

**Testimony of Stephen Guertin
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Before the
House Committee on Natural Resources,
Subcommittee on Water, Wildlife, and Fisheries
On
H.R. 8811, To reauthorize the America’s Conservation Enhancement Act, and for other
purposes; Discussion Draft of H.R. __, ESA Amendments Act of 2024; H.R. 8308, Nutria
Eradication and Control Reauthorization Act of 2024**

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Introduction

Good afternoon, 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 related to landscape-scale conservation, the Endangered Species Act (ESA), and the management of invasive species.

The mission of the Service is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The Service’s efforts to achieve this mission span a wide variety of programs, including those established to conserve migratory birds, combat wildlife disease, address invasive species, restore habitats, and recover ESA-listed species. The legislation before the Subcommittee today is relevant to a number of Service programs and our ability to carry out the Service’s mission.

H.R. 8811, To reauthorize the America’s Conservation Enhancement Act, and for other purposes

H.R. 8811 addresses a number of conservation issues, including livestock depredation by federally protected species, wildlife disease, invasive species, wetlands, the Chesapeake Bay, and the conservation and restoration of fish habitat. This legislation would reauthorize many Service programs through 2030, with several provisions receiving new or modified authorities. The Service appreciates the Subcommittee’s interest in fish and wildlife conservation and management. The Service supports H.R. 8811 and would welcome the opportunity to work with the sponsor and Subcommittee to address recommended changes to the legislation. The Service offers the following comments on relevant provisions in the legislation.

Black Vulture Livestock Protection Program

Section 102 of H.R. 8811 authorizes a Black Vulture Livestock Protection Program and requires a study on black vulture take levels. The authorization provided in this section would continue the Service’s existing pilot program, which was established to improve the permitting process for black vulture take under the Migratory Bird Treaty Act (MBTA).

Black vultures are large, scavenging birds that are present in the United States throughout the Mid-Atlantic and Southeast, as well as less frequently in the Southwest. As scavengers, they play an important role in maintaining healthy ecosystems by removing toxic bacteria and diseases that can spread from animal carcasses. Black vultures migrate from summer habitat in the Northeast to wintering habitat in Central and South America and are protected under the MBTA.

The Service understands that depredating black vultures continue to present challenges for livestock producers, and we are committed to improving black vulture management. 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. 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, with fourteen currently participating. In 2024, the Service offered permitted entities in each state the opportunity to double the maximum take under sub-permits from a limit of five in 2023 to a limit of ten in 2024. To date, five states have opted to provide increased take limits to their sub-permittees.

The authorization provided in H.R. 8811 would allow the Service to apply lessons learned under the pilot program to our ongoing work with states and livestock producers to protect their assets while ensuring that proper data is collected for implementation and enforcement of the MBTA.

Chronic Wasting Disease Task Force

Sec. 103 would reauthorize funding through fiscal year (FY) 2030 for the Service to provide administrative support to the Chronic Wasting Disease Task Force (Task Force). The America's Conservation Enhancement Act (ACE Act) required a special resource study to identify the pathways and mechanisms of the transmission of chronic wasting disease (CWD). The Secretaries of the Department of the Interior and Department of Agriculture are currently working with the National Academy of Sciences to complete the required study, which is expected later this fiscal year. Under the ACE Act, the Task Force shall be established no later than 180 days after the completion of the study on CWD transmission.

Under the ACE Act, the Task Force would be composed of up to 111 federal, state, Tribal, and nongovernmental members. It is charged with collaborating with foreign governments to prevent or address CWD in the United States; developing recommendations and best practices on interstate coordination, research needs, and opportunities to leverage resources to address CWD; and developing an interstate action plan to stop the spread and mitigate the impacts of CWD.

The Service recognizes the threat that CWD poses to conservation and human health and believes the Task Force, once established, could enhance coordination and information-sharing between many parties. We would welcome the opportunity to work with the sponsor and Subcommittee to discuss minor technical edits to this section related to Task Force membership. The Service believes that further evaluation of current membership is needed to ensure the Task Force is able to achieve maximum productivity and allow for equitable representation across the national breadth of stakeholders.

In addition, although the ACE Act authorized up to \$5 million annually for the Service to support the Task Force, Congress has not appropriated funding to the Service for this work. Without dedicated financial support, the Service would not be able to fund the necessary actions identified by the Task Force in the Interstate Action Plan.

North American Wetlands Conservation Act

Sec. 105 of H.R. 8811 would reauthorize funding for the North American Wetlands Conservation Act (NAWCA) through 2030. NAWCA is the only federal grant program dedicated to the conservation of wetland habitats for migratory birds.

Since 1991, nearly 7,000 partners have received more than \$6.45 billion in funding to conserve wetland habitat and associated wildlife across more than 32 million acres of habitat through more than 3,300 projects in all 50 U.S. states, Canada, and Mexico. Announced in May, this year's NAWCA grants provided \$84.3 million in funding, with an additional partner match of \$139.8 million, to conserve, restore, or enhance 315,823 acres.

Wetlands are critically important for the one-third of bird species in North America that use wetland habitats and for more than half of all ESA listed species, which rely on wetland habitat. Wetlands conserved by NAWCA also provide essential habitat for a myriad of other native species, help buffer communities from storms and sea level rise, filter clean water, provide recreational opportunities for all Americans, and are a major contributor to the economy. At a time when we are experiencing a substantial net loss of vegetated wetlands in the United States, as documented in the Service's recent decadal Wetlands Status and Trends Report, reauthorization of NAWCA is critical.

National Fish and Wildlife Foundation Establishment Act

Created by Congress in 1984, the National Fish and Wildlife Foundation (NFWF) has been a critical partner to the Service in directing federal funding to the most pressing conservation needs and leveraging that funding with private investments to further conservation impacts. Working together on programs such as the Delaware River Basin Restoration Program, Chesapeake Watershed Investments for Landscape Defense (WILD), and the Monarch Butterfly and Pollinator Conservation Fund, the Service and NFWF have collaborated to benefit wildlife, habitat, and local communities around the globe.

Sec. 106 would reauthorize NFWF through 2030 and allow this important conservation partnership, and the programs that depend on it, to continue. The Service supports reauthorization of NFWF, which has been an important partner in distributing funds to stakeholders. In addition, the Service has a fiduciary responsibility to ensure federal funding is used in compliance with federal financial assistance laws and Department of the Interior policies. The expanded authorities included in this reauthorization would limit the Service's options to provide that oversight role. Further, requiring a five-year minimum for federal funding agreements would present significant barriers for the Service to partner with NFWF, as the Service's funding is largely determined by annual appropriations, with five years serving as the maximum period of performance for accomplishing financial assistance objectives (with limited exceptions). We would welcome the opportunity to work with the Subcommittee and sponsor to

better understand the intent of these amendments and ensure the Service can continue its work to support, oversee, and partner with NFWF to support conservation efforts across the country.

Chesapeake Bay

Sections 108, 109, and 110 of H.R. 8811 refer to programs that protect and conserve the Chesapeake Bay. Most relevant to the Service, Sec. 110 would reauthorize the Chesapeake WILD program through 2030.

The Chesapeake Bay is the largest estuary in the U.S. and supports an estimated 3,600 species of plants and animals. Nearly one million waterfowl, approximately one-third of the Atlantic Flyway's population, stop to winter on or near the bay. The ecological health of the watershed also directly impacts the well-being and economic strength of the more than 18 million people who live and work near the bay.

Since enactment of Chesapeake WILD in the original ACE Act in 2020, the Service, in partnership with NFWF, has carried out a non-regulatory, partnership-driven conservation investment program that focuses on restoring, conserving, and connecting habitat and improving recreational access to nature. Through the Chesapeake WILD program, the Service's Science Applications program has provided technical assistance to dozens of partners to ensure projects are carried out in a strategic manner that leverages the collective efforts of stakeholders in the Bay. However, appropriations directed to the Chesapeake WILD Act, and other watershed-based funding programs, should be supplementary to Science Applications' base budget to ensure that the Service can allocate resources to conservation efforts nationwide. While directed spending can increase the Service's ability to deliver important conservation programs and outcomes in priority watersheds and landscapes, other essential work that doesn't receive the same directed spending can face shortfalls. Science Applications provides critical support to the Chesapeake Bay and other landscapes across the country, including the sage brush ecosystem, Great Lakes, coastal areas, and grasslands.

In its first two years, the Chesapeake WILD program awarded \$11 million through 36 grants, and leveraged an additional \$15 million in grantee matching funds, to improve access to 31 miles of river and trails, restore 32 riparian miles of forest habitat, improve passage along 130 river miles for migratory fish, and protect more than 8,000 acres of fish and wildlife habitat. Chesapeake WILD continues to prioritize projects that benefit not only fish, wildlife, and their habitats, but also people. Reauthorization of the Chesapeake WILD program through H.R. 8811 would allow the program to continue its legacy of creating meaningful and lasting conservation outcomes in the watershed.

National Fish Habitat Conservation Through Partnerships

Healthy native fish populations are a sign of healthy ecosystems. They are important to local economies and to the well-being of our citizens. The Service works through a number of programs with many partners to conserve, protect, and enhance native fish populations. One key program is National Fish Habitat Partnerships (NFHP).

Title II of H.R. 8811 would reauthorize the existing NFHP program through 2030, while making several changes to its current structure and authorities. H.R. 8811 would add two additional

members to the NFHP Board by including a representative from the Bureau of Land Management (BLM) and a second representative from Regional Fishery Management Councils or Marine Fisheries Commissions. The bill also directs the two Tribal representatives to be split – one from Alaska and one from another state. Further, H.R. 8811 would shorten the timeline for the Board to recommend, and for the Secretary to approve, projects, giving local partners more timely decisions on their requests and the funds for approved projects. H.R. 8811 would also change the reporting frequency to Congress on partnership structures to only be required in years in which a partnership is proposed to be added or removed, while making technical changes to the separate report required every five years. Additionally, technical changes are made to the section on federal cost-sharing and the BLM is added to the agencies authorized to provide technical and scientific assistance. Finally, H.R. 8811 would authorize funding to be made available to both projects and the Fish Habitat Partnerships themselves.

NFHP consists of a network of 20 regional Fish Habitat Partnerships that coordinate federal, state, Tribal, non-profit, and private efforts to maximize efficiency and impacts for fish habitat conservation. The Service helps implement NFHP by providing technical assistance and allocating congressionally appropriated funding to eligible Fish Habitat Partnerships. Since 2006, NFHP has provided over \$320 million to over 1,300 projects in all 50 states. Service biologists and partners work on projects in priority areas to restore stream banks, remove man-made barriers to fish passage, reduce erosion from farm and ranchlands, and conduct studies to identify conservation needs for fish and their habitats. NFHP projects help to provide more robust fish populations, better fishing, and healthier and more resilient waterways.

Reauthorizing NFHP is critical to ensuring fish and their habitats are conserved and managed for the enjoyment of all into the future. The Service believes that the changes made by H.R. 8811 to NFHP would improve access, efficient operations, and transparency of the program. In addition to the welcomed changes, we would appreciate the opportunity to work with the sponsor and this Subcommittee on an additional change to better improve the Service delivery of NFHP across the Nation. Section 205 of the ACE Act, in subsection (e), paragraph 3, provides a special rule to Tribes that allows an exemption to the required 1:1 federal cost-share. The Service recommends extending that special rule to Native Hawaiian Organizations. Doing so would increase access and allow the Service, through NFHP, to improve engagement in Hawaii and the Pacific Islands, while benefiting fish species and communities that call that region home.

Discussion Draft of H.R. ____, ESA Amendments Act of 2024

The discussion draft of the ESA Amendments Act of 2024 would amend multiple provisions of the ESA and would establish additional processes for the Service, other federal agencies, and partners. While the Department and the Service prefer to testify on bills after they have been introduced, we offer the following brief comments on this discussion draft and would like to preserve the opportunity to submit additional input on the language after it is introduced, if necessary.

At a time in which we face an unprecedented extinction crisis due to the growing and synergistic effects of habitat loss and fragmentation, climate change, invasive species, disease, unlawful wildlife trade, and other stressors, the discussion draft would do little to improve conservation outcomes. Rather, the discussion draft would reverse regulatory improvements promulgated by

this Administration; add process, mandatory duties, and statutory deadlines to our already under-resourced staff, with a commensurate increase in litigation risks and costs; reduce opportunities for public engagement; and increase the complexity and costs of administering the ESA at a time when the Service already lacks sufficient funding. The Service has concerns with each title of the discussion draft. Some of these concerns were discussed in our March 6, 2024, testimony to this Subcommittee on Sections 401, 402, and 601 of H.R. 7408, America's Wildlife Habitat Conservation Act. The Service strongly opposes the discussion draft as currently written. We are available to outline our concerns and provide specific feedback through the technical assistance process, but believe that it is imperative to properly resource and fund our obligations to protect America's wildlife heritage.

H.R. 8308, Nutria Eradication and Control Reauthorization Act of 2024

H.R. 8308 would reauthorize the Nutria Eradication and Control Act of 2003 (Act) through FY 2030. Last reauthorized in 2020, the Act authorizes the Secretary of the Interior to provide financial assistance to states to implement nutria eradication and control measures and restore marshlands, wetlands, and agricultural lands damaged by nutria. The Service supports H.R. 8308, which, if funded, would enhance our ability to work with state partners to combat invasive nutria populations that threaten vital ecosystems.

Originally from South America, nutria are large aquatic rodents that cause extensive damage to wetlands, agricultural lands, and water infrastructure. Their burrowing and feeding habits destroy native vegetation, erode riverbanks, and undermine levees and other flood control structures, damaging wildlife habitat and leading to increased flooding risks and costly repairs. Since their introduction in the United States, nutria have been found in at least 20 states, with sizeable populations established along the Gulf Coast, in the mid-Atlantic, and in the Pacific Northwest. Small breeding populations have also recently been established in Virginia and California.

The Service is dedicated to supporting nutria eradication and control efforts and restoring nutria-damaged habitats on public and private lands. We take a collaborative approach to these efforts, working across many Service programs and in partnership with other federal and state agencies, private landowners, and nongovernmental organizations. For instance, the National Wildlife Refuge System has two Invasive Species Strike Teams (ISST) dedicated to nutria control and eradication, with ISST funding supporting the efforts of Service staff and state agencies to control nutria on and adjacent to national wildlife refuges. The Service's Partners for Fish and Wildlife program has dedicated private lands biologists and agreements with state and private partners to combat the spread of nutria and restore nutria-damaged habitats on private lands. In addition, the Service's Fish and Aquatic Conservation Program has contributed funding to the States of California and Maryland to support management actions through Aquatic Nuisance Species Task Force-approved state management plans.

These investments have led to many successes in recent years. In 2022, a team composed of the federal, state, university, and private partners successfully eradicated nutria from the Delmarva Peninsula – a milestone achieved after 20 years of eradication work and coordination with over 700 landowners. This effort protected over 250,000 acres of critical marshlands that support a variety of wildlife and provide storm resilience. Although complete eradication may not be possible along the Gulf Coast, the Service is supporting the development of strategic eradication

plans for islands in the Mississippi River Delta, including at Breton National Wildlife Refuge. In California, our joint nutria eradication efforts with the state show promise—we are optimistic about complete eradication within 5-10 years.

Sustained federal funding to support coordinated nutria eradication, control, and habitat restoration efforts on federal, state, and private lands is essential to mitigating the damaging effects of this invasive species on wildlife and communities. If funded, H.R. 8303 would enable the Service to provide more funding to states for their work to control and eradicate nutria and facilitate the development of new technologies and strategies to enhance eradication efficiency and cost-effectiveness. This would significantly expand the Service's capacity to support our state partners' efforts, ultimately helping to preserve biodiversity, protect agricultural productivity, and safeguard water management systems.

Conclusion

The Service appreciates the opportunity to testify before the Subcommittee on H.R. 8811, To reauthorize the America's Conservation Enhancement Act, and for other purposes and H.R. 8308, Nutria Eradication and Control Reauthorization Act of 2024. The Service supports both bills and would welcome the opportunity to work with the sponsors and Subcommittee on technical amendments to the legislation. While the Department does not typically testify on legislation before it is introduced, we provided our brief comments on the discussion draft of H.R. __, ESA Amendments Act of 2024, due to the impacts the draft legislation would have on the ESA, and would be available to provide feedback through the technical assistance process. The Service strongly opposes the discussion draft as currently written, but would like to preserve the opportunity to submit additional input on the bill after it is introduced, if necessary.