hornets, and currently, most state agencies do not have sufficient expertise to design such surveillance protocols on a nationwide scale.

Thank you for the opportunity to testify on these important matters, and I would be happy to answer any questions you may have.