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**APPROVED**  
**FEB 27 1976**

§ 2/27/76

**ACTION**

**THE WHITE HOUSE**  
**WASHINGTON**

**Last Day: March 1**

**February 26, 1976**

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

Enrolled Bill H.R. 5512 - National  
Wildlife Refuge System Administration  
Act Amendments

*Postal*  
*2/28*  
*50 archives*  
*3/1*

Attached for your consideration is H.R. 5512, sponsored by Representatives Dingell and Leggett, which generally prohibits the administrative transfer or other disposition of lands that comprise the National Wildlife Refuge System and requires that the Secretary of the Interior administer all areas within the System through the U.S. Fish and Wildlife Service.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 5512 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

FEB 24 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5512 - National Wildlife  
Refuge System Administration Act amendments  
Sponsors - Rep. Dingell (D) Michigan, Rep.  
Reuss (D) Wisconsin and Rep. Leggett (D)  
California

Last Day for Action

March 1, 1976 - Monday

Purpose

Generally prohibits the administrative transfer or other disposition of lands that comprise the National Wildlife Refuge System and requires that the Secretary of the Interior administer all areas within the System through the U.S. Fish and Wildlife Service.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval

Discussion

Under the National Wildlife Refuge System Administration Act, units of the System are established by law, Executive order, or Secretarial order and administered by the Secretary of the Interior. Acquired lands within the System may be disposed of if the Secretary, after consultation with the Migratory Bird Conservation Commission, determines that such lands are no longer needed. In the case of disposition, lands that had been purchased with Migratory Bird Conservation Fund monies (duck stamp receipts) are sold for their original acquisition cost while lands that were donated to the System are sold at fair market value.



The Secretary has broad discretion to manage units within the System, and when President Roosevelt established four wildlife ranges during the 1930's -- Cabeza Prieta Game Range in Arizona (860,000 acres), the Charles M. Russell National Wildlife Range in Nevada and Oregon (1,007,000 acres), the Charles Sheldon Antelope Range in Nevada and Oregon (541,000 acres), and the Kofa Game Range in Arizona (660,000 acres) -- management was jointly assigned to the U.S. Fish and Wildlife Service (FWS) and the Bureau of Land Management (BLM). FWS manages wildlife and BLM manages livestock grazing, logging, fossil fuel development and other mining.

However, joint administration of these four units has created jurisdictional difficulties for both agencies, and last year, Interior announced that it was assigning (a) FWS with exclusive management authority for the Cabeza Prieta Range and (b) BLM as the sole management authority for the Sheldon, Russell, and Kofa Ranges. We understand the proposed transfer was in large part due to pressure from certain western Congressmen on behalf of grazing interests in their states.

This announcement precipitated a suit against the proposed transfer brought by the Wilderness Society in U.S. District Court. The Court permanently enjoined Interior's proposed transfer on the grounds that the Secretary did not have the legal authority to transfer these management responsibilities away from FWS. The Court further stipulated that the Congress specifically intended that the Secretary should manage and administer the System through FWS.

H.R. 5512 would amend the National Wildlife Refuge System Administration Act in three ways:

First, all units of the System would be administered by the Secretary through the U.S. Fish and Wildlife Service. In the case of Alaska where certain Federal agencies manage resources within refuges under cooperative agreements, such activities would be subject to the direct supervision of FWS.



Second, in transferring or disposing of refuge lands, the Migratory Bird Conservation Commission must concur with the Secretary that such lands are no longer needed. Also, lands acquired with duck stamp receipts must be sold for either their acquisition cost or at fair market value, whichever is greater.

Third, all units and other lands within the System on January 1, 1975, or thereafter would continue to be a part of the System unless otherwise specified by an Act of Congress. The only exception would be (a) the transfers or dispositions described above under the second point, (b) equal value exchanges, and (c) lands managed under a cooperative agreement.

In reporting on H.R. 5512 to the House Merchant Marine and Fisheries Committee, Interior generally opposed H.R. 5512 on the grounds that the bill unduly restricted the authority of the Secretary to administer the System in an effective manner.

However, in its report on H.R. 5512, the House Merchant Marine and Fisheries Committee stated that:

"Clearly, the record of BLM's wildlife management has not been an encouraging one. The Committee believes that the reason for this arises from the fact that BLM has a number of other important missions such as mining, logging, livestock grazing, and fossil fuel development which often conflict with wildlife management. In performing these conflicting missions, BLM is unable to devote sufficient attention to the needs of wildlife. In short, its mission is not wildlife protection or enhancement.

In contrast to BLM, the United States Fish and Wildlife Service has as its basic mission the protection and enhancement of wildlife. The agency's entire



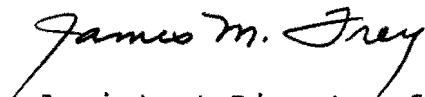
resources, which are substantial, are directed toward this goal."

In its enrolled bill letter, Interior notes its past opposition to H.R. 5512, but recommends approval of the measure because:

"H.R. 5512 is basically a restatement of Congressional intent as to the existing state of the law articulated by the Court in the Wilderness Society case."

" ... the Congress passed H.R. 5512 by overwhelming margins and has clearly set forth its intent in the bill and the legislative history to restrict the discretion of the Secretary with regard to the management and disposal of wildlife refuges."

This Office shares Interior's preference for providing the Secretary with broad discretion in his management of the National Wildlife Refuge System. However, in light of both the District Court decision and the Congressional desire to limit the Secretary's discretion in managing the System, we also concur in Interior's recommendation to approve the enrolled bill. In this regard, it should be pointed out that the non-wildlife resources in these game ranges will still be available for use and development, but under the jurisdiction of FWS rather than BLM --- wildlife objectives will be accorded the highest priority with other resource use objectives being fit within the overall wildlife scheme.



Assistant Director for  
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: February 24

Time: 7:00pm

FOR ACTION: George Humphreys  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: February 25

Time: 300pm

SUBJECT:

H.R. 5512 - National Wildlife Refuge System  
Administration Act amendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

FEB 24 1976

Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill H.R. 5512, an Act "To amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes."

We recommend that the President approve the enrolled bill.

Enrolled Bill H.R. 5512 amends the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd(A)) to establish administration of the National Refuge System by the Secretary of the Interior through the U.S. Fish and Wildlife Service. The Act directs that all areas in the System on January 1, 1975, established by law, Executive order or Secretarial order, shall continue to be part of the System until otherwise specified by Congress. Refuge lands acquired with "duck stamp" monies can be transferred or disposed if it is determined that such lands are no longer needed for purposes of the System and after approval of the Migratory Bird Conservation Commission. Proceeds of any transfer or disposal must be deposited in the Migratory Bird Conservation Fund. Under the provisions of H.R. 5512, Congressional approval would not be required for disposal of lands included in the System pursuant to a cooperative agreement.

This bill is not in total accord with the recommendations of this Department as transmitted by the Department's May 14, 1975 report on H.R. 5512 to the House Merchant Marine and Fisheries Committee. In the Departmental report, we made two recommendations: (1) we opposed the section of the bill that amended the National Wildlife Refuge System Administration Act to provide that all wildlife refuges shall be administered by the Secretary of the Interior through the Fish and Wildlife Service, because such an amendment would "unduly restrict(s) the authority of the Secretary to administer the System in an effective manner"; and (2) we recommended, that if the intent of the bill was to cover all areas within





the Refuge System, then the bill should be amended to make an exception for the termination of refuge areas which although administered as a part of the System are under the primary jurisdiction of another landowning agency (another Federal agency, State or local governmental entity) through cooperative agreements and the termination of these areas is based on the terms of the cooperative agreement. This second amendment recommendation was accepted by the Congress and the bill was amended to provide for this exception.

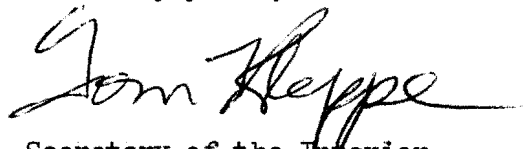
In The Wilderness Society v. Hathaway, C.A. No. 75-1004 (D.C. 1976), the Secretary of the Interior was sued to prevent him from transferring the management responsibilities for the Kofa, Sheldon and Russell Wildlife Refuge Game Ranges from the Fish and Wildlife Service to the Bureau of Land Management. On January 26, 1976, the Court issued an order which permanently enjoined this transfer of responsibilities. At that time the court held in a memorandum opinion that the Secretary did not have the legal authority to transfer these management responsibilities away from the Fish and Wildlife Service and held that the Congress specifically intended that the Secretary should manage and administer the Wildlife Refuge System through the Fish and Wildlife Service. The Court order did not hold that wildlife refuges could not be jointly administered by the Fish and Wildlife Service and another agency. This Department has not appealed the District Court decision.

H.R. 5512 provides that the Secretary of the Interior shall administer the National Wildlife Refuge System through the Fish and Wildlife Service, and does not provide for the joint administration of refuge areas, except where the administration of certain areas is part of a cooperative agreement with any State or local government, or Federal department or agency. H.R. 5512, also, places certain new limitations on the Secretary's authority to dispose of areas within the System. The bill directs that all areas in the System on January 1, 1975, whether established by law, Executive order, or Secretarial order, shall continue to be part of the System until otherwise specified by Congress. Except for these restrictions

to joint administration and disposition of refuge areas, H.R. 5512 is basically a restatement of Congressional intent as to the existing state of the law articulated by the Court in the Wilderness Society case.

In view of the Wilderness Society case, and except for the limitations on the Secretary's discretion described above, H.R. 5512 does not substantially alter the Secretary's present authority to manage and administer the wildlife refuge system. Notwithstanding the Department's opposition to this bill, the Congress passed H.R. 5512 by overwhelming margins and has clearly set forth its intent in the bill and the legislative history to restrict the discretion of the Secretary with regard to the management and disposal of wildlife refuges.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Tom Heppe". The signature is written in dark ink and is positioned above the typed name of the Secretary of the Interior.

Secretary of the Interior

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: February 25

Time: 700pm

FOR ACTION: George Humphreys  
Max Friedersdorf  
Ken Lazarus ✓

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

---

DUE: Date: February 26

Time: 300pm

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SUBJECT:

H.R. 5512 - National Wildlife Refuge System  
Administration Act amendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection.

Ken Lazarus

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

THE WHITE HOUSE

WASHINGTON

February 26, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M.L.F.*  
SUBJECT: H.R. 5512 - National Wildlife Refuge System  
Administration Act amendments

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: February 25

Time: 700pm

FOR ACTION: George Humphreys ✓  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jack Marsh  
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FROM THE STAFF SECRETARY

DUE: Date: February 26

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SUBJECT:

H.R. 5512 - National Wildlife Refuge System  
Administration Act amendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*Recommened approval.  
G. Humphreys/pt  
2-26-75*

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FEB 24 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5512 - National Wildlife  
Refuge System Administration Act amendments  
Sponsors - Rep. Dingell (D) Michigan, Rep.  
Reuss (D) Wisconsin and Rep. Leggett (D)  
California

Last Day for Action

March 1, 1976 - Monday

Purpose

Generally prohibits the administrative transfer or other disposition of lands that comprise the National Wildlife Refuge System and requires that the Secretary of the Interior administer all areas within the System through the U.S. Fish and Wildlife Service.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval

Discussion

Under the National Wildlife Refuge System Administration Act, units of the System are established by law, Executive order, or Secretarial order and administered by the Secretary of the Interior. Acquired lands within the System may be disposed of if the Secretary, after consultation with the Migratory Bird Conservation Commission, determines that such lands are no longer needed. In the case of disposition, lands that had been purchased with Migratory Bird Conservation Fund monies (duck stamp receipts) are sold for their original acquisition cost while lands that were donated to the System are sold at fair market value.



To: J. Conaway  
2-24-76  
6:00 P.M.

NATIONAL WILDLIFE REFUGE SYSTEM  
ADMINISTRATION ACT

JUNE 27, 1975.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and  
Fisheries, submitted the following

REPORT

[To accompany H.R. 5512]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 5512) to amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That subsection (a) of section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)) is amended to read as follows:

“(a) (1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the ‘National Wildlife Refuge System’ (referred to herein as the ‘System’), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service, except that any such area which was administered jointly on January 1, 1975, by the Secretary through the United States Fish and Wildlife Service and any other Federal or State governmental agency may continue to be so jointly administered.

“(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless—

“(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

“(B) such lands are transferred or otherwise disposed of for an amount not less than—

“(1) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the

migratory bird conservation fund, or fair market value, whichever is greater; or

"(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

"(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

"(A) designated as an area within such System by law, Executive order, or secretarial order; or

"(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity, shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

"(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;

"(ii) the exchange of lands within any such area pursuant to subsection (b) (3) of this section; or

"(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph."

#### PURPOSE OF THE LEGISLATION

The purpose of H.R. 5512 is to assist in protecting and conserving the fish and wildlife resources of this nation.

In accomplishing this purpose, the legislation would provide that all areas which are included in the National Wildlife Refuge System as of January 1, 1975, and thereafter shall continue to be a part of the System, and in general cannot be transferred or otherwise disposed of except pursuant to an Act of Congress. In addition, the legislation would require that all areas within the System shall be administered by the Secretary of the Interior through the United States Fish and Wildlife Service.

#### LEGISLATIVE BACKGROUND

H.R. 5512 was introduced on March 26, 1975, by Mr. Dingell, Mr. Leggett and Mr. Reuss. Identical bills in the form of H.R. 5946, H.R. 5947, H.R. 6355, H.R. 6906 and H.R. 7498 were subsequently introduced by Mr. Dingell, Mr. Leggett, and Mr. Reuss. The 53 cosponsors of this legislation are as follows: Mr. Stark, Mr. Solarz, Mr. Udall, Mr. Carr, Mr. Pritchard, Mr. Maguire, Mrs. Collins of Illinois, Mrs. Boggs, Mr. Brown of California, Mr. Rodino, Mr. Edwards of California, Mr. Hechler of West Virginia, Mr. Charles H. Wilson of California, Mr. Roe, Mr. Harrington, Mr. Nedzi, Mr. Edgar, Mr. Studds, Mr. Coughlin, Mr. Drinan, Mr. Fuqua, Mr. Moss, Mr. Gude, Mr. McCloskey, Mr. Fascell, Mr. Blanchard, Mr. Cohen, Mr. Forsythe, Mr. Riegle, Mrs. Schroeder, Mrs. Abzug, Mrs. Holtzman, Mr. Sarbanes, Mr. Seiberling, Mr. Oberstar, Mr. Mikva, Mr. Chappell, Mr. Downey, Mr. Roncalio, Mr. Wirth, Mrs. Spellman, Mr. Regula, Mr. D'Amours, Mr. Jeffords, Mr. Conte, Mr. Fisher, Mr. Vander Veen, Mr. Krueger, Mr. Fraser, Mr. Whitehurst, Mr. Zeferetti, Mr. Hayes of Indiana, and Mr. Matsunaga.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment held one full day of hearings on H.R. 5512 and related legislation on May 15, 1975. During the hearings, Congressman Sam

Steiger and the Department of the Interior, represented by Assistant Secretary John Kyl, recommended against passage of the legislation. However, the Interior Department suggested that if the Committee were to act favorably on the legislation, it should be amended to insure that it would cover every element of the National Wildlife Refuge System. The Department felt that as originally worded, H.R. 5512 would not do so. The Committee adopted the suggested amendment when ordering the bill reported to the House.

Passage of the bill was supported by witnesses representing the National Wildlife Refuge Association and the Sierra Club. Additionally, the Committee received statements supporting H.R. 5512 from the Audubon Society, the National Wildlife Federation, the Wilderness Society, and the Wildlife Management Institute.

The following telegram sent to the President on February 12, 1975, protesting Secretary Morton's proposed transfer of the three ranges to BLM indicates the concern of the conservation and environmental organizations throughout the Nation:

Mr. PRESIDENT: The undersigned organizations urgently protest Secretary of the Interior Morton's decision to oust the U.S. Fish and Wildlife Service from Charles Sheldon Antelope Range, Charles M. Russell National Wildlife Range, and Kofa Game Range, and to turn these ranges over exclusively to the Bureau of Land Management.

These ranges are among the nation's greatest wildlife conservation areas. They are essential to preservation of habitat on which some of the nation's finest populations of wildlife depend, including endangered species such as the black-footed ferret and peregrine falcon, and the diverse migratory and non-migratory wildlife of the desert and high plains. These ranges need the attention and the wildlife expertise that the Fish and Wildlife Service can provide.

BLM's own Nevada grazing study indicates that wildlife habitat has been seriously impaired on lands administered by BLM. The 1965 joint study of Kofa Game Range concluded that BLM had allowed excessive livestock grazing there, to the detriment of the wildlife for which the range was established. This must not be allowed to happen to our great wildlife ranges. Turning any of these wildlife ranges over to BLM is absolutely unacceptable.

We urge you to overrule Secretary Morton's decision and assign sole jurisdiction of the four wildlife ranges—Sheldon, Russell, Kofa and Cabeza Prieta—to the Fish and Wildlife Service.

Signed:

William E. Towell, Executive Vice President, American Forestry Association;

Mrs. Paul M. Twyne, President, American Horse Protection Association;

Belton P. Mouras, President, Animal Protection Institute; Bernard Fensterwald, Jr., Counsel, Committee for Humane Legislation;

Elizabeth Bennett, Administrative Vice President, Defenders of Wildlife;

Peter Harnik, Coordinator, Environmental Action;

William A. Butler, Washington Counsel, Environmental Defense Fund;



Brent Blackwelder, Washington Representative, Environmental Policy Center;  
 Brock Evans, Washington Representative, Federation of Western Outdoor Clubs;  
 David R. Brower, President, Friends of the Earth;  
 Lewis Regenstein, Executive Vice President, The Fund for Animals;  
 Murdaugh Madden, General Counsel, The Humane Society of the United States;  
 David S. Claffin, President, International Society for the Protection of Animals;  
 Charles H. Callison, Executive Vice President, National Audubon Society;  
 T. Destry Jarvis, Administrative Assistant, National Parks & Conservation Association;  
 Forrest Carpenter, President, National Wildlife Refuge Association;  
 David Michelman and Thomas Stoel, Jr., Natural Resources Defense Council;  
 Walter Pomeroy, Executive Director, Northern Environmental Council;  
 Michael McCloskey, Executive Director, Sierra Club;  
 Christine Stevens, Secretary, Society for Animal Protective Legislation;  
 Stewart M. Brandborg, Executive Director, The Wilderness Society;  
 Godfrey A. Rockefeller, Executive Director, World Wildlife Fund;  
 William Painter, Director, American Rivers Conservation Council;  
 Daniel A. Poole, President, Wildlife Management Institute, and  
 Spencer M. Smith, Jr., Secretary, Citizens Committee on Natural Resources.

After giving thorough consideration to the evidence presented at the hearings and the report of the Department of the Interior, the Committee, by voice vote, unanimously ordered reported to the House H.B. 5512 with an amendment. The amendment, which strikes out all after the enacting clause and inserts new language, will be discussed in the section-by-section analysis contained in this Report.

#### BACKGROUND AND NEED FOR THE LEGISLATION

During the 1930's President Franklin D. Roosevelt established four wildlife ranges as part of the National Wildlife Refuge System in order to protect species such as the desert big-horn sheep, the pronghorn antelope, the bald eagle, the peregrine falcon, and the prairie falcon. The four areas were the Cabeza Prieta Game Range in Arizona, the Charles M. Russell National Wildlife Range in Montana, the Charles Sheldon Antelope Range in Nevada and Oregon, and the Kofa Game Range in Arizona. The present acreage of the ranges is as follows: Kofa—660,000; Sheldon—541,000; and Russell—1,007,000.

By 1908, some 40 small refuges had been established by Executive Order. From this small beginning, the National Wildlife Refuge System has grown to what it is today, some 31 million acres of land and water managed in 373 separate refuge units.

At the time of the establishment of the Kofa, Russell, Sheldon and Cabeza Prieta ranges, management was assigned jointly to the United States Fish and Wildlife Service, to manage wildlife values, and the Bureau of Land Management, to manage livestock grazing and exploitable resources such as mineral and fuel deposits. However, joint jurisdiction over these four ranges has been a source of difficulty for both agencies and it has long been felt that some resolution to the problem should be found.

In an undated report first revealed by Congressman Dingell at the Subcommittee hearings, the Fish and Wildlife Service said:

Because of differences in public laws governing each Bureau's activities; interpretations of various public laws governing the management prerogatives of each Bureau; differences in policy direction within the Department; and differences in natural resource philosophy of each agency, irreconcilable conflicts have developed. As a result of these unresolvable differences, the public, in whose name these areas are managed, have not received full benefits of the natural resources found therein, nor have these resources been adequately protected.

Numerous reports examining the problem have recommended that the Ranges be placed under the sole administrative jurisdiction of the Bureau of Sports Fisheries and Wildlife. Proper management of the wildlife resources would continue to be the primary objective of each area. Other compatible uses will be permitted including grazing, recreation, hunting, etc. The Bureau of Land Management will continue to administer mining laws but access for mineral exploration will be controlled by the Bureau of Sport Fisheries and Wildlife.

It is recommended that sole jurisdiction by Bureau of Sport Fisheries and Wildlife be accomplished by issuance of a Public Land Order.

The hearings showed that this recommendation which had not previously been made public was not adopted by the Interior Department. Instead, on January 23, 1974, the Deputy Assistant Secretary for Land Management recommended in a memorandum to the Secretary, that Kofa and Cabeza Prieta ranges be administered by the FWS and that Sheldon and Russell be administered by the BLM.

The Under Secretary of the Interior, in a January 28, 1974 memorandum, concurred in the recommendation concerning Kofa and Cabeza Prieta, but deferred a decision on the other two. The memorandum was not made public until the Subcommittee hearings. Thereafter, on February 15, 1975, the Secretary of the Interior announced that effective July 1, 1975, the BLM would assume sole management authority for the Sheldon, Russell, and Kofa Ranges and the

United States Fish and Wildlife Service would be given exclusive management authority for the Cabeza Prieta Range.

The Committee is concerned about the decision and the procedures used in reaching the decision. Despite the controversial nature of the decision and its impact on the National Wildlife Refuge System, the Department did not prepare an environmental assessment or an environmental impact statement on the proposed transfer. Yet over a year ago on February 19, 1974, the Department's Solicitor stated: "The act of transferring the administration of these three areas to BLM should also be reviewed to determine if it would be a major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and the guidelines issued thereunder." That admonition has gone unheeded because one year later on February 27, 1975, the Solicitor said:

Since no environmental assessment was prepared upon which to base an actual determination of the possible environmental consequences of this proposed action, it is difficult to speak categorically to the requirements of the National Environmental Policy Act. If . . . no changes from present management practices will take place on the three ranges, in my view this action would not require the preparation of impact statements on the delegation.

However, the likelihood of a different result would increase in relation to the extent that there would be any departure from present management practices in these areas. If there is any proposal to modify the existing management practices or any other proposed action which would have future management implications, an environmental assessment should be prepared for the purpose of determining whether that proposal is or is not a major federal action significantly affecting the quality of the human environment, thereby requiring the preparation of an Environmental Impact Statement.

As the Solicitor's February 27th memo pointed out, no environmental assessment had been prepared upon which to base an actual determination of environmental consequences, and thus of a need to prepare an environmental impact statement. However, the Solicitor is very clear in his statement that if a transfer of the three ranges will result in a change of management practices, an environmental impact statement should be prepared. BLM has already proposed substantial management changes as part of its instruction manual #75-117 dated March 7, 1975, which includes an extensive document entitled: "Game Range Policy and Management Criteria." This document contains directives on management practices which appear to be substantially different and less satisfactory than those of the Fish and Wildlife Service.

The Committee notes, as a result of a suit brought in the U.S. District Court for the District of Columbia by the Wilderness Society et al, a temporary restraining order has been issued ordering any transfer of the Kofa, Sheldon, and Russell ranges to BLM to be held in abeyance pending a hearing on the motion for a preliminary injunction.

Further, Secretary Morton's decision could result in the creation of two parallel but differing sets of refuge regulations. Since BLM

would be vested with full wildlife management authority for the Sheldon, Russell and Kofa Ranges, BLM would, according to Interior's Solicitor, be free to adopt regulations of a different form and content from those adopted by the United States Fish and Wildlife Service. Furthermore, when the United States Fish and Wildlife Service adopts new regulations applicable to the National Wildlife Refuge System, these regulations would not be applied to the wildlife refuges administered by BLM unless adopted by that agency. The Committee does not believe that the potential for a parallel and different set of regulations is in the best interests of the refuge system and its resources.

The procedures whereby the transfer was proposed were also disturbing to the Committee. Several years ago, the Committee reached an agreement with the Department of the Interior under which the Committee was to receive notice of any change in the status of wildlife refuges. Despite the long existence of this agreement, the Interior Department failed to notify the Committee of the proposed change in the management of the Sheldon, Russell and Kofa Ranges.

In defense of the transfer, the Interior Department spokesman testified that the Bureau of Land Management already manages 74 million acres on which there are big game and 391 million acres on which there are small game. However, the fact that the Bureau of Land Management has management authority for these wildlife areas which include wildlife habitat, does not necessarily mean that these areas are well managed.

Two reports recently prepared by the Bureau of Land Management indicate the unhappy state of affairs which exists in BLM-managed areas. The "Range Condition Report" prepared by BLM for the Senate Committee on Appropriations and the report entitled "Effects of Livestock Grazing on Wildlife, Watershed, Recreation, and Other Resource Values in Nevada" document the problem.

The "Range Condition Report" indicates that only 28 million acres or 17 percent of the public grazing lands are in satisfactory or better condition. Some 135 million acres or 83 percent are in the unsatisfactory category. In fact, 54 million acres or 33 percent are in poor or bad condition. The Report predicts that the range land will continue to deteriorate. The Report states in part, "Projections indicate that in 25 years, productive capability could increase by as much as 25 percent—losses will be suffered in terms of erosion, water quality deterioration, downstream flooding, loss of wildlife and recreation values, and decline in basic productive capability." The Report further states that over 60 million acres under BLM management are in an "unacceptable condition because of depleted vegetation and excessive run-off." It is estimated that another 11 to 12 million acres will deteriorate to an unacceptable condition within 25 years.

One of the findings of the Nevada Report states, "Full consideration was not given to wildlife in subsequent development of range management plans and facilities . . . Protection and enhancement of wildlife, aesthetic, recreational, and cultural values have not had sufficient emphasis." Of particular concern is the fact that when the Nevada Report was first issued, the Director of the Bureau of Land Management indicated that similar problems existed in other states.

Furthermore, according to a paper entitled, "The Bureau of Land Management's Wildlife Program: Missions, Challenges and Funding Levels" between 1968 and 1973 the amount of unsatisfactory wildlife habitat increased as follows:

	Percentage of unsatisfactory habitat	
	1968	1973
Big game.....	38	47
Small game.....	21	38
Waterfowl.....	14	37
Streams.....	30	41

Clearly, the record of BLM's wildlife management has not been an encouraging one. The Committee believes that the reason for this arises from the fact that BLM has a number of other important missions such as mining, logging, livestock grazing, and fossil fuel development which often conflict with wildlife management. In performing these conflicting missions, BLM is unable to devote sufficient attention to the needs of wildlife. In short, its mission is not wildlife protection or enhancement.

In contrast to BLM, the United States Fish and Wildlife Service has as its basic mission the protection and enhancement of wildlife. The agency's entire resources, which are substantial, are directed toward this goal.

It should be emphasized that the basic reason why these and other areas of the System have not been properly managed is the fact that the System is underfunded and understaffed. Interior has apparently known this for some time. Indeed, this subject was discussed in a January 1973 report which until June 11, 1975 was classified as "Administratively Confidential." Instead of taking steps within the Executive Branch to ask Congress for needed funds, Interior recommended that all four of these ranges should be "transferred" to the BLM and 14 other game ranges "should be turned over to the States."

This internal recommendation has not previously been brought to the attention of Congress, this Committee, or the public. Most importantly, the problems mentioned in the document have not been discussed adequately before our Committee.

In conclusion, it is the Committee's view that the goals of the National Wildlife Refuge System will best be served by assuring that the United States Fish and Wildlife Service has responsibility for wildlife management in all areas of the refuge system. While joint management of the refuges in question may not be the ideal administrative arrangement, it is far superior to the results which could accompany sole management by BLM. However, recognizing the Department's concern and the concern of this Committee over joint management, the Committee invites Interior to conduct a thorough study of this matter, including the funding and staffing problems, and make its findings known to the Committee for whatever action is deemed necessary.

## WHAT THE BILL DOES: SECTION-BY-SECTION ANALYSIS

As indicated in the legislative background of this report, the Committee ordered reported to the House H.R. 5512, with an amendment. This was accomplished by striking out all after the enacting clause and substituting new language.

H.R. 5512 would rewrite section 4(a) of the National Wildlife Refuge System Administration Act of 1966, as follows:

### SECTION 1

#### *Subsection (a) (1)*

The first sentence of section 4(a) of the Act provides that all wildlife ranges, game ranges, wildlife refuges, wildlife management areas, waterfowl production areas, or areas for the protection and conservation of fish and wildlife that are threatened with extinction are designated as units of the National Wildlife Refuge System and shall be administered by the Secretary of the Interior.

Subsection (a) (1) of the bill would amend the first sentence of section 4(a) of the Act by adding a new provision that would require all units of the System to be administered by the Secretary of the Interior through the United States Fish and Wildlife Service. However, with respect to any areas within the System as of January 1, 1975, which were administered jointly by the Secretary through the U.S. Fish and Wildlife Service and any other Federal or State Government agency, such areas could continue to be so jointly administered.

This subsection will clear up two problem areas that have been of concern to the Committee. First, the United States Fish and Wildlife Service would be designated as the Agency through which the Secretary would be required to administer the units of the System, thereby eliminating the possibility of the Secretary delegating their authority to the Bureau of Land Management or any other Interior agency. Second, there will be no joint administration of any units within the System by the United States Fish and Wildlife Service and the Bureau of Land Management or any other Federal agency.

However, an exception would be made with respect to those units that were jointly administered as of January 1, 1975, by the United States Fish and Wildlife Service and another Federal or State Governmental agency, such as the three units jointly administered by the United States Fish and Wildlife Service and the Bureau of Land Management, namely, the Kofa Game Range, the Charles Sheldon Antelope Range, and the Charles M. Russell National Wildlife Range.

#### *Subsection (a) (2)*

The second and third sentences of section 4(a) of the Act provides that no acquired lands which are a part of the System may be transferred or otherwise disposed of by the Secretary (except by exchange pursuant to subsection (b) (3) of the Act) unless the Secretary determines after consultation with the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes of the System. If such a determination is made, then the Secretary would be required to collect the acquisition cost of such lands if they were purchased with funds from the Migratory Bird Conservation Fund or

the fair market value of such lands if the lands were donated to the System. The proceeds of any transfer or disposal would be acquired to be deposited in the Migratory Bird Conservation Fund.

Subsection (a) (2) of the bill would rewrite these two sentences in two respects.

First, it would provide that no lands acquired with funds from the Migratory Bird Conservation Fund could be transferred or otherwise disposed of (except by exchange pursuant to subsection (b) (3) of this section) unless the Migratory Bird Conservation Commission approves of such transfer or disposal.

Present law requires the Secretary only to consult with the Commission before transferring or disposing of any such lands. However, since the Commission's approval is required before lands can be purchased with funds from the Migratory Bird Conservation Fund, the Committee felt it would be consistent and appropriate to require the Commission's approval before any of such lands could be disposed of.

Second, with respect to acquired lands which the Secretary and the Commission have determined are no longer needed, the Secretary in disposing of such lands would be required to collect from the purchaser the acquisition costs of the fair market value of such lands, whichever is greater.

Under present law, the Secretary would be required to collect only the acquisition cost of such lands. The Committee felt that if the lands had increased in value since the date of their acquisition, then it was only fair that such increase in value should be passed on to the Fund and utilized for additional acquisitions.

#### *Subsection (a) (3)*

Subsection (a) (3) would add a new provision to section 4(a) of the Act to provide that such area which is included within the System on January 1, 1975, or thereafter which was or is designated as an area of the System whether by law, Executive order, secretarial order, or whether included in the System by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any Federal or State agency or any other governmental entity, then each of such areas would continue to be a part of the System until otherwise specified by an Act of Congress. However, Congressional approval would not be required in three situations. First, transfers or disposals of acquired lands could still be made provided the Secretary—with the approval of the Commission—determined that such lands were no longer needed and the appropriate price for such lands is collected pursuant to the requirements of paragraph (2) of this subsection. Second, lands could still be exchanged for lands of equal value pursuant to the requirements of subsection (b) (3) of this section of the Act. And third, lands included within the System pursuant to a cooperative agreement could likewise be disposed of or the use of such lands terminated pursuant to the terms of a cooperative agreement.

Also, it should be pointed out that in rewriting section 4(a) of the Act, the second sentence of the subsection was eliminated. Under present law, the Secretary could modify or revoke public land withdrawals affecting lands in the System whenever he determined it was in the

public interest to do so. By eliminating this sentence from the subsection as rewritten by this legislation, it makes it clear that public land withdrawals which are or become a part of the System shall continue to be a part of the System and such public land withdrawals could not be modified or revoked except by an Act of Congress. The Committee considers this change to be technical in nature only and necessary to conform to the legislation. This change will in no way change the Secretary's authority to issue a public land withdrawal to put lands in the System but it will make sure any disposals of such lands will be by an Act of Congress.

However, Congressional approval would not be required for such lands to be exchanged for other lands pursuant to the requirements of subsection (b) (3) of this section of the Act, nor would Congressional approval be required for such lands to be disposed of pursuant to a cooperative agreement if such lands were included in the System pursuant to a cooperative agreement.

The Committee would like to make it clear that to assist this Committee in exercising its oversight responsibilities in the administration of this Act, it expects the Secretary to notify this Committee on a quarterly basis of any transfers, disposals, or exchanges that take place pursuant to the provisions of this Act.

It is the Committee's understanding that the Office of Management and Budget has directed the Interior Department to de-emphasize, as rapidly as possible, Federal involvement in wildlife refuges in favor of State and local operations and has, at the same time, disallowed necessary increases in budget requests to properly administer the System. The Committee is deeply disturbed over this directive and strongly urges that sufficient funds and manpower be made available as quickly as possible so that the System can once again become operational in response to the American public's strong desire to see our Nation's wildlife and its habitat properly managed and protected.

The Committee would like to point out that it strongly supports plans and programs in wildlife refuges designed to mutually benefit both Federal and State fish and wildlife management programs, such as cooperative hunting and fishing, law enforcement, habitat improvement, etc., in which public benefits are shared; however, the Committee feels that to transfer total management responsibilities over an area to another Federal or State agency is tantamount to a transfer of jurisdiction and control over the land and is the type of transfer that would be covered by this legislation, which requires an Act of Congress before such transfer could take place. The Committee, in carrying out its oversight responsibilities in this regard, expects the United States Fish and Wildlife Service to keep the Committee fully informed of any plans it has that may border on transfers of this nature.

#### COST OF THE LEGISLATION

In the event this legislation is enacted into law, the Committee estimates—based on information supplied by the Department of the Interior—that there would be no additional cost to the Federal Government.



## COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of Clause 2(1)(3) of House Rule XI of the Rules of the House of Representatives—

(A) No oversight hearings were held on the administration of this Act during this session of Congress, beyond the one day of hearings on the legislation held by the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The Subcommittee does plan to hold oversight hearings on the administration of this Act before the end of this Congress.

(B) Section 308(a) of the Congressional Budget Act of 1974 is not presently in effect. Therefore, no statement is furnished.

(C) No estimate and comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

(D) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to Clause 2(b)(2) of Rule X.

## INFLATIONARY IMPACT STATEMENT

Pursuant to Clause 2(1)(4) of Rule XI, of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 5512 would have no significant inflationary impact on the prices and costs in the national economy.

## DEPARTMENTAL REPORTS

H.R. 5512 was the subject of a report from the Department of the Interior and follows herewith:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., May 14, 1975.

HON. LEDNOR K. SULLIVAN,  
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your Committee's request for the views of this Department on H.R. 5512, a bill "To amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes."

We recommend that the bill be enacted only if amended as indicated below.

H.R. 5512 would require that all areas in the National Wildlife Refuge System be administered by the Fish and Wildlife Service and would include within the System all areas designated as refuges by law or administrative action as of January 1, 1975.

Section 1 of the bill requires the System to be administered by the Fish and Wildlife Service. We feel that this unduly restricts the authority of the Secretary to administer the System in an effective manner. It has consistently been the policy of the Department to urge that the authorities to administer all programs be vested in the Secre-

tary as opposed to a specific Bureau within the Department. While it is contemplated that the Fish and Wildlife Service will generally administer these areas, it is desirable for the Secretary to have sufficient discretion to administer the System in accordance with the purposes for which units of the System are established. Therefore, we oppose Section 1 of the bill.

Section 2 provides that areas designated as of January 1, 1975 as part of the Refuge System, by statute, executive, or Secretarial order, shall continue to be part of the System unless removed by an Act of Congress. We support the intent of this section to legislatively sanction the previous designation of refuge areas by the various methods employed, but suggest certain necessary changes.

As written, section 2 of H.R. 5512 appears to cover only areas established by statute as a unit of the National Wildlife Refuge System, such as San Francisco Bay National Wildlife Refuge (P.L. 92-330), or areas designated as such by Executive or Secretarial order. Units of the System established by acquiring lands with Migratory Bird Conservation Funds, Land and Water Conservation Fund Act money, by donation or a combination of these methods are not necessarily designated by specific law, Executive or Secretarial order as areas of the National Wildlife Refuge System, but they are administered as such pursuant to the National Wildlife Refuge System Administration Act. If the intent of H.R. 5512 is to cover all of the National Wildlife Refuge System, we suggest the amendment proposed in section 2 of the bill be clarified and an exception be made for lands administered as part of the System but under the primary jurisdiction of another landowning agency. As previously stated, many refuges in the System are operated under cooperative agreement with another landowning agency. Termination of such refuges should continue to be based upon the terms of the agreement. We also recommend that the date of enactment of the bill be substituted for January 1, 1975, to allow for inclusion within the statutory sanction of the existing System of any new refuges created between January 1, 1975 and the passage of the bill.

Given these comments, the following language should be substituted for that contained in section 2 of H.R. 5512:

Page 2, lines 2 through 9: Strike all after "new sentence:" on line 2 through the end of line 9 and insert in lieu thereof the following:

"Areas in the System on the date of enactment of this amendment, and thereafter, shall continue to be a part of the System until otherwise specified by Act of Congress, provided that nothing in this sentence shall be construed as precluding the disposal of lands within such areas in accordance with the provisions of this section, and provided further that those lands within the System pursuant to an agreement with any Federal, State or local governmental entity may be removed from the System in accordance with the terms of such agreement."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ROYSTON C. HUGHES,  
Assistant Secretary of the Interior.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## SECTION 4 OF THE ACT OF OCTOBER 16, 1966

AN ACT To provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the National Wildlife Refuge System; and for other purposes

\* \* \* \* \*

**[SEC. 4. (a)** For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the "National Wildlife Refuge System" (referred to herein as the "System"), which shall be subject to the provisions of this section. Nothing contained in this Act shall restrict the authority of the Secretary to modify or revoke public land withdrawals affecting lands in the System as presently constituted, or as it may be constituted, whenever he determines that such action is consistent with the public interest.

No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b)(3) of this section) unless (1) the Secretary of the Interior determines after consultation with the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established, and (2) such lands are transferred or otherwise disposed of for an amount not less than (A) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or (B) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System. The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.]

*SEC. 4. (a)(1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are*

*threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the "National Wildlife Refuge System" (referred to herein as the "System"), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service, except that any such area which was administered jointly on January 1, 1975, by the Secretary through the United States Fish and Wildlife Service and any other Federal or State governmental agency may continue to be so jointly administered.*

*(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b)(3) of this section) unless—*

*(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and*

*(B) such lands are transferred or otherwise disposed of for an amount not less than—*

*(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or*

*(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.*

*The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.*

*(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—*

*(A) designated as an area within such System by law, Executive order, or secretarial order; or*

*(B) so included by public land withdrawal, donations, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity,*

*shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—*

*(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;*

*(ii) the exchange of lands within any such area pursuant to subsection (b)(3) of this section; or*

*(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.*

\* \* \* \* \*

THE NATIONAL WILDLIFE REFUGE SYSTEM  
ADMINISTRATION ACT AMENDMENTS

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

H.R. 5512

TO AMEND THE NATIONAL WILDLIFE REFUGE SYSTEM AD-  
MINISTRATION ACT OF 1966, AND FOR OTHER PURPOSES

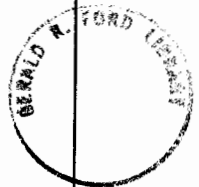


JANUARY 26, 1976.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975



## NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT AMENDMENTS

JANUARY 26, 1976.—Ordered to be printed

Mr. Moss, from the Committee on Commerce,  
submitted the following

### REPORT

[To accompany H.R. 5512]

The Committee on Commerce, to which was referred the bill (H.R. 5512) to amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes, having considered the same, reports favorably thereon with an amendment, and recommends that the bill as amended do pass.

#### PURPOSE AND SUMMARY

The purpose of H.R. 5512 is to assist in protecting and conserving the fish and wildlife resources of this Nation.

The bill provides that all areas which are included in the National Wildlife Refuge System, as of January 1, 1975, shall thereafter continue to be a part of the System and, in general, cannot be transferred or otherwise disposed of except pursuant to an Act of Congress or, in the case of lands acquired with duck stamp receipts, without the approval of the Migratory Bird Conservation Commission. In addition, the bill requires that all areas within the System shall be administered by the Secretary of the Interior through the U.S. Fish and Wildlife Service.

#### BACKGROUND AND NEED

During the 1930's President Franklin D. Roosevelt established four wildlife ranges as part of the National Wildlife Refuge System in order to protect species such as the desert big horn sheep, the prong-horn antelope, the bald eagle, the peregrin falcon, and the prairie falcon. The four areas were the Cabeza Prieta Game Range in Arizona, the Charles M. Russell National Wildlife Range in Montana, the



Charles Sheldon Antelope Range in Nevada and Oregon, and the Kofa Game Range in Arizona. At the time of the establishment of the Ranges, management was assigned jointly to the U.S. Fish and Wildlife Service, to manage wildlife values, and to the Bureau of Land Management, to manage livestock and grazing and exploitable resources such as mineral and fuel deposits. Joint jurisdiction over these areas has been a source of difficulty for both agencies, and it has long been felt that there should be a resolution to the problem.

The 1969 Report of the Special Advisory Board on Wildlife Management—(the Leopold committee)—to the Secretary of the Interior, noted:

One weakness characteristic of some individual refuges is lack of full jurisdiction on the part of the Bureau of Sport Fisheries and Wildlife.<sup>1</sup> Split administrative authority with other Federal agencies is an unsatisfactory arrangement. Thus, for example, Gray's Lake Refuge in Idaho is jointly administered with the Bureau of Indian Affairs, Charles M. Russell in Montana is jointly administered with the Bureau of Land Management, and so on. No refuge in split jurisdiction encountered by this Board was really properly managed. Every unit of the national wildlife refuge system should, if possible, be incorporated fully into the jurisdiction of the Bureau.

In an undated report entitled "A Proposal for Single Agency Management," the U.S. Fish and Wildlife Service recommended:

Because of differences in public laws governing each Bureau's activities; interpretations of various public laws governing the management prerogatives of each Bureau; differences in policy direction within the Department; and differences in natural resource philosophy of each agency, irreconcilable conflicts have developed. As a result of these unresolvable differences, the public, in whose name these areas are managed, have not received full benefits of the natural resources found therein, nor have these resources been adequately protected.

Numerous reports examining the problem have recommended that the ranges be placed under the sole administrative jurisdiction of the Bureau of Sport Fisheries and Wildlife. Proper management of the wildlife resources would continue to be the primary objective of each area. Other compatible uses will be permitted including grazing, recreation, hunting, et cetera. The Bureau of Land Management will continue to administer mining laws but access for mineral exploration will be controlled by the Bureau of Sport Fisheries and Wildlife.

It is recommended that sole jurisdiction by Bureau of Sport Fisheries and Wildlife be accomplished by issuance of a public land order.

This recommendation was not adopted by the Department of the Interior. Instead, on January 23, 1974, the Deputy Assistant Secre-

<sup>1</sup> Now the U.S. Fish and Wildlife Service.

tary for Land Management recommended, in a memorandum to the Secretary, that Kofa and Cabeza Prieta ranges be administered by the FWS and that Sheldon and Russell be administered by the BLM. The Under Secretary of the Interior, in a January 28, 1974 memorandum, concurred in the recommendation concerning Kofa and Cabeza Prieta, but deferred a decision on the other two.

On February 15, 1975, the Secretary of the Interior announced that, effective July 1, 1975, the BLM would assume sole management authority for the Sheldon, Russell, and Kofa ranges and the U.S. Fish and Wildlife Service would be given exclusive management authority for the Cabeza Prieta range. H.R. 5512 and a similar bill, S. 1293, were both introduced to reverse this order. At a May 21, 1975 Committee hearing on S. 1293, witnesses expressed concern that the bill, which pertained only to these game ranges, would not prevent future transfers of other refuge areas to other State and Federal agencies. At those hearings Senator Lee Metcalf, the bill's sponsor, expressed a similar concern. He urged the Committee to expand the scope of S. 1293 to include the entire refuge system. In response, the Committee ordered H.R. 5512 reported, in lieu of S. 1293, H.R. 5512.

Concern has been expressed about the Secretary's February 15 decision and the procedures used in reaching the decision. Despite the controversial nature of the decision and its impact on the National Wildlife Refuge System, the Department did not prepare an environmental assessment or an environmental impact statement on the proposed transfer. Yet over a year ago, on February 19, 1974, the Department's Solicitor stated: "The act of transferring the administration of these three areas to BLM should also be reviewed to determine if it would be a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and the guidelines issued thereunder." Further, as a result of a suit brought in the U.S. District Court for the District of Columbia by the Wilderness Society and others, a temporary restraining order has been issued ordering any transfer of the Kofa, Sheldon, and Russell ranges to BLM to be held in abeyance pending a hearing on the motion for a preliminary injunction. The primary concern of the court in issuing this order was the Department's failure to prepare either an environmental impact statement or an environmental assessment on the proposal.

Secretary Morton's decision could also result in the creation of two parallel but differing sets of refuge regulations. Since BLM would be vested with full wildlife management authority for the Sheldon, Russell, and Kofa ranges, according to a November 27, 1974, memo to the Under Secretary from the Solicitor, Department of the Interior, BLM would be free to adopt regulations of a different form and content from those adopted National Wildlife Refuge System, these regulations would not necessarily apply to wildlife administered by BLM unless adopted by that agency. The potential for a parallel yet a different set of regulations does not appear to be in the best interest of the refuge system and its resources.

In defense of the transfer, the Interior Department spokesman testified that the Bureau of Land Management already manages 74 million

acres on which there are big game and 391 million acres on which there are small game. However, the fact that the Bureau of Land Management has management authority for these wildlife areas which include wildlife habitat, does not necessarily mean that these areas are well managed.

Two reports recently prepared by the Bureau of Land Management indicate the poor condition BLM-managed areas. The "Range Condition Report" prepared by BLM for the Senate Committee on Appropriations and the report entitled "Effects of Livestock Grazing on Wildlife, Watershed, Recreation, and Other Resource Values in Nevada" document the problem.

The "Range Condition Report" indicates that only 28 million acres or 17 percent of BLM-administered public grazing lands are in satisfactory or better condition. Some 135 million acres or 83 percent are in the unsatisfactory category. In fact, 54 million acres or 33 percent are in poor or bad condition. The report predicts that the rangeland will continue to deteriorate. The report states in part, "Projections indicate that in 25 years, productive capability could increase by as much as 25 percent—losses will be suffered in terms of erosion, water quality deterioration, downstream flooding, loss of wildlife and recreation values, and decline in basic productive capability." The report further states that over 60 million acres under BLM management are in an "unacceptable condition because of depleted vegetation and excessive runoff." It is estimated that another 11 to 12 million acres will deteriorate to an unacceptable condition within 25 years.

One of the findings of the Nevada report states, "Full consideration was not given to wildlife in subsequent development of range management plans and facilities \* \* \*. Protection and enhancement of wildlife, esthetic, recreational, and cultural values have not had sufficient emphasis." Of particular concern is the fact that when the Nevada report was first issued, the Director of the Bureau of Land Management indicated that similar problems existed in other States.

Furthermore, according to a paper entitled "The Bureau of Land Management's Wildlife Program: Missions, Challenges, and Funding Levels" between 1968 and 1973 the amount of unsatisfactory wildlife habitat increased as follows:

	Percentage of unsatisfactory habitat	
	1968	1973
Big game .....	38	47
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Clearly, the record of BLM's wildlife management has not been an encouraging one. The reason for this undoubtedly arises from the fact that BLM has a number of other important missions such as mining, logging, livestock grazing, and fossil fuel development which often conflict with wildlife management. In performing these conflicting missions, BLM is unable to devote sufficient attention to the needs of wildlife. In short, its mission is not wildlife protection or enhancement.

In contrast to BLM, the U.S. Fish and Wildlife Service has as its basic mission the protection and enhancement of wildlife. The agency's entire resources are directed toward this goal.

Thus, it would appear that the goals of the National Wildlife Refuge System will best be served by assuring that the U.S. Fish and Wildlife Service has responsibility for management in all areas of the refuge system.

While it seems appropriate that the Service should be clearly designated as the agency responsible for administering of the National Wildlife Refuge System, the Service's recent record with respect to the administration of the system has not been outstanding. The condition of many refuges is one of general deterioration. Employee morale is at an all-time low. At a time when the public is becoming increasingly aware of the importance of the Nation's fish and wildlife resources, refuges are being closed to public use. On those refuges still open to the public, facilities are often inadequate and unclean. As there is currently an \$83 million facility rehabilitation backlog, there appears to be little hope that restoration of these buildings will be forthcoming. Until the Fish and Wildlife Service receives resources sufficient for the operation of the system, it is doubtful that conditions will improve. There is deep concern about this situation and the Committee is presently studying what impact new management practices, like program management and area office reorganization, will have on the System.

Finally, the House-passed bill permits the Secretary to provide for dual administration of the areas, although it directs that if the Secretary finds that the areas should be managed by a single agency, that agency must be the Fish and Wildlife Service. Based on the S. 1293 hearing record, however, dual administration of these areas has been unworkable, due to the differing orientations of the two agencies. In the committee's view, there is no reason to provide for the continuation of this management practice. For this reason the provision of the House-passed bill which would permit the continuation of joint management of the ranges was deleted.

LEGISLATIVE HISTORY

S. 1293 was introduced in the Senate on March 22, 1975. On May 21 the Subcommittee on the Environment held hearings on the legislation.

On November 14, 1974 H.R. 5512, a bill similar to S. 1293, was approved by the House of Representatives and on November 17 the legislation was referred to the Senate Committee on Commerce. At an executive session held on December 9, the Committee agreed to consider H.R. 5512 in lieu of S. 1293. H.R. 5512 was ordered reported by the Committee on December 16.

SECTION-BY-SECTION ANALYSIS

H.R. 5512 amends section 4(a) hereafter referred to as the "Administration Act" of the National Wildlife Refuge System Administration Act of 1966.

*Subsection (a) (1)*

The first sentence of section 4(a) of the Administration Act provides that all wildlife ranges, game range, wildlife refuges, wildlife management areas, waterfowl production areas, or areas for the protection and conservation of fish and wildlife that are threatened with extinction are designated as units of the National Wildlife Refuge System and shall be administered by the Secretary of the Interior.

Subsection (a) (1) of the bill would amend the first sentence of section 4(a) of the Administration Act by adding a new provision that would require all units of the system to be administered by the Secretary of the Interior through the U.S. Fish and Wildlife Service. This will address two problems that have been brought to the Committee's attention. First, the Fish and Wildlife Service would be clearly designated as the agency through which the Secretary would be required to administer the units of the System, thereby eliminating the possibility of the Secretary delegating this authority to the Bureau of Land Management or any other Interior agency. Second, there will be no joint administration of any units within the System by the U.S. Fish and Wildlife Service and any other agency.

Subsection (a) (1) would also add a new provision pertaining to refuge lands in the State of Alaska on which other Government agencies conduct programs for management of resources, such as grazing, or mining or mineral leasing, pursuant to a cooperative agreement. This provision would make clear that these agreements would remain in effect, subject to the direct supervision of the U.S. Fish and Wildlife Service.

*Subsection (a) (2)*

The second and third sentences of section 4(a) of the Administration Act provides that no acquired lands, that is those lands purchased with the duck stamp funds, which are a part of the system may be transferred or otherwise disposed of by the Secretary, except by exchange pursuant to subsection (b) (3) of the Administration Act, unless the Secretary determines after consultation with the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes of the system. If such a determination is made, then the Secretary would be required to collect the acquisition cost of these lands if they were purchased with funds from the Migratory Bird Conservation Fund or the fair market value of the lands if they were donated to the System. The proceeds of any transfer or disposal would be acquired to be deposited in the Migratory Bird Conservation Fund.

Subsection (a) (2) of the bill would revise these two sentences in two respects.

First, it would provide that no lands acquired with funds from the Migratory Bird Conservation Fund, that is with duck stamp receipts, could be transferred or otherwise disposed of, except by exchange pursuant to subsection (b) (3) of this section, unless the Migratory Bird Conservation Commission approves of such transfer or disposal.

Present law requires the Secretary only to consult with the Commission before transferring or disposing of any such lands. However, since the Commission's approval is required before lands can be purchased with funds from the Migratory Bird Conservation Fund, the committee felt it would be consistent and appropriate to require the Commission's approval before any of such lands could be disposed of.

Second, with respect to acquired lands which the Secretary and the Commission have determined are no longer needed, the Secretary in disposing of such lands would be required to collect from the purchaser the acquisition costs or the fair market value of such lands, whichever is greater.

Under present law, the Secretary would be required to collect only the acquisition cost of such lands. If the lands had increased in value since the date of their acquisition, then it seems that such increase in value should be passed on to the fund and utilized for additional acquisitions.

*Subsection (a) (3)*

Subsection (a) (3) would add a new provision to section 4(a) of the Administration Act to provide that such area which is included within the system on January 1, 1975, or thereafter which was or is designated as an area of the System whether by law, Executive order, secretarial order, or whether included in the System by public land withdrawal, donation, purchases with Land and Water Conservation Funds, appropriations, or other funds other than duck stamp receipts, exchange, or pursuant to a cooperative agreement with any Federal or State agency or any other governmental entity, then each of such areas would continue to be a part of the System until otherwise specified by an Act of Congress. However, congressional approval would not be required in three situations. First, transfers or disposals of acquired lands could still be made provided the Secretary—with the approval of the Migratory Bird conservation Commission—determined that such lands were no longer needed and the appropriate price for such lands is collected pursuant to the requirements of paragraph (2) of this subsection. Second, lands could still be exchanged for lands of equal value pursuant to the requirements of subsection (b) (3) of this section of the Administration Act. And third, lands included within the System pursuant to a cooperative agreement could likewise be disposed of or the use of such lands terminated pursuant to the terms of a cooperative agreement.

Also, it should be pointed out that in revising section 4(a) of the Administration Act, the second sentence of the subsection was eliminated. Under present law, the Secretary could modify or revoke public land withdrawals affecting lands in the System whenever he determined it was in the public interest to do so. By eliminating this sentence from the subsection was rewritten by this legislation, it makes it clear that public land withdrawals which are or become a part of the System shall continue to be a part of the System and such public land withdrawals could not be modified or revoked except by an Act of Congress. This change will in no way change the Secretary's authority to issue a public land withdrawal to put lands in the System but it will

make sure any disposals of such lands will be by an Act of Congress.

However, congressional approval would not be required for the exchange of acquired lands pursuant to the requirements of subsection (b) (3) of this section of the Administration Act, nor would congressional approval be required for the disposal of lands included in the System pursuant to cooperative agreement.

The Committee would like to repeat the request made by the House Committee on Merchant Marine and Fisheries that the Secretary also notify this Committee on a quarterly basis of any transfers, disposals, or exchanges that take place pursuant to the provisions of this Act.

Plans and programs in wildlife refuges designed to mutually benefit both Federal and State fish and wildlife management programs, such as cooperative hunting and fishing, law enforcement, habitat improvement, et cetera, in which public benefits are shared are desirable. However, to transfer total management responsibilities over an area to another Federal or State agency is tantamount to a transfer of jurisdiction and control over the land and is the type of transfer that would be covered by this legislation, thereby requiring an Act of Congress (or approval of the Migratory Bird Conservation Commission as the case may be) before such transfer could take place. The Committee, in carrying out its oversight responsibilities in this regard, expects the U.S. Fish and Wildlife Service to keep the committee fully informed of any plans it has that may border on transfers of this nature.

#### ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1969, the Committee estimates that in the event this legislation is enacted into law, there would be no additional cost to the Federal Government.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

#### SECTION 4 OF THE ACT OF OCTOBER 16, 1966

AN ACT To provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the National Wildlife Refuge System; and for other purposes

\* \* \* \* \*  
 [SEC. 4. (a) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas

for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the "National Wildlife Refuge System" (referred to herein as the "System"), which shall be subject to the provisions of this section. Nothing contained in this Act shall restrict the authority of the Secretary to modify or revoke public land withdrawals affecting lands in the System as presently constituted, or as it may be constituted, whenever he determines that such action is consistent with the public interest.

No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless (1) the Secretary of the Interior determines after consultation with the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established, and (2) such lands are transferred or otherwise disposed of for an amount not less than (A) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or (B) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System. The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.]

*SEC. 4. (a) (1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the "National Wildlife Refuge System" (referred to herein as the "System"), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands within the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.*

(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless—

(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

(B) such lands are transferred or otherwise disposed of for an amount not less than—

(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

(A) designated as an area within such System by law, Executive order, or secretarial order; or

(B) so included by public land withdrawal, donations, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity.

shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;

(ii) the exchange of lands within any such area pursuant to subsection (b) (3) of this section; or

(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.

#### TEXT OF H.R. 5512, AS REPORTED

AN ACT To amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)) is amended to read as follows:

“(a) (1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the ‘National Wildlife Refuge System’ (referred to herein as the ‘System’), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands within

the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.

“(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless—

“(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

“(B) such lands are transferred or otherwise disposed of for an amount not less than—

“(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

“(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

“(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

“(A) designated as an area within such System by law, Executive order, or secretarial order; or

“(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity,

shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

“(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;

“(ii) the exchange of lands within any such area pursuant to subsection (b) (3) of this section; or

“(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.”

#### AGENCY COMMENTS

While the committee received no agency comments on H.R. 5512, it did receive comments on the similar Senate bill, S. 1293. These are as follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 20, 1975.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to the request of your committee for our views on S. 1293, a bill "To establish the Charles M. Russell National Wildlife Range, the Charles Sheldon National Wildlife Range, and the Kofa National Wildlife Range as part of the National Wildlife Refuge System, and for other purposes."

We recommend against enactment of the bill.

S. 1293 would define the areas to be included in three game ranges, the Charles M. Russell National Wildlife Range, the Charles Sheldon National Wildlife Range, and the Kofa National Wildlife Range and require that the lands be administered by the U.S. Fish and Wildlife Service as units of the National Wildlife Refuge System. The bill would further provide that none of the game range land may be transferred from the Fish and Wildlife Service unless authorized by act of Congress.

The three game ranges in question, which were administratively established, have been placed under the administration of the Bureau of Land Management of this Department. BLM will continue to manage the areas for the dominant use of wildlife under the authority of the National Wildlife Refuge System Act as was the case when these ranges were managed jointly by BLM and the Fish and Wildlife Service of this Department. There has been no attempt to remove the areas from the System.

We believe that enactment of S. 1293 would unduly restrict the discretion of the Secretary to administer the Refuge System in the most effective manner. The management of this System, with its wide variety of resources, requires the maximum administrative flexibility.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN KYL,  
*Secretary of the Interior.*

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# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

## An Act

To amend the National Wildlife Refuge System Administration Act of 1966,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (a) of section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)) is amended to read as follows:

“(a) (1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the ‘National Wildlife Refuge System’ (referred to herein as the ‘System’), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands in the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.

“(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b)(3) of this section) unless—

“(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

“(B) such lands are transferred or otherwise disposed of for an amount not less than—

“(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

“(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

“(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

“(A) designated as an area within such System by law, Executive order, or secretarial order; or

“(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity, shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

“(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;

“(ii) the exchange of lands within any such area pursuant to subsection (b) (3) of this section; or

“(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.”.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*