

Testimony of
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President
Congressional Sportsmen's Foundation

Before the
Committee on Energy & Natural Resources
United States Senate

Regarding
S.556, the Bipartisan Sportsmen's Act of 2015

March 12, 2015

Good morning Madam Chairwoman, Senator Cantwell and members of the Committee. My name is Jeff Crane, and for the past decade I have served as the President of the Congressional Sportsmen's Foundation (CSF). Established in 1989, CSF works with the bipartisan Congressional Sportsmen's Caucus (CSC), the largest, most active caucus on Capitol Hill. With nearly 300 Members of Congress from both the House and Senate, current Senate CSC Co-Chairs are Senator Jim Risch (R-ID) and Senator Joe Manchin (D-WV), and Vice-Chairs are Senator Deb Fischer (R-NE) and Senator Heidi Heitkamp (D-ND).

Ten years ago, CSF extended the legislative network from Washington, DC to states across the country, establishing the bipartisan National Assembly of Sportsmen's Caucuses, which today is made up of 45 state legislative caucuses, and includes over 2,000 legislators. Five years ago, CSF established a bipartisan Governors Sportsmen's Caucus, which today includes 28 Governors and one Lieutenant Governor. Together, this collective force of bipartisan elected officials work to protect and advance hunting, angling, recreational shooting and trapping for the 37 million sportsmen and women who spend \$90 billion annually on our outdoor pursuits.

As a lifelong conservationist and outdoorsman, who was taught to hunt and fish by my father and grandfather, I am passing this heritage along to my three daughters. From my early days of boy scouting, where I achieved the rank of Eagle Scout, to leading safaris in Southern Africa as a professional hunting guide, my love of nature and respect for the great outdoors defines who I am as a person. When I had the opportunity to join CSF in 2002, and thereby combine this passion with my professional background in the policy arena, I knew I found my life's calling.

In my professional life in the conservation policy arena, I am the only person to sit on both the sport fishing and hunting federal advisory committees (FACA); the Sport Fishing and Boating Partnership Council and the Wildlife and Hunting Heritage Conservation Council, respectively. Originally appointed to these FACA councils during the Bush Administration, I have been subsequently reappointed to each during the Obama Administration. I am a past Chairman of the American Wildlife Conservation Partners, a board member of the Council to Advance Hunting and the Shooting Sports, a panelist on the Blue Ribbon Panel on Sustaining America's Diverse Fish & Wildlife Resources, am involved in numerous national hunting and fishing conservation groups, and am a professional member of the Boone & Crockett Club, the oldest conservation club in America, founded by Theodore Roosevelt in 1887.

Taking a moment to put things into historical perspective, the idea of conservation in America began with members of the sportsmen's community, who introduced game laws and programs to protect natural resources - leading to the creation of state and federal fish and wildlife agencies. Nearly 80 years ago, the hunting community led the charge for the passage of the Federal Aid in Wildlife Restoration Act (Pittman-Robertson Act) which redirected excise taxes on firearms and ammunition to a dedicated fund to be used specifically for conservation purposes. Further, revenue from sportsmen's licenses was also permanently linked to conservation, laying the foundation for what is now the uniquely American System of Conservation Funding, a "user pays - public benefits" program that is the financial backbone of the most successful conservation model in the world. Through time, this System has expanded and now includes the fishing and boating communities - with the passage of the Federal Aid in Sportfish Restoration Act (also known as the Dingell-Johnson Act, and the subsequent Wallop-Breaux Amendment) as

well as the archery community. The funds collected through these programs, totaling over \$16 billion, plus millions of dollars annually in license and permit fees, are the lifeblood of state fish and wildlife agencies – the primary managers of our nation’s fish and wildlife resources. These critical conservation dollars fund a variety of efforts including: enhanced fish and wildlife habitat and populations, recreational access to public and private lands, shooting ranges and boat access facilities, wetlands protection and its associated water filtration and flood retention functions, and improved soil and water conservation - all which benefit the American public.

Conservation is critically important to hunters, anglers, boaters, and shooters alike. The term ‘conservation,’ as understood by the sportsmen’s community, can be traced back to Gifford Pinchot of the U.S. Forest Service. Pinchot defined conservation as the “wise use of the Earth and its resources for the lasting good of men.” Along with the use of a resource comes the responsibility of careful resource management. America’s sportsmen and women are the original conservationists, who exemplify the laudable definition of conservation advanced by Pinchot, and remain dedicated to the stewardship of our natural resources. As part of my statement, I would like to include a February 26, 2015 letter from virtually every national hunting and fishing conservation organization supporting S. 405, the expanded Bipartisan Sportsmen’s Act, containing provisions that fall under both the jurisdiction of the Environment and Public Works Committee and this Committee.

The title, “Bipartisan Sportsmen’s Act,” is in itself indicative of the fact that conservation, hunting, recreational fishing and shooting, and our outdoor traditions are not defined by or constrained to any partisan label. We are sportsmen and women because we love and care for America’s great outdoors, regardless of political affiliation, race, religion, gender, or socio-economic standing. In a city all too often characterized by partisan rancor, S. 405 already has 18 cosponsors, equally divided between Republicans and Democrats. In the 113th Congress, a nearly identical Senate bill had 46 bipartisan cosponsors. In the House of Representatives, similar sportsmen’s packages were passed with strong bipartisan support in both the 112th and 113th Congresses. It is now time to pass the Bipartisan Sportsmen’s Act of 2015.

The overarching purpose behind this bill is quite simply to ensure access and opportunity for hunters, shooters and anglers. According to polling, the number one reason that we lose hunters and anglers is, ‘not enough access to quality places to hunt or fish.’ With an ever increasing population and urban/suburban sprawl, it is imperative that access and opportunity are protected and even enhanced for future generations. In an effort to get our younger generations off the couch and out from behind the computer, recreational access to our national treasures of public lands and waters is imperative. Where this access does currently exist, let’s entrench it and provide certainty that it will always be there. Where it doesn’t, let’s ask why, and if reasonable and feasible, let’s look at solutions to make it more accessible. After all, these are public assets owned by the American people that were established for multiple use, including low impact recreational uses like hunting and fishing.

It is also worth noting that unlike some other outdoor recreational activities, hunting and shooting, in particular, are under constant siege by well-funded, politically and legally active, extremists groups that are intent on using whatever means to put an end to the traditions we cherish. Through the use of frivolous lawsuits and judicial action, the anti-use and animal rights

extremists are using the courts instead of relying on science-based wildlife management to achieve their radical anti-hunting/fishing agenda. Legal challenges to the application of the statutory and administrative policies that guide federal land management and conservation are effectively tying the hands of the public land managers and state wildlife officials, which in turn, deny access and opportunity.

The provisions in this legislation attempt to address many of these issues and should provide certainty that our sportsmen's heritage will be protected into the future. Specifically, CSF's comments on each provision of S. 556 are:

Sec. 101 – Recreational fishing, hunting, and recreational shooting on Federal public land

CSF strongly supports Section 101 which would ensure that Bureau of Land Management (BLM) and Forest Service (FS) lands are "open to fishing, hunting and shooting until closed" by specific agency action. Specifically Section 101: (1) clarifies and gives permanency to existing practices; (2) forestalls unnecessary litigation challenges to these traditional activities by anti-hunting and fishing interests; (3) creates greater administrative efficiency and reduced agency expense; and (4) follows a successful 35 year model governing lands in Alaska.

When discretionary agency action is necessary to continue fishing and hunting, each such action is also subject to judicial challenge per the Administrative Procedure Act (APA). By prescribing that public lands are open as a matter of law, no discretionary agency action is necessary to continue these activities.

Fortunately, for now, the vast bulk of BLM and FS lands are open to hunting and recreational fishing and shooting. However, the status quo is beginning to change in the face of pressure from anti-fishing/hunting interests. This trend reared its head in the Huron-Manistee National Forest in Michigan when the U.S. Court of Appeals for the Sixth Circuit ruled that the Forest Service could not simply keep the Forest land open to hunting (as had occurred from the creation of the Forest Service unit), but had to consider closing it to protect the aesthetic sensibilities of non-hunters from hearing occasional gunshots. Part of the problem was that nothing in the Forest statutes prescribed the continuation of hunting. The sporting community expects many more comparable lawsuits unless Congress acts to forestall such litigation.

Administrative appeals using the Forest Service appeals process or the Interior Board of Land Appeals for BLM action are also likely to increase if existing law remains unchanged. Not only does each such appeal put fishing and hunting at risk but the costs to the agencies will continue to mount. Absent Congressional prescription that fishing and hunting are allowed, substantial resources and time will be committed to administrative procedures to maintain the status quo (i.e.; continued fishing and hunting on BLM and FS lands).

In 1980 Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA). ANILCA mandated that certain parks, National Preserves, Monuments, Refuges, and Wilderness Areas be open to fishing and hunting subject to administrative closures/restrictions adopted by the National Parks Service (NPS) or the US Fish and Wildlife Service (FWS). This approach has worked well for over three decades, creating a valuable model for minimizing agency costs, and protecting fishing and hunting on other public lands. All of these ANILCA lands are statutorily open to access by airplane, motorboat and

snow machine until closed or restricted by subsequent specific agency action. This simple statutory model, which can be replicated nationally, has worked well for 35 years generating only a single lawsuit in all that time.

The need to expressly provide for fishing and hunting on BLM and FS lands is also supported by the National Wildlife Refuge System Improvement Act signed into law by President Clinton in 1997. Even though many of these FWS units were open to hunting, a number of legal challenges were filed against the openings on the grounds that the law did not expressly provide for hunting on “refuges.” Just like BLM and FS lands, the older FWS statutes did not specifically provide for hunting or designate it as a legitimate activity because when enacted, there was no anti-hunting movement. A broad bipartisan coalition in Congress fixed the problem by expressly finding that hunting was a legitimate activity on refuge lands, made fishing and hunting “priority public uses” of these lands, and directed FWS to “facilitate” fishing and hunting.

Similarly, it is time for Congress to provide these same assurances to public lands administered by the BLM and FS.

Sec. 102 - Annual permit and fee for film crews of 5 persons or fewer

CSF also supports Section 102 but has two minor suggestions for improvements. The legislation directs the Secretaries of the Interior and Agriculture to require that film crews of five or fewer, who are engaged in “commercial filming,” purchase a \$200 annual permit to operate on federal lands and waterways administered by the Secretaries.

Enacted on May 26, 2000, Public Law 106-206 directed the Secretaries of the Interior and Agriculture to require a permit and establish a “reasonable fee” for commercial filming activities. Subsequently, each land management agency subject to PL 106-206 completed an individualized rulemaking tailored to compliance with its unique missions and authorities. Unfortunately, the end result was significant uncertainty and confusion among outdoor industry production and publication companies regarding which rule applied to which lands as well as to whether certain activities would be classified as journalism or commercial.

Section 102 would provide consistency and certainty for a number of companies in the sportsmen’s community who produce television shows, movies and publications about hunting, shooting, fishing and conservation.

CSF would welcome an opportunity to work with the Committee to address two minor issues. First, the vast lion’s share of filming crews made up of five or less people are creating television and print materials that promote the natural, historic and recreational values on our public lands. This increases visitation to and support for, our public lands. As an incentive to encourage more of these benefits we suggest the Committee consider removing the annual \$200 fee to obtain the permit required for film crews of five or less.

Second, we would welcome an opportunity to work with the Committee, members of the media, production companies and publishers to develop language that clearly delineates which activities are defined as being commercial production and which are journalism. This would create

certainty and remove confusion for those engaged in both commercial and non-commercial activities.

Sec. 103 – Federal action transparency

Section 103 is the result of a breakthrough on the longstanding issue of environmental litigation. Even though it is a modest provision that merely establishes a public record of the costs and circumstances of litigation against the government, its bipartisan authorship and passage last year through the House of Representatives on voice votes without dissent show that it is a strong step forward.

Though differences on this topic have previously run deep, agreement is rising to the surface, starting with the plain fact that litigation has become a regular step in the process of managing wildlife habitat on federal trust lands. Like every other step in the decision-making process, and every aspect of the science involved, litigation must be understood and interpreted so we can all be sure of the best outcomes.

The concerns with litigation are, from one point of view, that litigation too often needlessly impedes the work of conservation agencies, leaving wildlife and habitat to neglect. From another view, lawsuits are necessary in order to ensure conservation. Either way, there is a problem. Whether the problem is that agencies are vulnerable in court, or that they belong in court, we need to know why. We need to establish the basic facts, and this is the purpose of this provision.

Section 103 amends two programs: the Judgment Fund and the Equal Access to Justice Act. The former is an unlimited appropriation that, in essence, pays money that the government owes someone, for example, if the government is found liable for cash damages. The latter, the Equal Access to Justice Act, reimburses the legal fees of plaintiffs who sue the government. The details of how each program works are difficult to track because data on how much money is spent and why are practically unavailable. What scant data that exists is neither reliable nor published, according to the Government Accountability Office. Section 103 ensures these facts are systematically collected and routinely published for easy review.

Both the Judgment Fund and the Equal Access to Justice Act also apply outside of wildlife conservation in cases involving personal disputes between citizens and the government. These private-interest cases differ from the public-interest environmental lawsuits and, therefore, in respect for matters of private interest, Section 103 carefully preserves all private personal information as guarded by law or court order, while publicizing the appropriate facts about how these programs function.

Sec. 104 - Bows in the Parks

This would authorize the lawful transportation of bows and crossbows across National Park Service lands. This common sense provision would allow hunters and recreational archers to transport bows and crossbows in any unit of the National Park provided they remain in the vehicle transporting them and are stored in a manner that renders them “not ready for immediate

use.” In addition, the provision requires that possession of the bows being transported be in compliance with the state law in which the National Park unit is located.

Sportsmen may already lawfully transport firearms in vehicles across units of the National Park System. This bill extends the same protections to bow hunters and recreational archers travelling through National Parks or accessing adjacent lands through National Park lands while also removing an unnecessary restriction that currently deprives the transportation of archery equipment in National Parks.

Sec. 201 – Availability of Land and Water Conservation Fund for recreational public access projects

Federal public lands are an important destination for many Americans, including hunters and anglers. Nearly half of all hunters conduct a portion of their hunting activity on these lands. However, numerous reports verify access to Federal land is problematic in a number of areas. In fact, a 2004 report to the House Appropriations Committee concluded that more than 35 million acres of FS and BLM land have inadequate public access.

Often referred to as, ‘Making Public Lands Public,’ this provision would make available funds from within the Land and Water Conservation Fund (LWCF) to be used by the U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service, and the National Park Service to open or improve access to existing Federal lands for hunting, fishing and other recreational purposes. Not less than 1.5% of the funds appropriated annually from LWCF or a minimum of \$10 million, whichever is greater, will be made available to secure public access through easements, rights-of-way, or fee title acquisition from willing sellers.

Similar legislative language was offered during House consideration of the FY 2013 Interior appropriations bill and was adopted by voice vote. In 2010, this language passed the House in an overwhelming bipartisan vote of 404-1. Additionally, both the Forest Service and the BLM included \$2,000,000 for recreational access in the President's budget in FY2015, which our community strongly supported.

Sec. 202 - Identifying opportunities for recreation, hunting and fishing on Federal land

As noted, public polling consistently demonstrates that access to public lands is one of the primary barriers to recruiting and retaining hunters, anglers and recreational shooters. This is particularly the case in the Western United States where far too many federal public lands are closed to access unnecessarily.

In some cases, these unnecessary barriers exist due to physical obstacles, such as when land ownership patterns result in federal public lands becoming an island surrounded by private land. In other cases, access is precluded as an unintended consequence of certain regulatory or federal management actions. There are also cases where public lands access is denied simply because federal agencies haven't been directed to identify lands where access should occur and to find ways to create that access.

Section 202 includes a number of provisions to remove these barriers to access, including:

- 1) A requirement that federal land management agencies identify high priority lands under their jurisdiction that have a significant potential for hunting, fishing, or other recreational use but lack a reasonable public routes to access them;
- 2) A requirement that the named land management agencies develop options for creating access to priority parcels and identify the actions needed to secure access in a manner that minimizes impacts to wildlife habitat and water quality.

It should also be noted that the sponsor of Section 202 has gone to great lengths to ensure that this legislation will not result in violations of privacy or private property rights for landowners adjacent to the federal public lands in question. CSF believes that Section 202 will effectively achieve these important objectives as currently drafted.

By taking these simple, common sense actions, federal agencies will begin to untangle a complex web of barriers to federal lands access that are currently barring hunters, shooters, anglers and other taxpayers from undertaking the pastimes they love on our nation's public lands.

Sec. 203 - Federal Land Transaction Facilitation Act

The Federal Land Transaction Facilitation Act (FLTFA) is a western federal lands program that facilitates the sale of strategic federal lands of marginal value by the BLM in order to provide funding for high-priority land conservation. The program has a proven track record of simultaneously addressing the burden placed on American taxpayers that results from excess properties that provide little or no public benefit in a manner that allows land management agencies to acquire properties with exceptional wildlife, scenic and recreational values.

Supported by a diverse array of over 150 groups including, conservation organizations, outdoor industry, land trusts, historic preservation trusts, among others, FLTFA's authority expired in 2011. Between 2000 and 2011, FLTFA resulted in BLM selling 27,200 acres of low-priority lands and Federal agencies acquiring 18,100 acres of high-priority lands, which was a ratio of 3 Federal acres sold for every 2 Federal acres acquired.

CSF is supportive of Section 203.

Summary

In summary, this is a common sense, non-controversial bill, with bipartisan support, that is good for conservation and preserves our outdoor heritage. It is also good for the American economy, especially for rural communities that surround our treasure of public lands and waters. With an ever increasing population, perhaps most importantly, it provides clarity and certainty that access to our federal lands and waters will remain available for hunting, recreational shooting and fishing, and other outdoor recreational pursuits for generations to come.

We thank the sponsors of this important bill for their leadership, and pledge to work with them to get this passed by the US Senate and enacted into public law. Thank you.

American Fly Fishing Trade Association * American Sportfishing Association * Archery Trade Association * Association of Fish and Wildlife Agencies * B.A.S.S. * Bear Trust International Berkley Conservation Institute * Boone and Crockett Club * Bowhunting Preservation Alliance Camp Fire Club of America * Catch-A-Dream Foundation * Coastal Conservation Association Congressional Sportsmen's Foundation * Council to Advance Hunting and the Shooting Sports Dallas Safari Club * Delta Waterfowl Foundation * Ducks Unlimited * Houston Safari Club International Game Fish Association * Izaak Walton League of America * Masters of Foxhounds Association * Mule Deer Foundation * National Marine Manufacturers Association * National Shooting Sports Foundation * National Trappers Association * National Wild Turkey Federation North American Bear Foundation * North American Grouse Partnership * Orion – The Hunter's Institute * Pheasants Forever * Pope and Young Club * Quail Forever * Quality Deer Management Association * Rocky Mountain Elk Foundation * Ruffed Grouse Society * Safari Club International * Texas Wildlife Association * Theodore Roosevelt Conservation Partnership Tread Lightly! * Trout Unlimited * U.S. Sportsmen's Alliance * Wild Sheep Foundation Wildlife Forever * Wildlife Management Institute Wildlife Mississippi

February 26, 2015

Dear Senator:

On behalf of our organizations, which represent millions of hunters, anglers and wildlife enthusiasts, we are writing to express our strong support for the *Bipartisan Sportsmen's Act of 2015* (S.405) and to seek your formal support for this historic legislation.

Recently introduced by Congressional Sportsmen's Caucus (CSC) members Senators Lisa Murkowski and Martin Heinrich along with CSC Co-Chairs Senators Jim Risch and Joe Manchin III and Vice Chairs Deb Fischer and Heidi Heitkamp, S.405 is a bipartisan package of pro-sportsmen's legislation that will expand, enhance and protect America's hunting, fishing and conservation heritage.

In order to avoid the timing challenges that stalled passage of the widely supported *Bipartisan Sportsmen's Act* last year, we are urging the Senate to pass S.405 in the first half of the 114th Congress. A strong demonstration of the far-reaching, bipartisan support for this legislation will be helpful to expeditiously securing committee and floor consideration of S.405 in a manner consistent with this timeline.

To that end, we respectfully request that you join the growing coalition of Senators, already bound by a shared commitment to enacting this historic legislation, by cosponsoring the *Bipartisan Sportsmen's Act of 2015*. To be added as a cosponsor of S. 405, please contact Chris Kearney in Senator Murkowski's Office at: christopher_kearney@energy.senate.gov or Maya Hermann in Senator Heinrich's office at: Maya_Hermann@heinrich.senate.gov.

Thank you for your consideration of this request and for your service on behalf of America's hunting, angling, shooting and conservation community.

Sincerely:

American Fly Fishing Trade Association
American Sportfishing Association
Archery Trade Association
Association of Fish and Wildlife Agencies
B.A.S.S.
Bear Trust International Berkley
Conservation Institute Boone and
Crockett Club Bowhunting
Preservation Alliance Camp Fire
Club of America
Catch-A-Dream Foundation Coastal
Conservation Association
Congressional Sportsmen's Foundation
Council to Advance Hunting and the
Shooting Sports
Dallas Safari Club
Delta Waterfowl Foundation
Ducks Unlimited
Houston Safari Club
International Game Fish Association
Izaak Walton League of America
Masters of Foxhounds Association
Mule Deer Foundation

National Marine Manufacturers Association
National Shooting Sports Foundation
National Trappers Association
National Wild Turkey Federation
North American Bear Foundation
North American Grouse Partnership
Orion – The Hunter's Institute
Pheasants Forever
Pope and Young Club
Quail Forever
Quality Deer Management Association
Rocky Mountain Elk Foundation
Ruffed Grouse Society
Safari Club International Texas
Wildlife Association Theodore
Roosevelt Conservation
Partnership
Tread Lightly!
Trout Unlimited
U.S. Sportsmen's Alliance
Wild Sheep Foundation
Wildlife Forever
Wildlife Management Institute
Wildlife Mississippi