

**Testimony of Stephen Guertin, Deputy Director for Policy, U.S. Fish and Wildlife Service,
Department of the Interior, Before the House Committee on Natural Resources,
Subcommittee on Water, Wildlife, and Fisheries**

On

**H.R. 1437, Black Vulture Relief Act of 2023, H.R. 2950, Coastal Habitat Conservation Act
of 2023, and H.R. 2982, New York-New Jersey Watershed Protection Act**

July 27, 2023

Introduction

Good morning, Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee. I am Stephen Guertin, Deputy Director for Policy for the U.S. Fish and Wildlife Service (Service) within the Department of the Interior (Department). I appreciate the opportunity to testify before you today on three bills regarding the management of migratory birds, collaborative conservation of coastal resources and habitats, and the protection of our nation's watersheds.

Consistent with the principles underlying the Biden-Harris Administration's America the Beautiful initiative, the Service takes a collaborative and inclusive approach to conservation. The mission of the Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. The collaborative nature of our conservation mission is more important than ever as we address complex conservation challenges that cut across jurisdictions and boundaries. For instance, protecting migratory birds and other wide-ranging species necessitates close coordination of conservation and management actions with local, state, and international partners. Similarly, protecting and restoring sensitive wildlife habitats like salt marshes requires collaboration with the wide array of partners and communities who value and rely on these important coastal ecosystems.

The Service achieves strong conservation outcomes by working at large scales and implementing programs hand-in-hand with private landowners, state agencies, Tribes, non-governmental organizations, and other partners. Our Migratory Birds Program works together with farmers and ranchers to develop new initiatives that protect migratory birds and support livelihoods. The Service's Coastal Program has worked with thousands of partners since 1985 to successfully protect and restore priority habitats in coastal watersheds across the country for the benefit of wildlife and communities. Additionally, the Service's Science Applications program identifies shared conservation priorities and delivers the scientific information and tools that partnerships need to achieve conservation goals across the landscape. These are just a few of many collaborative conservation examples that characterize the Service's work.

Several of the bills under consideration today seek to expand or modify how the Service works with others in achieving our conservation mission. We offer the following comments on three bills under consideration today and look forward to discussing our views with the Subcommittee.

H.R. 1437, Black Vulture Relief Act of 2023

H.R. 1437 would authorize livestock producers and their employees to take black vultures (*Coragyps atratus*) with a reasonable belief the birds will cause death, injury, or destruction of

livestock. Individuals who take a black vulture would be required to report take on an annual basis to the Service.

Black vultures are large, scavenging birds that are present throughout the mid-Atlantic and southeastern United States, as well as less frequently in the Southwest. Black vultures migrate from summer habitat in the northeast to wintering habitat in Central and South America and are protected under the Migratory Bird Treaty Act (MBTA).

Under the MBTA, the Service is responsible for implementing the four bilateral treaties entered into with Canada, Mexico, Japan, and Russia to conserve covered species and protect birds from unauthorized take. The Service is the lead federal agency for the conservation of migratory birds and the enforcement of the MBTA, which includes close to 1,100 species. The Service conducts surveys and monitoring to determine the status of populations, coordinates public and private partnerships, provides grants through programs that conserve millions of acres of habitat such as the North American Wetlands Conservation Act and Neotropical Migratory Bird Conservation Act, and administers the Migratory Bird Hunting and Conservation Stamp, also known as the Federal Duck Stamp. The Service maintains regulations for the take and research of migratory birds, including depredation and scientific collection, and makes permits available to be issued as appropriate.

Increasing human populations, development, and land use changes, coupled with recovering bird populations have resulted in increased black vulture-human conflicts. Black vultures are known to target livestock, especially animals that are newly born or weak, which can cause losses for livestock producers. The Service works cooperatively with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, Wildlife Services (Wildlife Services) to cooperatively manage depredating black vultures. The Service's preferred method of control is to use non-lethal techniques such as bothering the bird (i.e. hazing) to get it to leave and find a new place to roost. If non-lethal techniques are ineffective, the Service can issue a federal depredation permit with documentation from Wildlife Services outlining the damage being caused by black vultures and including recommendations to alleviate the problem.

Previously, these depredation permits were handled on a case-by-case basis. In 2015, based on feedback from the agriculture industry and landowners, the Service began working with the Farm Bureaus of Kentucky and Tennessee on a pilot program to issue a depredation permit to the State Farm Bureaus, which could then more efficiently issue sub-permits to individual producers. During the duration of the pilot program from 2017 to 2019, depredation permits for a total of 3,950 birds were authorized. As the original pilot program concluded in 2019, the Service was authorizing the average annual take of 32,167 vultures nationally, which is significantly under the annual maximum take the population could sustain. The amount of that authorized take actually utilized is well below the allowable limit that was set by the Service, based on an environmental assessment and population data, to ensure sustainable levels of take. The pilot was so successful that in 2021, the Service extended the program across the full range of black vulture populations, and it is now available to every State east of the Mississippi River. In States that choose to participate in the program, the Service can partner with Farm Bureaus, State Departments of Agriculture, and other entities that are issued a state-wide permit. These entities can then offer sub-permits to individual livestock producers and centralize the required reporting.

Individuals who suffer property damage of any other kind or who live in States that choose not to participate in the program must seek individual permits from the Service.

The Service understands that depredating black vultures continue to present challenges for livestock producers, and we are committed to improving black vulture management. However, the Service is opposed to H.R. 1437. As currently written, the bill would remove important accountability measures and reporting that ensure the sustainable management of black vulture populations and timely monitoring of take. The annual reporting requirement in the bill is not sufficient for the Service to monitor black vulture populations. Knowing when and where black vultures are taken is important to ensuring total take remains under the annual maximum take levels set by the Service. H.R. 1437 only addresses one reason for black vulture take in livestock depredation, so having accurate and timely accountability is important to manage the permitting for producers in conjunction with take permits issued for aviation safety and property damage. Additionally, by authorizing take for individual producers without a permit, H.R. 1437 would also limit the opportunity for the Service to recommend other mitigation methods, which may be more effective in addressing and removing depredating vultures. This is particularly important in cases where lethal take is proving ineffective due to the species' continual return to prime roosting habitat. Lastly, in States participating in the program, requests for black vulture take have remained below maximum allowable levels. As such, the Service believes there is opportunity for producers in need of permits or increased levels of take to protect their resources under the current program.

The Service would welcome the opportunity to work with the bill sponsor and the Subcommittee to learn more about the concerns of constituents and work together to ensure producers have assistance in preventing and mitigating black vulture depredations, as well as access to sufficient permits when appropriate, while ensuring that the proper data is collected for implementation and enforcement of the MBTA.

H.R. 2950, Coastal Habitat Conservation Act of 2023

H.R. 2950 would codify the Service's Coastal Program and authorize appropriations for the program that would begin at \$20 million for Fiscal Year (FY) 2024 and increase over time to \$25 million for FY 2028. The Service supports H.R. 2950, which would strengthen our authorities to continue this successful program.

The Service's Coastal Program is a successful, voluntary, locally based habitat conservation and restoration program. The program provides technical and financial assistance to willing partners, including State and Tribal agencies, coastal communities, conservation organizations, and other federal partners to protect, restore, and enhance priority habitats that benefit fish, wildlife, and people on public and private lands. The program is a catalyst that leverages considerable non-federal participation and funding for coastal conservation.

Coastal Program projects build coastal resilience to the impacts of climate change by improving the health of coastal ecosystems. They support the conservation of federal trust species and have contributed to the recovery and downlisting of 15 species listed under the Endangered Species Act. The program also supports natural and nature-based infrastructure by restoring saltmarsh and streams in coastal watersheds, coastal barrier islands, seagrass beds, and mangrove forests.

These projects provide lasting benefits to coastal communities by employing contractors and stimulating local economies, restoring coastal wetlands that support commercial and recreational fisheries, improving water quality, and increasing opportunities for hunting, fishing, and wildlife observation.

Since 1985, the Coastal Program has collaborated with more than 8,200 partners to protect more than 2.3 million acres of habitat and restore more than 600,000 acres of habitat and 2,800 stream miles in coastal watersheds. Through these partnerships, the program leverages partner contributions at a ratio of 5:1 or greater, significantly increasing the positive impact and reach of the program.

The Service supports H.R. 2950, which would codify the Coastal Program's approach to voluntary, collaborative conservation—a proven and effective strategy to achieve shared conservation goals. Authorizing this program would reaffirm that protecting and restoring coastal habitats is an important role for the Service. It would ensure that the program is secure and continues to be a versatile tool in the Service's conservation toolkit. In addition, H.R. 2950 would establish a strong benchmark for annual appropriations and increase Congressional engagement in and oversight of the program, ensuring that the Coastal Program has the necessary capacity to serve priority coastal areas.

H.R. 2982, New York-New Jersey Watershed Protection Act

The Service supports H.R. 2982, which would direct the Secretary of the Interior (Secretary), working through the Director of the Service, to establish a non-regulatory New York-New Jersey Watershed Restoration Program (Program). In carrying out the Program, the Service would consult with the States of New York and New Jersey, other Federal agencies, and partners in the New York-New Jersey Watershed (Watershed) to identify, prioritize, and implement restoration and protection efforts and adopt a Watershed-wide strategy.

H.R. 2982 would also establish the New York-New Jersey Watershed Restoration Grant Program, a voluntary program that would provide competitive matching grants and technical assistance to eligible entities to carry out coordinated restoration and protection activities in the Watershed. The Secretary would be authorized to increase the Federal cost share of an activity for certain communities and to enter into an agreement for grant management. H.R. 2982 would authorize \$20 million annually for these programs for FY 2024 through 2029.

The Service has a long history of working collaboratively with partners to conserve lands and waters in the Watershed for the benefit of people and wildlife. The Service engages a diverse public in fish and wildlife-associated recreational and educational activities at the Watershed's three national wildlife refuges. Two Urban Wildlife Partnerships in the region foster connections between residents – especially youth – and natural areas. Our Partners for Fish and Wildlife Program provides technical assistance to private landowners in the area who are interested in conserving and restoring habitat on their lands. In addition, the Service and the U.S. Forest Service work together through the Highlands Conservation Act to help the Highland States of Connecticut, Pennsylvania, New York, and New Jersey, local governments, nonprofits, and farm and forest landowners conserve the land and resources of the Highland region, which includes the Watershed and waters downstream.

Collaborative, landscape-scale conservation efforts like the one proposed by this bill are a cornerstone of the Service's mission and are among the most effective approaches to tackling 21st century environmental challenges like climate change, habitat degradation, and biodiversity loss. In our experience administering similar programs, such as the Delaware River Basin Restoration Program (DRBRP) and Chesapeake Watershed Investments for Landscape Defense (WILD), we see how partner-driven, non-regulatory, collaborative efforts result in significant conservation gains. Through the DRBRP, the Service has partnered with the National Fish and Wildlife Foundation to award \$40.4 million to 123 projects in the Delaware River Basin, which generated \$59.7 million in matching funds for a total conservation impact of \$100.1 million. We believe H.R. 2982's proposed program and targeted investment would deliver similar benefits. Additionally, by providing the Secretary authority to increase the federal share of restoration and protection costs, we believe this legislation would enable the Program to reduce the burden and increase accessibility for small, rural, and disadvantaged communities previously unable to access similar funding.

Although the Service supports this bill, and we agree that it would be a significant benefit to facilitating partnerships, and designing and implementing conservation and restoration projects in an important watershed, we have some concerns. The Service is concerned about the cumulative effect of this bill and other similar regional grant projects, like those referenced above, on the Service's overall budget and ability to prioritize conservation of resources for the Nation. The Service would welcome the opportunity to discuss this concern with the sponsor and Subcommittee. We would also welcome the opportunity to work with the sponsor and Subcommittee to ensure such a program is adequately supported to carry out authorized functions. This grant program places an emphasis on technical assistance provided by the Service, which would help increase public access to the Program, improve application quality, and ensure that funded projects have the resources to be successful. In addition, the Service would work to build a coalition of partners in the Watershed and form foundational relationships that advance the responsibilities and priorities of the Program. For these reasons, we would welcome the opportunity to work with Congress to ensure appropriate flexibility to cover administrative costs and ensure that the New York-New Jersey Watershed Restoration Program complements ongoing work in the Watershed and other areas.

Conclusion

We appreciate the Subcommittee's interest in community-based, collaborative conservation and in migratory bird and coastal conservation. We look forward to working with you on these and future legislative efforts.