

Testimony of Dave Miko
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Before the
House Committee on Natural Resources
Subcommittee on Water, Wildlife, and Fisheries
Legislative Hearing
on
H.R. 9017, Restore Florida Water Independence Act of 2026; H.R. 9590, Study and
Assessment of Future Ecosystems (SAFE) for Manatees Act; H.R. 10117, Gathering
Alligator Treatment, Oversight, and Response (GATOR) Act of 2026; and H.R. 3717, the
Golden Mussel Eradication and Control Act of 2025.

September 16, 2026

Good morning, Chair Hageman, Ranking Member Hoyle, and members of the Subcommittee. My name is Dave Miko, and I am the Acting Deputy Director for Operations for the U.S. Fish and Wildlife Service (Service) within the Department of the Interior (Department). Thank you for the opportunity to provide testimony on H.R. 9017, Restore Florida Water Independence Act of 2026; H.R. 9590, Study and Assessment of Future Ecosystems (SAFE) for Manatees Act; H.R. 10117, Gathering Alligator Treatment, Oversight, and Response (GATOR) Act of 2026; and H.R. 3717, the Golden Mussel Eradication and Control Act of 2025.

H.R. 9017, Restore Florida Water Independence Act of 2026

H.R. 9017 would deem the 2020 programmatic biological opinion issued by the Service regarding the Environmental Protection Agency (EPA)'s approval of the State of Florida's request to assume administration of the Dredge and Fill Permitting Program under section 404 of the Clean Water Act, and compliance under the biological opinion, as compliant with the Endangered Species Act of 1973 (ESA). The bill would also preclude additional consultation under section 7(a) of the ESA related to the EPA's decision.

Under section 7 of the ESA, federal agencies must consult with the Service or National Marine Fisheries Service to ensure that any action federal agencies carry out, fund, or authorize will not jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify designated critical habitat. As part of these consultations, the Service draws on the biological assessment provided by the action agency to develop a biological opinion and may include reasonable and prudent measures the Service deems necessary or appropriate to minimize the impact of incidental take on listed species.

The D.C. district court found the Service's 2020 biological opinion and incidental take statement violated the ESA and that EPA's approval should be vacated. A divided panel in the D.C. Circuit Court agreed. The federal government requested a rehearing en banc in August 2026. As a consequence of this litigation, the Department is unable to further comment on this bill at this time.

H.R. 9590, Study and Assessment of Future Ecosystems (SAFE) for Manatees Act

H.R. 9590 would require the Service to conduct a study on locations that could function as warm water habitat for manatees that are currently utilizing areas in Florida around coastal industrial sites subject to decommissioning actions that will affect water temperatures in such areas. The study would include identifying and assessing appropriate locations of natural warm water not currently used by manatees, as well as locations where artificial warm water refugia could be constructed in collaboration with the Army Corps of Engineers and Florida's Fish and Wildlife Conservation Commission. The bill would also require a report to Congress on the results of the study within 180 days of enactment of the bill.

The West Indian manatee, which includes the Florida manatee subspecies, is listed as threatened under the ESA and is also protected under the Marine Mammal Protection Act. The manatee is found in marine, estuarine, and freshwater environments. It is a cold-intolerant species and colder water temperatures can contribute to cold stress syndrome and have produced mass mortality events historically. The Florida manatee's range during warmer months has been documented as far west as Texas and north to the Delaware Bay. As water temperatures naturally decrease in the fall and winter, manatees move south to warmer water off the coast of peninsular Florida and its natural springs, and to artificially warmer water discharges sites near power plants, and passive thermal basins. The Service has determined several key threats to the species, including the loss of warm water locations. There is a need for increased locations of warm water refugia for manatees to continue to expand their population. This study could assist in identifying natural warm water areas that are not currently used by manatees as well as new areas where artificial creation of warm water refugia could be constructed.

The Department supports efforts to regularly monitor marine mammal populations and marine and coastal environments in order to learn more about the health and dynamics of these populations. The Department supports the intent of H.R. 9590 and would like to work with the sponsor and the Subcommittee on technical recommendations to support effective implementation.

H.R. 10117, Gathering Alligator Treatment, Oversight, and Response (GATOR) Act of 2026

H.R. 10117 would direct the Comptroller General of the U.S. Government Accountability Office, in consultation with the Service and certain state wildlife agencies, to complete a study regarding the effect of the ESA section 4(e) treatment of three reptile species - the American alligator, common caiman, and brown caiman - on the size of their populations, and the impacts on state management of these species.

Under section 4(e) of the ESA, the Service may issue a regulation prohibiting interstate commerce or taking of an unlisted species if the species so closely resembles a listed species that enforcement personnel would have difficulty distinguishing between them, and such treatment is necessary to enforce the ESA's prohibitions for listed species. Species that are treated as endangered or threatened under section 4(e) are not actually endangered or threatened. The Service does not designate critical habitat, does not require consultation under section 7, and does not have any of the recovery planning provisions under section 4(f) of the ESA for these 4(e) species. In some cases, the Service may also issue rules that provide greater management flexibility or allow for trade of 4(e) species, such as for the American alligator, where the

Service's 4(e) rule enables interstate commerce in alligator parts that would otherwise be banned in certain states.

The American alligator was originally listed as endangered in 1967 under the Endangered Species Preservation Act of 1966. As the species recovered, it was reclassified over time. By 1987, the species as a whole was determined to have been recovered, no longer endangered or threatened, and eligible for delisting, but remained treated as listed under section 4(e) as a threatened species due to the similarity of appearance to the American crocodile, which is listed as threatened when found in Florida and endangered wherever found outside of the U.S. The 4(e) rule that applies to the American alligator allows the state, rather than the federal government, to regulate take, including lethal removal, in accordance with the laws and regulations of the state. And, as noted above, the 4(e) rule enables interstate commerce in alligator parts that would otherwise be banned in certain states.

The common caiman and brown caiman are both treated as threatened species under section 4(e) due to similarity of appearance to the listed species, the yacare caiman. The yacare caiman was downlisted from endangered to threatened in 2000. All three species of caiman are examples of the foreign species that are part of the List of Endangered and Threatened Wildlife - invasive populations of the three species may have occurred in South Florida as a result of introduction into the wild likely decades ago. For all three caiman species, the current 4(e) rule allows for different types of management activities, including lethal removal in defense of human life and invasive species removal and eradication efforts.

The Service recognizes that the conservation of certain species provides concrete benefits to the U.S. economy, as well as the threat caused by invasive species. The Service continues to work closely with the State of Florida and other partners to ensure they have the flexibility and tools they need to meet their management goals and address urgent human-wildlife conflicts that threaten human safety.

The Department supports the intent of H.R. 10117 and welcomes the opportunity to work with the sponsor and Subcommittee to provide technical recommendations regarding this bill.

H.R. 3717, the Golden Mussel Eradication and Control Act of 2025

H.R. 3717 would require the Aquatic Nuisance Species Task Force (Task Force) to work with partners to establish a demonstration program and related grant program to prevent, monitor, control, and eradicate invasive golden mussels and to support related education and research. The demonstration program initially would be established in the Sacramento-San Joaquin Delta and any other U.S. waters the Task Force determines are infested, or could become infested, by golden mussel. The bill would also require the Task Force to establish a grant program to identify technologies and mechanisms to control and remove golden mussels from certain areas, and to provide an understanding of the biology and containment of the golden mussel. H.R. 3717 would authorize \$15 million in appropriations annually for Fiscal Years 2026–2030.

Under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, the Service, along with the National Oceanic and Atmospheric Administration, serves as co-chair of the Task Force. The Task Force works with 13 federal members, 12 ex-officio members, and six regional

panels to coordinate actions to prevent and manage aquatic nuisance species. In July 2025, the Service, as a co-chair of the Task Force, convened a Golden Mussel Work Group (Work Group) to evaluate immediate and long-term needs associated with golden mussels. The Work Group includes more than 50 participants and has met four times since August 2025 to identify priority needs, including containment, prevention of secondary spread, pathway management, monitoring, control tools, research, outreach, and coordination. The Work Group also serves as a forum for participants to share information on emerging findings, implementation challenges, lessons learned, and opportunities for collaboration. In January 2026, the Work Group agreed to begin developing a National Golden Mussel Control and Management Plan. Additionally, in January 2025, the Service published a proposed rule that would add golden mussels to the list of injurious wildlife, which would prohibit the importation of the species into the U.S. and provide protections for additional introductions.

The Department recognizes the importance of combating the threats caused by invasive species to protect our native resources and species and supports the goals of H.R. 3717. However, the Department does not support the creation of a new grant program further burdening American taxpayers. The Department supports continued efforts to prevent, detect, and control all invasive species, including early detection and monitoring golden mussels.

Conclusion

Thank you for the opportunity to testify before you today. I would be pleased to answer any questions that you may have.