



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members
From: Subcommittee on Water, Wildlife and Fisheries staff: Annick Miller x58331
(annick.miller@mail.house.gov) and Doug Levine (doug.levine@mail.house.gov)
Date: Thursday, April 10, 2024
Subject: Oversight Hearing on “*The National Wildlife Refuge System at Risk: Examining the Impacts of the U.S. Fish and Wildlife Service’s Proposed BIDEH Rule.*”

The Subcommittee on Water, Wildlife and Fisheries will hold an oversight hearing on “*The National Wildlife Refuge System at Risk: Examining the Impacts of the U.S. Fish and Wildlife Service’s Proposed BIDEH Rule.*” **on Wednesday, April 10, 2024, at 2:00 p.m. EDT in 1324 Longworth House Office Building.**

Member offices are requested to notify Thomas Shipman (Thomas.Shipman@mail.house.gov) by 4:30 p.m. on Tuesday, April 9, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The U.S. Fish and Wildlife Service is proposing ideologically driven policies that are antithetical to the purposes of the National Wildlife Refuge System.
- The proposed policies will limit the use of proven effective management tools that are mutually beneficial for wildlife, the refuge system, and those conducting the management activities.
- The proposed policies could also be used by the U.S. Fish and Wildlife Service to prohibit access for sportsmen and women, as well as prevent the usage of other management tools not explicitly prohibited by said policies.

II. WITNESSES

- **Mr. Steve Guertin**, Deputy Director for Program Management and Policy, U.S. Fish and Wildlife Service, Washington, D.C.
- **Mr. Gordon R. Batcheller**, Executive Secretary, Northeast Association of Fish and Wildlife Agencies, representing the Association of Fish and Wildlife Agencies, Washington, D.C.
- **Mr. Marc Staunton**, Owner, Staunton Farms, Malin, Oregon
- **Mr. David Wielicki**, Chief Executive Officer, South Carolina Waterfowl Association, Pinewood, South Carolina
- **Mr. Geoffrey Haskett**, President, National Wildlife Refuge Association, Washington, D.C.

III. BACKGROUND

The National Wildlife Refuge System

The National Wildlife Refuge System (System) is a network of U.S. Fish and Wildlife Service (Service) administered lands, submerged lands, and waters that provide habitat for fish and wildlife resources across the United States and U.S. territories.¹ The System is made up of 571 national wildlife refuges (refuges), 38 wetland management districts, 5 marine national monuments, and 63 refuges with wilderness areas.² These units comprise nearly 900 million acres, with over 90 million acres of refuges located within the 50 states and the remaining acreage located within the U.S. territories and insular areas.³

The System is governed by the National Wildlife Refuge System Administration Act of 1966 (Public Law 89-669), which consolidated areas into one unified system.⁴ In 1997, Congress passed the National Wildlife System Improvement Act (Public Law 105-57) (Improvement Act), which established that “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



*Figure 1 Ducks resting at Hola Bend National Wildlife Refuge in Arkansas.
Source: FWS*

present and future generations of Americans.”⁵ The Improvement Act also specified that wildlife-dependent recreation, including hunting and fishing, shall be priority uses of the System when such use is compatible with the mission and purpose of a given unit.⁶ In addition, the Improvement Act spells out 14 priorities the Secretary of the Interior shall maintain when administering the System, including that the Secretary shall “ensure that the biological integrity, diversity, and environmental health [BIDEH] of the System are maintained for the benefit of present and future generations of Americans.”⁷

¹ “U.S. Fish and Wildlife Service: An Overview.” Christopher R. Field. Congressional Research Service. 7/20/18. [U.S. Fish and Wildlife Service: An Overview \(congress.gov\)](https://www.congress.gov/resources/details?origin=6&terms=2017-2018&resource_id=401234).

² “Visit a National Wildlife Refuge Facility.” U.S. Fish & Wildlife Service. [Visit Us | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/visit-us)

³ “U.S. Fish and Wildlife Service: An Overview.” Christopher R. Field. Congressional Research Service. 7/20/18. [U.S. Fish and Wildlife Service: An Overview \(congress.gov\)](https://www.congress.gov/resources/details?origin=6&terms=2017-2018&resource_id=401234).

⁴ 16 U.S.C. 668dd et seq.

⁵ 16 U.S.C. §668dd(a)(2).

⁶ For more information on hunting and fishing within the National Wildlife Refuge System, see CRS Report R45103, *Hunting and Fishing on Federal Lands and Waters: Overview and Issues for Congress*, by R. Eliot Crafton.

⁷ 16 U.S.C. 668dd et seq.

The Biological Integrity, Diversity, and Environmental Health (BIDEH) Rule

In 2001, in an effort to comply with the Improvement Act, the Service adopted an agency policy on BIDEH.⁸ This policy applies to all System units and is a part of the Service Manual, an agency document that dictates policies and procedures for agency activities and operations, among other things. While the policy makes it clear that wildlife is the first and foremost concern of the Service, it also explicitly mentions the importance of active management in the System for the betterment of wildlife. Stating that “Management, ranging from preservation to active management of habitats and populations, is necessary to maintain BIDEH.”⁹ The 2001 policy delineates decision-making authority for taking management actions and lays out the steps needed for the actions to be approved. The policy does not make any blanket prohibitions on certain management activities in the System, leaving refuge managers able to make decisions on a refuge-specific basis. The policy was amended in 2006 to delegate authority to approve genetically modified crops to the Regional Chief of the unit's region.¹⁰

On February 2, 2024, the Service issued a proposed rule to further BIDEH policies.¹¹ The rulemaking overhauls the Service’s current BIDEH policy. The Service justifies this action by noting, “the Service did not anticipate the extent of climate change impacts on refuge species and habitats or the need to clarify in regulations our interpretation of and authority to implement the BIDEH mandate.”¹²

The proposed rule, if finalized, would make sweeping changes to the ability that refuge managers have to utilize several key management tools on System lands. Impacted management tools could include agricultural practices, native predator control, utilizing genetically engineered crops (GEC’s), and utilizing pesticides. The rule creates a “default position” for the System by expressly stating that certain practices are prohibited unless refuge managers conduct a full evaluation of the potential environmental effects of the management activity in accordance with the National Environmental Policy Act (NEPA).¹³ In addition, refuge managers would also be required to complete a comprehensive analysis to justify that utilizing the management practices is necessary to meet statutory responsibilities, fulfill refuge purposes, and ensure BIDEH. Additional red tape could include additional layers of planning through the refuge’s comprehensive conservation plan or undergoing a scientific peer review. On top of the new requirements, according to the rule, refuge managers must also “fulfill other policy and legal requirements prior to implementing a management activity or use when applicable.”¹⁴

⁸ [601 FW 3](#)

⁹ *Id.*

¹⁰ [601 FW 3 Amendment 1](#)

¹¹ [89 FR 7345](#)

¹² *Id.* at 7346

¹³ *Id.* at 7348

¹⁴ *Id.*

Central to the issue with the proposed rule is that the System's new “default position” on key management practices is “they are prohibited.”¹⁵ This does not accomplish the USFWS’s intended goal of the rulemaking, which is to promote “management flexibility” and “empower refuge managers.”¹⁶ Instead, the proposed rule ties the hands of refuge managers from making important management decisions by requiring them to work through regulatory red tape before conducting important management actions.



Figure 2 Geese resting in row crops on the Tule Lake National Wildlife Refuge in Northern California. Source: Oregon Public Broadcasting

The proposed rule also includes System-wide directives on “climate, habitat, water, soil, and air” to maintain BIDEH in the System. These directives include regulations that “prioritize deference to natural processes” as a means of achieving refuge habitat objectives and landscape planning goals. The proposed rule also states that “resource-intensive activities,” such as logging and livestock grazing, are to be avoided unless they fully meet the directives of the rule.¹⁷

According to the Service, fiscal year (FY) 2023 was a record-breaking year for visitors to the System, with 67 million visits (an increase of 46.6% since FY 2011).¹⁸ At a time when the Service should be looking for ways to utilize its workforce and outside stakeholders more effectively to meet System management challenges, the proposed rule instead creates new layers of bureaucracy and barriers to responsible land management. According to the National Wildlife Refuge Association, the System has lost over 800 permanent positions since FY 2011, which represents a 25% loss in capacity.¹⁹ The proposed rule will require Service staff to spend more of their time complying with self-imposed onerous regulations, rather than managing for the health of the system and improving the visitor experience.

Cooperative Agriculture in the System

To meet wildlife management objectives of specific refuges, the Service may enter into cooperative agreements with farmers and ranchers to conduct agricultural practices on refuge land.²⁰ Depending on the objectives of the refuge and the geographic location of the refuge, these practices can differ. The most common agricultural practices include grazing, planting crops, and growing grains, such as rice. Refuges have benefited greatly from this partnership as it delivers meaningful conservation benefits to species as well as valuable recreational opportunities for

¹⁵ *Id.* at 7352

¹⁶ *Id.* at 7348

¹⁷ [601 FW 3 BIDEH Policy 01.31.24](#).

¹⁸ U.S. Fish and Wildlife Service, Fiscal Year 2025 Budget Justifications.

<https://www.fws.gov/sites/default/files/documents/2024-03/fy2025-508-fws-greenbook.pdf>.

¹⁹ “The National Refuge System Staffing Crisis.” National Wildlife Refuge Association. [The Refuge Staffing Crisis — The National Wildlife Refuge Association](#).

²⁰ “Cooperative Agriculture.” U.S. Fish and Wildlife Service. [Cooperative Agriculture | U.S. Fish & Wildlife Service \(fws.gov\)](#).

hunters and wildlife viewers. This cooperative relationship benefits refuges by providing labor and resources to manage the habitat, valuable food for wildlife, and recreational opportunities, and in turn farmers benefit from the harvested crops.

Not mentioned in the proposed rule are the impacts prohibiting certain management practices could have on the refuges where cooperative agreements with farmers and ranchers are currently utilized. This is especially the case with the Service’s proposed prohibition on agricultural practices, which is an integral management tool in many refuges nationwide. A key metric to monitor the health of wetland ecosystems in refuges is waterfowl energy days, which represent the energy needs of one waterfowl for one day.²¹ Data collected from refuges in the Southeast region shows that 47 percent of waterfowl energy days come from agricultural practices, such as crop production.²² The Service presents no data showing that agricultural practices have negatively impacted the System. It is unclear if the Service has contemplated what would happen to refuge conditions if these management tools disappeared or became much more difficult to implement.

Predator Control in the System

The BIDEH rulemaking proposes to “generally prohibit control of native predators because a growing scientific record indicates that predators are essential to maintaining biodiversity and ecosystem function.”²³ This language could prove problematic to implement because the rule does not define what constitutes a “native predator” and ignores the fact that predators impact both System units and the lands that surround these units. In addition, state game and fish agencies are the primary agencies responsible for managing predators within their borders. The rulemaking does not consider or provide a framework for refuge managers to coordinate with state and local agencies on managing predators.

Many refuges have species-specific functions to benefit the breeding of target species, enhancing species’ long-term viability. Examples include managing for the benefit of certain ducks and sea turtles. All six sea turtle species that are native to the United States are listed under the Endangered Species Act and each has its own unique challenges regarding predators, such as raccoons, skunks, and ghost crabs that impact nest success.

Allowing for targeted predator control is a helpful tool to provide for the long-term health of certain species. Groups such as Delta Waterfowl, a nationwide organization dedicated



Figure 3 A green sea turtle hatchling at Archie Carr National Wildlife Refuge in Florida. Source: FWS

²¹ “A Manual for Calculating Duck-Use-Days.” Mickey E. Heitmeyer. U.S. Army Corps of Engineers. May 2010. [Manual for calculating Duck-Use Days \(dren.mil\)](#)

²² “Waterfowl Population and Energy Objectives for Natural Wildlife Refuges in the Southeastern United States.” National Wildlife Refuge System. December 2022. https://republicans-naturalresources.house.gov/UploadedFiles/Waterfowl_Objectives_for_NWRs_in_the_Southeast.pdf

²³ [601 FW 3 BIDEH Policy 01.31.24](#), at 14.

to the conservation of duck species, have highlighted the inclusion of predators control prohibition as a major concern.²⁴

The Service has previously tried to prohibit the use of predator control on a smaller scale. In 2016, the Service finalized a rulemaking to prohibit and limit certain predator control methods in System units located in Alaska, in the name of conserving BIDEH.²⁵ Congress, led by the late Rep. Don Young (R-AK), nullified this rulemaking through a Congressional Review Act (CRA) resolution in 2017, with a bipartisan vote of 225-193 in the House of Representatives and 52-47 in the Senate. President Trump signed the CRA resolution into law on April 3, 2017.²⁶

Recent Committee Activity and BIDEH Rulemaking Status

On February 16, 2024, the House Committee on Natural Resources sent a letter to the Service requesting they extend the public comment period for the rule by 60 days, to a total of 90 days.²⁷ The letter also asked that the Service incorporate feedback from impacted stakeholders when they publish a final rule. On March 1st, the day the public comment period was scheduled to close, the Service announced they were extending the public comment period on the rule for an additional 60 days.²⁸

FY 2025 Fish and Wildlife Service Budget Request

In FY 2024, the Service received a total of \$527.1 million in appropriations for the System, a decrease of \$14.5 million from the FY 2023 enacted level.²⁹ In the FY 2025 President's Budget request, the Service requested a total of \$602.3 million for the System, a \$75.2 million increase from the FY 2024 enacted level. This funding increase includes a \$62.3 million increase for refuge operations and a \$12.1 million increase for refuge maintenance. Included in refuge operations is a \$25.7 million increase for wildlife and habitat management and a \$17.9 million increase for refuge law enforcement.³⁰ These increased funding requests are coupled with proposed cuts to other important programs, such as the North American Wetlands Conservation Act (NAWCA), which the Service's FY 2025 budget requests to be decreased from \$49 million to \$33 million.³¹

²⁴ [FWS-HQ-NWRS-2022-0106-17731](#)

²⁵ [81 FR 52247](#)

²⁶ [Public Law 115-20](#)

²⁷ "Letter to DOI Secretary Deb Haaland and USFWS Director Martha Williams from Chairman Bruce Westerman requesting an extension to the public comment period for the BIDEH Rule." 2/16/24.

https://naturalresources.house.gov/uploadedfiles/bideh_public_comment_extension_letter_final.pdf

²⁸ [89 FR 7345](#)

²⁹ USFWS Budget Table for FY 2025. U.S. Fish and Wildlife Service.

https://naturalresources.house.gov/uploadedfiles/fws_fy_2025_summary_table_nwrs_breakdown.pdf

³⁰ *Id.*

³¹ *Id.*