

H.R. 2057 and H.R. 2416

JOINT LEGISLATIVE HEARING

BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS

JOINT WITH THE
SUBCOMMITTEE ON FORESTS AND
FOREST HEALTH

OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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**JOINT LEGISLATIVE HEARING ON H.R. 2057,
TO PROVIDE FOR A MULTI-AGENCY
COOPERATIVE EFFORT TO ENCOURAGE
FURTHER RESEARCH REGARDING THE
CAUSES OF CHRONIC WASTING DISEASE
AND METHODS TO CONTROL THE FURTHER
SPREAD OF THE DISEASE IN DEER AND
ELK HERDS, TO MONITOR THE INCIDENCE
OF THE DISEASE, TO SUPPORT STATE
EFFORTS TO CONTROL THE DISEASE, AND
FOR OTHER PURPOSES; AND H.R. 2416, TO
PROVIDE FOR THE PROTECTION OF PALE-
ONTOLOGICAL RESOURCES ON FEDERAL
LANDS, AND FOR OTHER PURPOSES.**

**Thursday, June 19, 2003
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife
and Oceans, joint with the
Subcommittee on Forests and Forest Health
Committee on Resources
Washington, DC**

The Subcommittees met, pursuant to call, at 10 a.m., in room 1334, Longworth House Office Building, Hon. Scott McInnis [Chairman of the Subcommittee] presiding.

Present: Representatives McInnis, Inslee, McGovern, Tom Udall, Mark Udall, Gilchrest, Green, Tancredo, Ryan, Rehberg, Kind, Renzi, Pearce, and McCollum.

Mr. MCINNIS. It is getting toward the end of the week, which means that my patience is very short, which means that if you have a cellular phone, take my advice and turn it off. The same thing with pagers.

Put them on vibrate or something else, but I don't want our witnesses being rudely interrupted by somebody's cell phone. So if you would follow that rule, I would appreciate that. This morning we are doing a joint hearing, and what I intend to do if the appropriate members show up at the time that their time slot arrives is to give 10 minutes to the Chairman, and the respective Chairman

of the two subcommittees, and give 10 minutes to the respective Ranking Members.

I also would allow either of those, or any of those four people to reserve the right to yield some of that time, as I intend to yield some to Mr. Green for some brief opening remarks. OK. We will go ahead and begin the hearing.

STATEMENT OF THE HON. SCOTT McINNIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. McINNIS. Today this joint Subcommittee hearing will take its second look in as many years at Federal, State, and local efforts to contain and ultimately eradicate chronic wasting disease. Just over a year ago, Mr. Gilchrest and I, pulled all the best and most knowledgeable minds into the same room to begin the process of developing an integrated and long term vision focused on protecting North America's wild and captive deer and elk populations from this disease.

I would also at this point in time like to leave my remarks, and just openly acknowledge my long time friend, and who I consider one of the leading experts in the country in regards to this particular problem, and that is Russell George, the Director of the State Wildlife for the State of Colorado.

Russ, thank you. I know that you made the effort to come out there today and we appreciate your expertise and your assistance. Now, I am going to submit the rest of my statement for the record, and at this point in time yield to Mr. Green, if Mr. Green has some remarks that he would like to put in the record.

[The prepared statements of Mr. McInnis follows:]

**Statement of The Honorable Scott McInnis, Chairman,
Subcommittee on Forests and Forest Health, on H.R. 2057**

Today this Joint Subcommittee hearing will take its second look in as many years at Federal, state and local efforts to contain and ultimately eradicate Chronic Wasting Disease. Just over a year ago, Mr. Gilchrest and I pulled all of the best and most knowledgeable minds into the same room to begin the process of developing an integrated and long-term vision focused on protecting North America's wild and captive deer and elk populations from this disease.

I think that there were three take home messages from that exhaustive and informative dialogue last year. The first was that our friends in the States are best-equipped to spearhead efforts to stem the spread of CWD, particularly when it comes to managing the disease in wild cervid populations. But that doesn't mean there isn't an important Federal role, which leads to the second policy staple that emerged from last year's hearing. In order to effectively suppress the proliferation of CWD, Federal agriculture and wildlife agencies must pro-actively support the States by providing financial support and technical assistance in the research, management and surveillance of the disease. But in order to support the States in an effective manner, we discovered that the multitude of Federal agencies with a jurisdictional stake in this issue needed to more thoroughly coordinate and prioritize the various overlapping and redundant Federal activities. The need for a more unified Federal response was the third upshot of the hearing. With that understanding, last year I charged all of the relevant agencies to come up with an integrated game-plan so that the Federal-support structure is efficient, effective and responsive to the needs of our friends in the States.

In the year since our hearing, results on the Federal side have been mixed. To its credit, the Departments of Agriculture and Interior have done an exemplary job of assisting the States in testing many thousands of deer and elk samples submitted for CWD screening. These Departments and their subordinate agencies have also done laudable work in bringing urgency and progress on the research front.

Where progress has been less impressive is in formalizing and finalizing the inter-agency CWD game-plan that I demanded at last year's hearing. After our hearing,

a joint task force was convened by the Animal Plant Health Inspection Service and the Fish and Wildlife Service to develop a Federal-State CWD road-map. And while that group formalized the broad outlines of an intergovernmental CWD program, Congress is still waiting for the implementation plan, and budget requests, that would give this program form, substance and meaning. My understanding is that the implementation report is essentially done, but awaiting approval somewhere in the administrative chain-of-command. I look forward to hearing from our government witnesses about the status of that report.

So in the absence of that unified Federal game-plan, today we consider H.R. 2057. The bill, authored with the substantial input of my colleagues from Wisconsin Mr. Green and Ryan, creates a broad Federal framework to support State efforts to contain and eradicate CWD in both captive and wild deer and elk populations. Colleagues, I consider this bill a starting point in this discussion, and I look forward to working with all of our witnesses and other interested Members to refine the bill as needed to make sure that the Federal Government gets the maximum bang for its scarce buck as it supports State-led efforts to remove the threat of Chronic Wasting Disease to deer and elk populations around the country.

**Statement of The Honorable Scott McInnis, Chairman,
Subcommittee on Forests and Forest Health, on H.R. 2416**

The upsurge of public interest in paleontology has created an opportunity for paleontologists to share more of their research and findings with the general public. Learning of these findings and observing fossils in museums and educational institutions has become an introduction to Science for countless American students. Fossils are for everyone—children and adults, amateurs and professionals. From fossils we learn about the history of life, but much of the story is yet to be written. Fossils from public lands are an educational and scientific resource for our generation and those yet to come.

Scientifically significant fossils on Federal lands belong to all the people of the United States. They should not be removed from the public domain, but preserved for the enjoyment and education of all Americans for all time. In my own district in Colorado there are several fossil sites and museums that support learning about paleontological sciences. The Wasatch and Green River Formations within the region have produced important fossilized resources which have been collected and studied by the Field Museum of Natural History in Chicago, the University of Colorado Museum in Boulder, The Smithsonian Institute and the Museum of Western Colorado. Vertebrate fossils have been identified, collected and studied and the area has been identified as one with a rich fossil record.

Another site is the Cretaceous limestone site near Fort Hays just south of Pueblo, the Creede Formation, near Creed, Colorado, has plant and insect fossils. There are many plant fossils such as pine needles, cones, willow leaves, and many more located in road cuts along the Rio Grande. Most significant is the site of Dinosaur National Monument, which had 299,142 visitors last year. This museum is home to over 1500 dinosaur bones. Today, many ideas about dinosaurs are changing, and the fossils at Dinosaur National Monument continue to help us learn more about these fascinating prehistoric animals. The fossils that give the monument its name were discovered in 1909 by Earl Douglass. He was a paleontologist who worked for the Carnegie Museum of Pittsburgh, Pennsylvania. President Woodrow Wilson heard about the great dinosaur quarry that Douglass had started, and proclaimed the site as Dinosaur National Monument in 1915. Years later, the National Park Service began to develop the quarry as it is today. The rock layer containing the fossil bones forms one wall of the Quarry Visitor Center. On this wall, scientists have carefully chipped away the rock to uncover the bones and leave them in place.

The Paleontological Resources Preservation Act (PRPA) will ensure that fossils from Federal lands will be used for the benefit of all the people of the United States by fostering the maximization of information that is gained from these fossils and by providing access to these fossils for researchers and the public.

**STATEMENT OF THE HON. MARK GREEN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF WISCONSIN**

Mr. GREEN. Thank you, Chairman. Thank you so much for yielding time for the courtesy of allowing me to sit on this

Subcommittee for the day. And of course I appreciate the hearing itself on H.R. 2057.

As I know this body is aware, chronic wasting disease is a significant and growing problem in a growing number of States from a wildlife management perspective, but also an economic perspective.

In my home State of Wisconsin, which has received I think the most attention recently in terms of the chronic wasting disease challenge, we estimate that chronic wasting disease presents a one billion dollar economic impact.

And a State the size of Wisconsin, you can imagine what that means potentially. It is critically important that we get our arms around this challenge. I am proud to join Congressman McInnis, Congressman Ryan, and others in introducing H.R. 2057. It creates a comprehensive Federal framework for assisting the States.

The key points of this are, first, it is comprehensive, and I think that is critical. It seems to me that if we are going to tackle this challenge in the long run that we have to be comprehensive.

We have to involve a wide range of agencies and institutions, institutions like APHIS, if we are going to succeed. There is no single silver bullet out there to this problem. Instead, we hope that by crossing agency lines, and by pulling the best minds in from agencies and institutions that we can develop the plan that will lick this problem in the long run.

And the second key point to this legislation that I believe is so critical is about assistance to the States. Whether this legislation passes or even better, the Administration moves quickly enough to administer and implement the principles that are in this legislation, we have to do everything we possibly can to shift more resources out to the States.

It is the States where this problem will truly be fought. They are on the front lines, and they are the ones who are dealing with this year around, and especially during hunting season.

So I do believe that it is important that we do everything that we can to get the monies, including the monies that have already been appropriated, as quickly as possible out to the States for comprehensive plans so that we can make a very important difference.

Mr. Chairman, thank you again for yielding time. I do appreciate it, and strongly support this legislation, and look forward to working with you to see that its principles are implemented. Thank you.

Mr. MCINNIS. Thank you. Since none of the other members that are entitled to opening remarks are here, we are going to proceed directly to the witnesses. I would ask the witnesses that you keep your comments to 5 minutes.

We have a vote that we expect to take place in about 50 minutes. I would like everyone to—I realize this, but I want to get our witnesses out.

Mr. RYAN. I would just want to ask for unanimous consent to have my statement be included in the record.

Mr. MCINNIS. There is no problem with that. Of course. Are there any objections or any unanimous consents? No? They are all in.

Which also includes Mr. Ryan permission to sit where you are sitting, but we went ahead and granted that, too. So you are welcome to the Committee. At any rate, we want to get the witness

statements in, and I want to leave plenty of time for the panel to ask these questions. I think that is where we are going to get the most out of this hearing.

[The prepared statement of Mr. Ryan follows:]

Statement of The Honorable Paul Ryan, a Representative in Congress from the State of Wisconsin, on H.R. 2057

Thank you for giving me the opportunity to return to this Committee to share my concerns about Chronic Wasting Disease (CWD), which affects my home state of Wisconsin and 11 other states. Last year, Wisconsin became the first state east of the Mississippi River to have confirmed cases of Chronic Wasting Disease. This discovery indicated that the disease was spreading, and that quick and thorough action was imperative. Since we last held a hearing on this issue in May 2002, six more states have reported discovering CWD in either their captive or wild herds. Obviously this is a problem that continues to grow and requires a serious response.

CWD is a deadly disease that affects deer and elk by penetrating the brain with millions of microscopic holes, infecting the tonsils, spinal cord, and lymph nodes, and is always fatal. Unless this disease can be controlled soon, it could be damaging to Wisconsin's deer hunting industry. Every year, sportsmen in the state spend over \$2.3 billion and support 45,000 jobs throughout the state. It is vital to Wisconsin to preserve and support this industry by ensuring the good health of the deer.

As an avid sportsman, I am deeply concerned about CWD and will continue to support the Federal and state CWD programs to contain and eradicate the disease. Over the past year, Wisconsin has worked hard to manage the spread of CWD. My colleague Mark Green and I joined our fellow hunters in Wisconsin for one of the four one-week hunting sessions held last summer and an extended hunting season in the fall. These hunts contributed to the 41,245 deer samples that have been analyzed. This is more testing than any other state has conducted. Of those samples, 207 animals have tested positive for the fatal deer disease. Almost all of the infected deer—201—came from the 411-square mile eradication zone of Dane, Iowa, and Sauk counties, indicating good disease management. However, officials believe the disease may be far more widespread within that zone.

The testing of these deer samples has provided information to hunters, farmers, and recreationalists who depend on the health of the deer herds. Wisconsin has used this information to calm the concerns of citizens who worried whether it was safe to hunt and eat the meat, whether cattle were at risk, or whether this disease could be passed on to humans. Wisconsin's intensive testing effort consumed thousands of hours, involved 1,200 people, and has cost millions of dollars.

I believe that the most effective role for the Federal Government is to support states like Wisconsin with the burdens of this effort by providing for surveillance, management, and research programs. Most of all, our backing of sound scientific research is critical to finding all of the necessary answers to the many unanswered questions surrounding CWD. If we are to manage this disease properly, if we are to calm citizens' concerns, and if we are to ultimately end the spread of this disease, scientific research will show us the way.

Our legislation, H.R. 2057, which is the result of a bipartisan collaboration between Mr. Green, Mr. McInnis, and myself and Wisconsin's two U.S. Senators, establishes a strong alliance between the states and the Federal Government to combat CWD. This comprehensive approach will benefit the states by expanding the resources and support available within the Federal Government.

In closing, I am more confident than ever that this disease can be controlled and eradicated. In just over a year, we have taken important strides towards managing CWD and learning about the disease. I will work to see that state and Federal agencies are provided the support they need to overcome obstacles in eradicating CWD. More resources should be dedicated towards testing, and extensive, collaborative research is especially needed to determine the cause of this problem. Lastly, we need to continue to manage the current problem while focusing efforts on discovering a live test, a vaccine, or a cure for the disease.

Mr. MCINNIS. So I would call up the first witnesses on H.R. 2057. On panel one, we have Mr. Groat, who is the Director, U.S. Geological Survey. You have got name tags up there, and if you would take your place.

Mr. Bobby Acord, and he is the Administrator of the Animal and Plant Health Inspection Services; Mr. George—Russ, I introduced you earlier—Director, Colorado Division of Wildlife; Mr. Taylor, Legislative Director, International Association of Fish and Wildlife Agencies; and I understand that Mr. Fisher, or Dr. Fisher, and Dr. Fisher, thank you, and he is with the Southeast Cooperative Wildlife Disease Study.

And since we called them in that order, we will go ahead and begin in that order. Mr. Groat, you may proceed. You have 5 minutes. And by the way, thank you to all of the witnesses today for making this effort.

I will tell you that Thursday is a very active day. I, for example, have Ways and Means going on right now. So the lack of presence of some of the members should not be indicative of their lack of interest. There is a lot of interest in this. This is very, very important.

There will be lots of statements that will be entered in the record, and there will be lots of review of the comments that you make into the record by people not able to be present here today. Again, I appreciate your thoughtfulness in attending.

And, Mr. Groat, with that, you may proceed.

STATEMENT OF CHIP GROAT, DIRECTOR, U.S. GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

Mr. GROAT. Thank you, Mr. Chairman. I am pleased to present the Department of Interior's views on H.R. 2057. We so share your concern, both for the wildlife populations, the captive herds, as well as Mr. Green's point for the economic impacts that this is having.

At the outset the Department strongly supports the concepts embodied in H.R. 2057, particularly the recognition and the facilitation of the critical role that State Wildlife Management Agencies, universities, and non-governmental organizations, play.

There may be a couple of instances in the legislation where the mechanisms that are called upon in the Department of the Interior are already in place, but we do strongly support the efforts to make the best use of those.

We also recognize that there are varied roles for different Federal agencies, as well as State agencies, and those that are outlined for the Department of the Interior, and USGS in particular, are by and large appropriate as you have described them.

We have already committed in the Fiscal Year 2004 budget the Administration's requested \$3.8 million for chronic wasting disease efforts within the USGS. That will allow us to expand one of the main contributions we make, and that has to do with research and technical assistance to partners dealing with the biological information and understanding of the disease itself.

Within this appropriations year, the Park Service will continue to monitor and do surveillance on the disease in the parks and provide for chronic wasting disease response teams. Also, the national refuge system will be watched over by the Fish and Wildlife Service and they will do surveillance there.

We are also working cooperatively with Colorado, Wisconsin, and other State and Fish and Wildlife Agencies, providing technical assistance manpower, and participating in collaborative research.

For example, we recently initiated collaborative research studies with the Wisconsin Department of Natural Resources and the University of Wisconsin to enhance scientific knowledge about chronic wasting disease and the development of management strategies.

Over the past year the department embarked on an aggressive program of research into the biology of chronic wasting disease, its host, and its avenues of transmission, clearly one of the least understood aspects of the disease.

And as was pointed out, where there is a need for lots of people with good ideas to participate in trying to understand that. In addition, we and our partners are working to develop methods needed to identify diseased animals in the pre-clinical stages.

During 2003, we have augmented our ongoing program of chronic wasting disease projects with over a million dollars in new research, and \$300 thousand in new activities initiated in cooperation with the States. That brings our total commitment to \$2.7 million for this year.

The recent addition of detection of chronic wasting disease in free ranging deer in additional States points to the need for continued Federal, State, and tribal coordination to manage the disease. I want to speak now specifically very quickly to the provisions of H.R. 2057, which relate to instructions to the Secretary of the Interior.

It directs the Secretary of the Interior through the USGS to use existing authorities to establish and maintain a national data base for chronic wasting disease related information, which is to include surveillance and monitoring data for both wild and captive herds.

We agree that information is an extremely important part of the program, and through our national biological information infrastructure, the USGS has recently implemented a prototype wildlife disease information network to develop a chronic wasting disease national data repository for scientific, technical and geospatial information.

However, in terms of the data base suggested by this legislation, we believe that it should be developed in close coordination with the Department of Agriculture, and that we provide a national perspective by working cooperatively with them on providing this capability.

Under the provisions of H.R. 2057, we are also, the USGS, is charged with using existing authorities in a chronic wasting disease surveillance and monitoring program in cooperation with the State and tribal agencies, and also in cooperation with the Department of the Interior.

We really strongly believe that the surveillance and monitoring program is an extremely important component of any national strategy, particularly as it relates to wild herds in our area of responsibility.

I am pleased to report, Mr. Chairman, that on May 1 of this year that the USGS released a report called Surveillance Strategies for Detecting Chronic Wasting Disease in Free Ranging Deer and Elk.

This 41-page document is a culmination of a 3 day workshop that involved several agencies and many disciplines, and it was held at our wildlife health center in Madison, Wisconsin. This is the first of its kind, and it provides one of the kinds of tools that you

envision in your legislation. It allows States and others to deal with it effectively.

We also note that in Section 103 that it directs the Secretary to allocate funds directly to State and tribal wildlife agencies for the purpose of developing and implementing management strategies, and as you pointed out, the States are where the action is, and this is where the need is for the resources.

Our only concern there, Mr. Chairman, is that the grant program that is authorized appears somewhat duplicative of the Fish and Wildlife Service's State wildlife grants, and that mechanism is in place, and doesn't necessarily fit within the USGS mission.

And finally Section 104 directs the Secretary to expand and accelerate research through the USGS regarding detection, genetic resistance, tissue studies, and environmental studies of chronic wasting disease. We believe the Department's role in providing basic and applied research is extremely important and share the opinion expressed earlier that this is a multifaceted effort which many organizations, and many universities, have to be involved.

We can never be too short on good ideas and good approaches, and as we only have one institution dealing with cancer, we don't need only one institution dealing with this. So hopefully our involvement, and Agriculture's involvement, and many universities, will bring that to a successful conclusion. Our understandings will be advanced.

So in conclusion we fully support the concepts in H.R. 2057. We are eager to work with you and the Department of Agriculture, and with the States, in achieving the goal of understanding and eliminating this important disease, and we will do everything that we can to be supportive of that effort.

Mr. Chairman, that concludes my remarks. I submit my formal testimony for the record.

[The prepared statement of Mr. Groat follows:]

**Statement of Charles G. Groat, Director, U.S. Geological Survey,
U.S. Department of the Interior, on H.R. 2057**

Mr. Chairmen and Members of the Subcommittees, I am Chip Groat, Director of the U.S. Geological Survey (USGS). I thank you for the opportunity to provide the Department of the Interior's (Department) views on H.R. 2057, the "Chronic Wasting Disease Support for States Act of 2003."

The Department shares your concern regarding the impact of Chronic Wasting Disease (CWD) on captive and free-ranging deer and elk and on the economies of states and local communities. Increased surveillance and awareness have resulted in the identification of this disease in free-ranging deer or elk populations in eight states. The detection of this disease in additional states increases the urgency of finding effective means of control.

At the outset, I want to say that the Department strongly supports the concepts embodied in H.R. 2057, particularly the recognition and facilitation of the critical role state wildlife management agencies, universities, and non-governmental organizations (NGOs) play in limiting the distribution and occurrence of CWD. However, we note that several of its provisions direct the Secretary to carry out programs which appear, at least in part, duplicative of ongoing efforts within the Department. Moreover, the new funding required for implementation must compete with other priorities in the context of the President's Budget.

Recent Departmental Accomplishments

The Department manages roughly one in every five acres of land in the United States and has a variety of stewardship responsibilities for natural resources on these lands Through the National Park Service (Park Service), the U.S. Fish and Wildlife Service (Fish and Wildlife Service), the Bureau of Land Management

(BLM), and the Bureau of Indian Affairs (BIA), the Department provides assistance to, cooperates with and, in some cases, co-manages wildlife with states to ensure healthy, viable wildlife populations.

While the Department recognizes that the states possess primary responsibility for management of resident fish and wildlife within their borders, to successfully combat CWD we must employ an approach that recognizes the varied roles of Federal and state agencies. In this vein, the Department conducts basic and applied research into the biology and management of this disease, provides wildlife-related laboratory services, and offers technical advice and assistance to our partners. We recognize that we must also work closely with private landowners and incorporate their needs into surveillance strategies and outbreak responses.

In an effort to be good neighbors, proper land stewards, and to provide assistance to the states, the Administration requested a total of \$3.8 million in their Fiscal Year 2004 budget request for CWD efforts. If funded at the requested level, USGS will expand research and deliver technical assistance and pertinent biological information about the disease to both Federal and state agencies. The Park Service will continue monitoring and surveillance and will establish a CWD Response Team, modeled after the highly successful exotic plant management teams, to continue and expand on its ability to respond quickly and professionally to CWD issues in units of the National Park System. The Fish and Wildlife Service will use requested funding to comply with the National Environmental Policy Act and to develop surveillance and disease contingency plans for the National Wildlife Refuge System (NWRS).

As a further example of our commitment to cooperation with states on this issue, the Department is working with Colorado, Wisconsin, and other state fish and wildlife agencies, providing technical assistance, manpower, and participating in collaborative research studies. For instance, USGS recently initiated collaborative research studies with the Wisconsin Department of Natural Resources and the University of Wisconsin to enhance scientific knowledge about CWD and to assist in the development of management strategies. During the fall 2002 big game hunting season, volunteers from the Fish and Wildlife Service contributed over 440 hours of assistance to the State of Colorado by gathering data from hunter harvested deer and elk. As a result of positive cases of CWD in one elk and two deer in Wind Cave National Park, the National Park Service is stepping-up CWD surveillance and planning efforts with the State of South Dakota on an elk management plan.

Over the past year, the Department has embarked on an aggressive program of research into the biology of CWD, its hosts, and avenues of transmission. In addition, USGS and its partners are working to develop the methods needed to identify diseased animals at pre-clinical stages. During fiscal year (FY) 2003 alone, USGS is augmenting its ongoing program of CWD-related projects with over \$1.0 million in new research and over \$300,000 in new activities initiated in cooperation with states. This brings the total Fiscal Year 2003 USGS commitment to its CWD program to \$2.7 million.

In testimony before this Committee last May, I reported that Rocky Mountain National Park was the only unit of the National Park System (NPS) that was known to have elk and deer infected with the disease, and that Wind Cave National Park in South Dakota was at high risk of the disease. As noted above, increased surveillance led to the detection of CWD in deer and elk at Wind Cave National Park. CWD also threatens other NPS units—including Dinosaur National Monument in northwestern Colorado and Agate Fossil Beds and Scotts Bluff National Monuments in western Nebraska—due to proximity to wild deer and elk herds where CWD has been detected or in nearby facilities for captive rearing of deer and elk.

Based on samples taken in Rocky Mountain National Park, the prevalence of infection for deer is calculated at about 5 to 6 percent, the same for animals surrounding the park. The prevalence of the disease in elk adjacent to the park was estimated by the State of Colorado to be between 1 and 4 percent and is likely similar within the park. The park is continuing tactical management activities for CWD, and is continuing collaborative efforts on research and joint strategy development with the Colorado Division of Wildlife (CDOW). In addition, the park is removing deer and elk with clinical signs of the disease, as well as deer that test positive for CWD using tonsillar biopsy. The Park Service has also entered into an agreement with Colorado State University to fund a Chronic Wasting Disease Coordinator to assist high risk parks in planning, sample collection and diagnostics, management, and research of CWD over a 2-year period.

Finally, the Department has also worked in conjunction with the Department of Agriculture, as well as universities, state wildlife management agencies, and agricultural agencies, to develop a coordinated management approach to addressing

CWD. This approach, released in June 2002, includes, among other things, surveillance, diagnostic, and research action items.

The recent detection of CWD in free-ranging deer in additional states points to the need for continued Federal, state, and tribal coordination in efforts to manage this disease. H.R. 2057 attempts to address this need by directing the Department, through the USGS, to undertake work on several fronts that are important to limiting the distribution and occurrence of CWD. I am proud to inform the Committee that we have already initiated work on several of these important initiatives.

Departmental Views on H.R. 2057

Section 101(a) of H.R. 2057 directs the Secretary of the Interior (Secretary), through the USGS and using existing authorities, to establish and maintain a national database for CWD-related information, and to include surveillance and monitoring data for both wild and captive animal populations that is collected by Federal agencies, foreign governments, Indian tribes, and state agencies that receive assistance under the proposal. This database would be made available to government agencies attempting to manage and control CWD, universities and other public and private institutions conducting research on CWD, and cooperating international wildlife authorities.

The Department supports the development of a national database, because the need for sharing information is critical to making informed, science-based, management decisions. This database will take full advantage of our existing capabilities in biology, mapping, and scientific database development. Maintaining CWD-related data on both wild and captive populations will facilitate integrated analyses and allow practical "lessons learned" in diagnosis, surveillance, and control to be shared rapidly among a wide range of users. In fact, through its National Biological Information Infrastructure, the USGS has recently implemented a prototype Wildlife Disease Information Network to develop a CWD national data repository for scientific, technical, and geospatial information. Contributed CWD data will be collected through state and Federal agencies, tribes, and other sources. However, in terms of the database suggested by this legislation, we believe that it should be developed in coordination with Department of Agriculture, which has oversight responsibility for captive cervids.

Under the provisions found in section 102 of H.R. 2057, USGS is charged with developing, using existing authorities, a national CWD surveillance and monitoring program in cooperation with state and tribal agencies and in coordination with the Department of Agriculture. The Department is also to provide financial and technical assistance to states and tribes to implement the program for wild herds of deer and elk.

The Department views this program as an important component of a national strategy to identify the rate of CWD infection in wild herds, the geographic extent of its spread, and potential reservoirs of infection and mechanisms promoting the spread of CWD. In fact, on May 1, 2003, the USGS released a report called "Surveillance Strategies for Detecting CWD in Free-Ranging Deer and Elk." The 41-page document is the culmination of a 3-day interdisciplinary, interagency workshop held at the USGS National Wildlife Health Center in Madison, Wisconsin. This document is the first tool of its kind, and it provides general guidance on the development and conduct of scientifically sound surveillance programs to detect CWD in free-ranging populations of both deer and elk.

The Department's extensive scientific resources provide us with the ability to synthesize data from multiple sources and conduct local, regional, and national analyses, as needed. As you can see, we believe that the Department's role in providing technical assistance and coordinating surveillance and monitoring efforts is both appropriate and essential.

Section 103 directs the Secretary to allocate funds directly to state and tribal wildlife agencies for the purpose of developing and implementing CWD management strategies. The criteria provided for the allocation of funds address the need to prioritize this financial support based on the relative rate of incidence, state and tribal financial commitment to CWD programs, integration of state or tribal agency policies related to CWD management, and the need to respond rapidly to disease outbreaks in new areas of infection. The grant program authorized by this section appears duplicative of the Fish and Wildlife Service's state wildlife grants, and the administration of these grants does not fit within the USGS's mission.

Finally, section 104 directs the Secretary to expand and accelerate research, through USGS, regarding detection, genetic resistance, tissue studies, and environmental studies of CWD. We believe that the Department's role in providing basic and applied research is both appropriate and essential to understanding and managing this disease.

Conclusion

The Department's traditional stewardship role and cooperative relationship with states and other partners make it ideally situated to facilitate development of a coordinated strategy to combat CWD. We fully support the concepts advanced by H.R. 2057—recognition of state roles and responsibilities in the management of resident wildlife populations; the Department's scientific and technical expertise and ability to coordinate across an array of interested partners—and pledge to work with the Committee to ensure that our resources and authorities are used in the most efficient manner in addressing CWD in free-ranging cervids.

Mr. Chairmen, this concludes my written statement and I will be pleased to respond to any questions you might have.

Mr. McINNIS. Thank you, Mr. Groat, and I again reemphasize the comments you made about—and as Mr. Green made earlier—and that is the emphasis on the States and their lead. They are the people who have their hands on every day of the week. So I appreciate your comments.

Mr. Acord, you may proceed.

STATEMENT OF BOBBY ACORD, ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. ACORD. Thank you, Mr. Chairman, and members of the Subcommittee. Thank you for the opportunity to speak with you today regarding the U.S. Department of Agriculture's views on H.R. 2057, a bill to provide for multi-agency cooperative efforts to combat chronic wasting disease.

I would like to start off my testimony with a quick announcement. The USDA recently made \$4 million available to assist State Wildlife Agencies in addressing CWD. We are happy to announce that we have just approved Colorado's surveillance plan for CWD in wild populations.

And following the funding formula that we developed in conjunction with the International Association of Fish and Wildlife Agencies, we are right now working to transfer \$218,750 to the States so that they can begin that work. And I know that Russ will appreciate that.

Mr. McINNIS. Mr. Acord, we can grant unanimous consent for you to sit up here, too, if you would like. Thank you. We appreciate that.

Mr. ACORD. As you know, CWD is a transmissible spongiform encephalopathy or TSE of deer and elk, in the same family of disease as bovine spongiform encephalopathy or BSE, and scrapie.

It was just about a year ago I think that Dr. Jim Butler updated you on our efforts to manage CWD in deer and elk. Many things have moved forward since 2002, and I would like to take a moment to discuss some of these with you.

To ensure a coordinated and cooperative approach in assisting States, a task force, including USDA and the Department of the Interior, along with State Fish and Wildlife Agencies, Departments of Agriculture, Universities, drafted a national management plan for assisting States, Federal Agencies, and tribes, in managing CWD in wild and captive cervids.

The plan was shared with Congress, I think, in June of last year. With input from the industry and States, the USDA is developing

a national voluntary herd certification program to eliminate CWD from farm cervids.

Although initially aimed at farmed elk, the program will not include susceptible farmed deer species as well. We are planning for an implementation to occur by the end of this year. In addition, USDA continues to pay for all laboratory costs associated with CWD in testing the farm cervid population.

Positive and exposed farm cervids are eligible for indemnity, and USDA also pays the cost for depopulation and disposal. The USDA has also moved ahead in assisting States to deal with the wildlife aspect of the disease. In 2003, USDA received \$14.8 million for CWD in captive and wildlife, or in free-ranging populations.

As I mentioned earlier, we are providing \$4 million of this to the States, and a detailed breakout of how the \$14.8 million was spent is available for your review. As a matter of fact, I believe that we have shared it with you already.

USDA has also paid laboratory costs for hunter surveillance testing from the 2002 and 2003 hunting season for all States submitting approved surveillance plans. In addition our wildlife services program is working closely with several states, including Colorado, Illinois, Wisconsin, and others, to assist them in their surveillance of monitoring the wild population.

Our personnel have assisted in harvesting deer for test samples and have also guided landowners in the removal of deer from their property. Testing has also been an important issue related to CWD, and with the increased testing for CWD, laboratory capacity has been an issue.

We realize that increased testing capacity was necessary and expanded the number of laboratories that we would be able to use to run the IHC or the Immunohistochemistry assay for CWD. We now have 26 laboratories that can run the IHC test. The estimated capacity is now at a quarter-of-a-million samples, more than adequate to meet the current demand.

This past year has also seen progress on the development of new tests. Our center for veterinary biologics recently approved two new diagnostic kits, one for use on elk, mule deer, and pot-tail deer, and another has been approved for mule deer and white-tailed deer.

These tests run on a system that allows multiple samples to be processed at once. Until further data can be obtained on their effectiveness, IHC still remains the international recognized standard, or the gold standard, for this particular kind of testing.

Research continues to be an important part of our activity here. We continue to work with the Agriculture Research Service, the Cooperative State Research Service, as well as our national wildlife research center, is doing a number of pieces of research on this.

As you can see, USDA has been moving steadily forward on its program to combat CWD. However, we feel that even though 2057 has good intent, much of what is required in the bill is already being done.

For example, the bill requires that Federal facilities be upgraded to facilitate the processing of samples from surveillance and monitoring. As stated earlier, we have the capacity to run 250,000 samples now.

The bill also requires that an official data base for CWD reside with DOI, including information on the farm cervid population. Under the Animal Health Protection Act, the USDA has the lead, or is the lead department for livestock diseases. We do not believe that a data base for livestock should reside at the Department of Interior.

CWD is an important issue to USDA. There is a lot of work being done and it will continue. And with our working together with our Federal and State counterparts, we can get a handle on this disease.

And I would also just conclude by saying that I think that we have had a wonderful working relationship with the State Fish and Wildlife agencies, particularly with the International Association of Fish and Wildlife Agencies, that has provided a lot of leadership on this issue.

We look forward to continuing that good work. Thank you, Mr. Chairman. That concludes my remarks and my statement will be submitted for the record.

[The prepared statement of Mr. Acord follows:]

Statement of Bobby R. Acord, Administrator, Animal and Plant Health Inspection Services, U.S. Department of Agriculture, on H.R. 2057

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to speak with you on behalf of the U.S. Department of Agriculture (USDA) about H.R. 2057, a bill to provide for a multi-agency cooperative effort to combat chronic wasting disease (CWD).

CWD is a transmissible spongiform encephalopathy (TSE) of deer and elk, in the same family of diseases as bovine spongiform encephalopathy (BSE) and scrapie. It has been diagnosed in farmed elk and deer herds in eight States; known positive or exposed herds remain only in Colorado, Minnesota, and Wisconsin. CWD has also been identified in free-ranging deer and elk in areas of Colorado, Illinois, Nebraska, New Mexico, South Dakota, Utah, Wisconsin, and Wyoming. The origin and mode of transmission of CWD are unknown.

It was just about a year ago that Dr. Jim Butler updated you on our efforts to manage CWD in deer and elk. Many things have moved forward since 2002, and I'd like to take a moment to discuss some of these with you.

First and foremost is the management plan for CWD. To ensure a coordinated and cooperative Federal approach to assisting States, a task force including USDA and the Department of the Interior (DOI), along with universities and State wildlife management and agriculture agencies, drafted a national management plan for assisting States, Federal Agencies, and tribes in managing CWD in wild and captive cervids. The plan was shared with Congress in June 2002. The plan's components include action items for surveillance, diagnostics, and research, among other things.

With input from industry and States, USDA is developing a voluntary national herd certification program to eliminate CWD from farmed cervids. Although initially aimed at farmed elk, the program will now include susceptible farmed deer species. Rulemaking must be completed before the plan is implemented and we expect publication of the proposal shortly. We are planning for implementation to occur by the end of this year. In addition, USDA continues to pay for all laboratory costs associated with CWD testing in the farmed cervid population. Positive and exposed farmed cervid herds are eligible for indemnity. USDA also pays the costs of depopulation and disposal. Our goal is nothing less than eradication of the disease in the farmed cervid population.

USDA has also moved ahead in assisting the States to deal with the wildlife aspect of the disease. In Fiscal Year 2003, USDA received \$14.8 million for CWD in captive and wildlife herds. USDA recently made \$4 million of that available to assist State wildlife agencies in addressing CWD. Funding is being distributed according to a formula developed in conjunction with the International Association of Fish and Wildlife Agencies. Under this formula, States are classified according to tiers. Tier 1 States, which have known occurrences of CWD in free-ranging cervids as of March 1, 2003, are eligible for the highest sums. States falling in the Tier 2 and

3 are eligible for lower amounts. A detailed breakout of the \$14.8 million is available for your review.

USDA has also paid laboratory costs for hunter surveillance testing from the 2002–03 hunting season for all States submitting approved surveillance plans.

In addition, our Wildlife Services program is working closely with several States, including Colorado, Illinois, and Wisconsin, to assist them in the surveillance and monitoring of deer in the wild population. Our personnel have assisted in the harvesting of deer for test samples, and have also guided landowners on the removal of deer from their property.

Testing has also been an important issue related to CWD. With the increased testing for CWD, laboratory capacity has been an issue. USDA realized that an increased testing capacity was necessary and expanded the number of laboratories that would be able to run the immunohistochemistry (IHC) assay for CWD. We now have 26 laboratories that can run the IHC test; the estimated capacity is now a quarter of a million samples, more than adequate to meet current demand.

Official diagnosis of CWD continues to be performed exclusively by Federal and State regulatory agency laboratories and this remains the current USDA policy. With ever-increasing international trade, it is essential that we can guarantee the integrity of our diagnostic laboratory network in the United States. A “false positive” for any disease, not just CWD, could result in unnecessary public concern and costly regulatory action. And in the case of a disease like bovine spongiform encephalopathy, a false positive could be devastating, costing the U.S. economy billions of dollars in unnecessary domestic and international market disruption from which it could take years to recover.

This past year has also seen progress in the development of new tests. Our Center for Veterinary Biologics (CVB) recently approved two new diagnostic test kits: one for use on elk, mule deer, and white-tail deer and another kit that has been approved for mule deer and white-tailed deer. These new tests run on an ELISA system, which allows more samples to be processed at once. Until further data can be obtained on their effectiveness, IHC remains the internationally recognized method of choice. CVB officials are also reviewing a number of other test kits and have placed a high priority on the evaluation of CWD test kits.

Research into the area of CWD has continued as well. Our National Wildlife Research Center (NWRC) is researching the possibility of vaccines for CWD. NWRC is also continuing to research ways to identify improved barriers and repellents to keep wild deer and elk separated from captive cervids and other livestock. This research is being conducted to control bovine tuberculosis, but much of the information will apply to CWD. NWRC also plans to examine new decontamination methods for CWD-affected facilities.

The Agriculture Research Service has also undertaken several projects, including assessing the interspecies transmission of TSEs among livestock species and cervids, assessing herbivore susceptibility to TSE, and identifying and developing new methods for detecting prion protein molecules in the environment and feedstuffs.

The Cooperative State Research Education and Extension Service is also continuing to support research projects through both competitive and formula-funded programs to determine the causes and methods of control for CWD. In Fiscal Year 2002 the National Research Initiative Competitive Grant Program awarded \$250,000 to Case Western Reserve University to understand how CWD causes disease and is transmitted between animals. The University of Wisconsin has dedicated resources from its CSREES-supported Agricultural Experiment Station to the management of white-tailed deer, with a special emphasis on CWD. The National Research Initiative once again requested proposals related to CWD in fiscal year 03, and at this time staff is currently reviewing proposals.

As you can see, USDA has been moving steadily forward on its program to combat CWD. However, we feel that even though H.R. 2057 has good intent, much of what is required in the bill is already being done. The bill, if passed, requires that USDOJ and USDA conduct certain activities regarding CWD. The USDOJ activities include a national database for wild and captive cervid information, surveillance and monitoring programs in wild populations, money for State programs, and the expansion of USGS research. In total, the bill authorizes \$17.5 million for USDOJ activities.

The USDA activities include the development of a surveillance and monitoring program, and the expansion of diagnostic testing capability and ARS and CSREES activities. In total, the bill authorizes \$9.5 million for USDA activities. The bill also requires USDA and USDOJ to enter joint rulemaking when promulgating rules to implement the Act.

Again, we agree with the intent of the bill, which is to establish a program to combat CWD. However, many aspects of the program are already in place at USDA.

In addition, the bill does not take into account changes that have been made to the USDA program in the past year.

For example, the bill requires that Federal facilities be upgraded to facilitate the timely processing of samples from the surveillance and monitoring. As stated earlier, we currently have the capacity to run 250,000 samples and USDA is working to expand testing capacity for all TSEs, which would also benefit CWD. We should also point out that because the States have not submitted as many wild cervid samples as APHIS had anticipated, \$500,000 that was allocated for testing is being used to set up cooperative agreements with Tribal Nations.

The bill also requires that the official database for CWD reside with DOI, including information on the farmed cervid population. Under the Animal Health Protection Act, USDA is the lead Department in livestock diseases. We do not believe that a database for livestock, such as farmed cervids, should reside with another Department, especially since we must be conscious of the privacy concerns of producers. In addition, we are currently working with industry on an animal identification program for livestock; both the North American Deer Farmers Association and the North American Elk Breeders Association have been a part of that process. We are concerned about the impact that this provision may have on a livestock animal identification program.

CWD is an important issue to USDA. There is a lot of work being done and it will continue as we implement our herd certification program and expand our testing capabilities. By continuing to work together with our Federal and State counterparts, we can get a handle on this disease.

Thank you for the opportunity to comment.

Mr. McINNIS. Thank you, Mr. Acord.
Mr. George, you may proceed.

**STATEMENT OF HON. RUSSELL GEORGE, DIRECTOR,
STATE OF COLORADO DEPARTMENT OF NATURAL
RESOURCES**

Mr. GEORGE. Thank you, Mr. Chairman, and members of the Committees. I am Russell George, Director of the Colorado Division of Wildlife. I appreciate the opportunity to be here this morning to talk about the potential for increased Federal assistance to the States to manage chronic wasting disease.

I appreciate the support and leadership of Congress on this subject of chronic wasting disease, and as you can imagine, it is of utmost importance to us in the State of Colorado. We are uniquely positioned to take advantage of any Federal grants or other assistance relative to managing and studying the disease.

Thus far our State agencies have invested heavily in tackling the challenge of CWD, and we have done so largely with State funds, especially using revenues that we receive from the sale of hunting licenses. So we can welcome and can use increased Federal financial support.

This is why I especially applaud Chairman McInnis' bill for two particular reasons. One is that it provides significant new funds for State wildlife managers, and second, it asserts the primacy of the States in policymaking authority with regard to wildlife management, both in general terms and specifically with respect to chronic wasting disease.

We have been concerned with the second point of State primacy and wildlife management has often been overlooked by some Federal agencies. States that have had outbreaks of chronic wasting disease, such as Colorado and Wisconsin, have aggressively responded to the threats that it poses to wildlife, both free roaming and captive.

States should continue to remain at the forefront of preventing or responding to chronic wasting disease. What States like Colorado really need from the Federal Government are additional resources, and not new programs or institutions. The needs of the Colorado Division of Wildlife, the Colorado Department of Agriculture, and Colorado State University, are extensive and beyond the ability of the State to fully fund.

Federal assistance is crucial at this time. The knowledge that we have gained and the programs that we have initiated in Colorado are often used as a model for other States who are just starting to respond to chronic wasting disease issues.

The innovative and aggressive approach that Colorado has taken allows other States to save their scarce funds and limited personnel time by enabling them to focus on initiatives, technologies, and approaches that we have demonstrated already to be effective.

Let me take a moment to highlight specifically actions taken by Colorado over the past 2 years in response to the spread of chronic wasting disease. First and foremost, we have coordinated with local governing authorities and private landowners to reduce deer populations in areas of especially high prevalence.

Secondly, we have significantly redirected existing funding and personnel to chronic wasting disease control efforts, and the numbers themselves are important for me to share with you. Two years ago, we were investing around \$700,000 in the work that we were doing on chronic wasting disease.

This year's budget will be nearly \$4 million. So in 2 years, going on to the third year, we would have jumped from \$700,000 to near \$4 million. This is hunter paid license fees and revenues that the State of Colorado is investing in this issue. There is no question that we take chronic wasting disease as a most serious threat.

By the way, \$4 million is about 4 percent of our budget to invest in one issue, one disease, and this takes away from all the other things that we are called upon to do as the State's wildlife managers.

Increased coordination and cooperation between agriculture public health, and environment, public State university, and the Division of Wildlife, we have learned in Colorado how to overcome our historical and jurisdictional institutional barriers among these entities.

We think that having overcome these barriers is a model that the Federal agencies can follow. We believe that since we have done it that the Federal agencies can overcome those traditional barriers as well.

We have created eight new positions in the Colorado Division of Wildlife devoted solely to chronic wasting disease. We have a field coordinator for culling activities, a State-wide wildlife disease coordinator, staff veterinarian, four lab technicians, and a lab supervisor, for new wildlife health unit. Again, all using hunting license fee revenues.

Eight new people may not sound much, but when you understand that there have been no new FDEs created anywhere in State government in Colorado for a number of years, you can see that the State also generally recognizes the importance of the work that the Division of Wildlife is doing.

In the few moments I have left, let me focus upon what we would like you to help us do. First of all, we need to upgrade certified labs. We think that \$3-1/2 million of Federal funds will help us to do that, particularly to build a new diagnostic lab at Colorado State University that can be shared by the Division of Wildlife, the Department of Agriculture, and the University Veterinary Diagnostic Laboratory.

We would expect to find \$4 million to upgrade disposal processes at four sampling/testing facilities. The key to dealing with chronic wasting disease, wherever it is, is to test sufficiently to know everywhere it is, and to what degree it exists.

So the more testing that we can do across every State, the more we can know about that. Colorado jumped from 5,000 tests statewide a year ago, to 27,000 tests this past year. We intend to step that up again to as much as 40,000 tests.

And the other thing that has happened is that we have moved getting the timing for the results from 6 months down to 2 weeks. For us to provide good customer service and good science, we needed to know exactly and quickly whether the animals were positive or negative.

Research. There is no question that we need more research. We would ask for \$2 million for research on therapeutics, live animal diagnostics, environmental detection, field diagnostics, genetic resistance, and enhanced rapid laboratory tests.

Surveillance monitoring and management of wild deer and elk needs to occur, and surveillance monitoring and management of captive deer and elk must also occur. Some of this can be done together and some of it must be done separately. So we like to focus on both.

Finally, education and outreach. You all know the importance of telling the public everything that we know and telling them as quickly as we know it what there is to learn from this.

The public cares a great deal about TSEs, and our responsibility is to be as accurate and as open about that as we can, and that takes time and resources to do it. My time is up. Let me just say again that we support the International Association of Fish and Wildlife Agencies on the position that they, and where they have helped us.

We support the comments from Wisconsin. The main thing I want to say is that we are dealing with a disease here. Time matters. The sooner we get on this, learn what we can about it, the sooner the opportunity we can get our arms around it, contain it, and maybe eventually eliminate it.

Thank you, Mr. Chairman. I have used the time. My formal statements will be offered for the record.

[The prepared statement of Mr. George follows:]

**Statement of Russell George, Director, Division of Wildlife,
Colorado Department of Natural Resources, on H.R. 2057**

Good morning, Mr. Chairman. I am Russell George, Director of the Colorado Division of Wildlife. Thank you for the opportunity to appear before you today to share my thoughts about the potential for increased Federal assistance to States attempting to manage Chronic Wasting Disease, commonly referred to as CWD. I appreciate the support and leadership of Congress on the subject of CWD, an issue of considerable importance to the State of Colorado.

Colorado is uniquely positioned to take advantage of any Federal grants or other assistance relative to managing and studying this disease. Thus far, our state agencies have invested heavily in tackling the challenge of CWD and we have done so largely with state funds, especially revenues derived from the sale of hunting licenses. Therefore, we welcome increased Federal financial support.

That is why I especially applaud Chairman McInnis' bill. It provides significant new funds for state wildlife managers and it asserts the primacy of the States in policy-making authority with regard to wildlife management, both in general terms and specifically with respect to CWD. We have been concerned that this point has been overlooked too often by some Federal agencies.

States that have had outbreaks of CWD, like Colorado and Wisconsin, have aggressively responded to the threats it poses to wildlife, both free-roaming and captive. States should continue to remain at the forefront of preventing or responding to chronic wasting disease. What states like Colorado really need from the Federal Government are additional resources, not new programs or institutions.

The needs of the Colorado Division of Wildlife, the Colorado Department of Agriculture (CDOA) and Colorado State University (CSU) are extensive and beyond the ability of the state to fully fund. Federal assistance is crucial at this time. The knowledge that we have gained and the programs we have initiated in Colorado are often used as a model for other states just starting to respond to CWD issues. The innovative and aggressive approach that Colorado has taken allows other states to save scarce funds and limited personnel time by enabling them to focus on initiatives, technologies and approaches that we have demonstrated to be effective.

I would like to take a moment to highlight some of the actions taken by Colorado over the past two years in response to the spread of CWD. We have:

- Coordinated with local governing authorities and private landowners to reduce deer populations in areas of especially high prevalence.
- Significantly redirected existing funding and personnel to CWD control efforts.
- Increased coordination and cooperation between the CDOA, Colorado's Department of Public Health and the Environment, CSU and the Division of Wildlife on CWD issues.
- Created 8 new positions devoted to CWD within the Division of Wildlife (a field coordinator for culling activities, a statewide wildlife disease coordinator, a staff veterinarian, 4 lab technicians and a lab supervisor for a new wildlife health unit—all using hunting license fee revenues).

In addition, we joined with CSU and CDOA, to implement an extensive CWD surveillance and testing program for wild elk and deer. Members of the Colorado Veterinary Medical Association and volunteers from several Federal agencies, conservation organizations and the general public also provided significant assistance. With this cooperation, we were able to offer statewide testing of hunter-killed deer and elk while validating a new rapid test that provided results in hours instead of months and allowed for large-volume testing. As a direct result of our experience, we understand that the new test is now being considered by the USDA and Canada for screening large numbers of cattle for Bovine Spongiform Encephalopathy (BSE).

With this integrated effort, we succeeded in testing more than 27,000 wild deer and elk for CWD with most results available within two weeks of receipt of the sample. The CDOA and the Division of Wildlife continue to coordinate, develop, and adopt comprehensive regulations that govern the importation, intrastate transportation and surveillance of captive deer and elk. As you can see, we already have in place programs to monitor and manage CWD.

Despite the unprecedented actions taken by Colorado and other states, it is clear much more work remains to be done. What we need most are additional financial resources with few strings attached. Federal funding for this work is a wise investment. We already have a proven track record of success.

In concert with CDOA and CSU, Colorado has identified several initiatives and program that are in need of additional support. Those needs include:

Upgrading Certified Labs

\$3.5 million to initiate the planning and construction of a new diagnostic lab on the CSU campus in Fort Collins that has the potential to share laboratory space and equipment and co-house staff from the CDOW, the CDOA and the University Veterinary Diagnostic Laboratory, a CWD-certified testing laboratory. A proposed program plan (that currently includes CSU and CDOA in one new building) has already been approved by the CSU Board of Governors and awaits funding to proceed.

\$4 million to upgrade disposal processes at four CWD sampling/testing facilities—in Grand Junction, Craig, Fort Collins and Rocky Ford. I would like to emphasize that these upgrades will be necessary if regulations under consideration by Region 8 of the U.S. Environmental Protection Agency (EPA) are imposed. The regulations

would govern our CWD labs' waste streams and our methods of carcass disposal. We urge the EPA to proceed slowly and cautiously, and only after consulting with external third party prion disease experts, other Federal agencies and all potentially affected states (including their wildlife, public health and agriculture agencies).

Research

\$2 million for research on therapeutics, live animal diagnostics, environmental detection, field diagnostics, genetic resistance and enhanced rapid laboratory tests.

\$5 million to relocate and upgrade our live animal research facility. The existing facility is located on property that is under a lease that will expire soon and is not likely to be renewed by the property owner. This project will provide several Colorado institutions the capability to continue a strong tradition of collaborative animal research.

Surveillance, Monitoring and Management of Wild Deer and Elk

Colorado needs assistance with our annual expenses directly related to CWD operations (expanded surveillance, testing, reporting, culling, carcass disposal, etc.). Expenditures are estimated to be about \$3 million in the coming state fiscal year.

Surveillance, Monitoring and Management of Captive Deer and Elk Herds

We estimate Colorado would require \$150,000 for detecting, measuring and monitoring incidence of CWD in captive Colorado herds. We also anticipate needing as much as \$1 million for reducing the incidence of CWD in captive herds (depopulation, indemnification, and carcass disposal).

Education and Outreach

Finally, states like Colorado need money for the development of brochures, fact sheets, videos, training clinics, website enhancement, etc. for agency staff, hunters, veterinarians, meat processors, taxidermists, conservation groups and the general public.

As I conclude, I feel it is important to note that the Colorado Division of Wildlife anticipates spending an estimated \$3 million on chronic wasting disease-related actions in our upcoming fiscal year which begins on July 1, 2003. To enable us to accomplish this, our state legislature authorized us to use funds from our dwindling reserve balance. We are doing so in addition to diligently reprioritizing existing resources, at the expense of other programs, for CWD work.

H.R. 2057 would authorize programs that could help Colorado, and many other states, meet the significant challenges presented by CWD. My state has been at the forefront of efforts to understand and control CWD in the wild. We have made tremendous progress in those efforts, but we are at the point that Federal assistance is urgently needed to help us, and a growing number of other states, respond to CWD.

In summary, I would like to emphasize that there are many opportunities for the Federal Government to assist States in CWD management and research. I urge congressional support for legislation and funding that will allow Colorado's needs to be met. I also urge you to consider the most streamlined and efficient mechanisms for making such funding available, including grant programs already well-established.

Thank you, Mr. Chairman, for the opportunity to share my thoughts with you and your distinguished colleagues. Colorado's deer and elk are among our state's most treasured natural resources. Your efforts to help us protect this valued resource are greatly appreciated.

I would be pleased to answer any questions you might have.

Mr. MCINNIS. Thank you, Mr. George.

Mr. Taylor, you may proceed.

STATEMENT OF GARY L. TAYLOR, LEGISLATIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES, ACCOMPANIED BY DR. JOHN FISHER, SOUTH- EAST COOPERATIVE WILDLIFE DISEASE STUDY

Mr. TAYLOR. Thank you, Mr. Chairman, for the opportunity to share with you the Association's perspectives on the management of chronic wasting disease. Also for permitting Dr. Fisher, who chairs the Association's Fish and Wildlife Health Committee, to join us at the witness table.

As you know, all 50 State Fish and Wildlife Agencies are members of the Association. The Association looks forward to continuing to work with you, and in particular to provide the State and Federal agencies with the fiscal resources that they need to manage this disease.

Further, we continue to urge that decisions with respect to the management of this disease be well grounded in science. And finally we see the need for even more comprehensive Federal agency cooperation and coordination to effectively manage this disease.

Let me start by commending Chairman McInnis, Congressman Kind, Congressman Ryan, Congressman Green, and others, in particular for your diligence in ensuring that a coordinated Federal and State effort is directed at this issue. What is most needed are adequate Congressional appropriations to the Federal agencies for both their efforts and to pass through to the State Fish and Wildlife Agencies, State universities, and State Departments of Agriculture, to manage chronic wasting disease.

The Association looks forward to working with you to increase appropriations for these purposes. As Bobby Acord shared with you about the national plan, under his chairmanship, and that of Steve Williams, Director of the U.S. Fish and Wildlife Service, they quickly recognized the need for adding State Fish and Wildlife Agency representatives to the Federal Task Force.

That was expeditiously done and six working groups, comprised of Federal, State, and university representatives, ultimately drafted a national plan that the task force released to the public in June of 2002.

The plan proposes goals and serves as a blueprint for future activities to identify the extent of the disease and management actions needed to eliminate or prevent its spread. Let me commend Chairman McInnis and others for acting as a catalyst to get this done; Bobby Acord and Steve Williams, for their patience and vigilance in overseeing it, and all of the task force participants for their dedication and diligence in completing the plan.

Subsequently an implementation documentation for this plan was produced in October of 2002 by a team of three State Fish and Wildlife Agency representatives, four USDA, and four USDI representatives working with input from a myriad of wildlife management and animal health professionals from across the Nation.

The implementation document steps down the goals in the national plan to action items, and it assigns agency responsibilities, and identifies time lines and budgets for each of the six categories of diagnostics, disease management, communications, research, surveillance, and information dissemination.

The implementation plan represents what we believe is the best and most current thinking with respect to what is necessary to successfully manage this disease. The budget recommendations in the plan were thoughtfully constructed under the constraint of reasonable and realistic. They are not pie in the sky requests.

As Bobby also indicated, in April of this year, APHIS made available \$4 million to the State Fish and Wildlife Agencies for surveillance and management of chronic wasting disease. As he indicated, collectively with APHIS, we arrived at a formula that established three tiers of States.

And while one could argue the need for more money in one tier versus the other, we felt that this was equitable, and it advanced our knowledge of presence absence of this disease, which is one of the most critical pieces of information we need, and it assisted the States with the tremendous costs of managing this disease.

The solution of getting more funds to States with chronic wasting disease and free-ranging cervids, of course, is to grow the appropriated dollars. Let me just now reflect a little bit on the need for engaging yet other Federal agencies, and in particular the Food and Drug Administration, and the U.S. Environmental Protection Agency, in a more coordinated effort to manage chronic wasting disease based on sound science.

In November of last year, and then again more formally in May of this year, FDA proposed guidance for the rendering industry regarding the use and material from deer and elk in animal feed.

Unfortunately, this draft guidance as currently written hinders animal health and wildlife management agency efforts to identify new areas where the disease occurs and it simultaneously increases, rather than decreases, the likelihood of chronic wasting disease positive carcasses entering the non-ruminant animal food chain.

The Association believes that the draft guidance is an overreaction and simply cannot be supported with good science. In addition to the inaccurate message, we are concerned about recommendations in the draft guidance that would trigger a recall of feed or feed ingredients containing material from a CWD positive animal.

This actually hinders our ability to find new areas where the disease occurs, because it promotes avoidance of chronic wasting disease testing, thereby increasing the chances for the disease to go undetected, and positive animals to enter the animal feed system.

Early detection offers greater opportunities to eliminate the disease, and early detect depends on the cooperation of hunters, meat processors, taxidermists, and renders. Unfortunately, the draft guidance we believe perpetuates a highly undesirable situation that inhibits this cooperation.

Finally, we would like to express our concerns about some draft recommendations that EPA has been working on in their Region 8 office that could likewise seriously impede our ability to detect and manage the disease in wild and captive cervids.

The proposal would require certain standards and permits for treatment of waste water from lab facilities handling animals, or samples from animals, with the disease. Labs wishing to continue or initiate work with chronic wasting disease would incur huge costs to come into compliance, or would have to cease their efforts.

Once again, we believe that this proposal is not science-based, and would seriously affect the cooperation of hunters, meat processors, taxidermists, and renders, thereby impeding our ability to detect the disease in a new area.

Finally on the issue of funding, Mr. Chairman, we all agree that more is needed, and we are committed to working with Congress to make that happen. With respect to expeditiously getting money to the State Fish and Wildlife Agencies, let me suggest that you look to agencies that already have existing mechanisms and

machineries for granting money to the State Fish and Wildlife Agencies.

All of our agencies have a cooperative agreement with APHIS for that purpose, and in the Department of the Interior, the Fish and Wildlife Service has a longstanding office machinery and process for annually granting funds from several different programs to the State Fish and Wildlife Agencies.

We think that there is great utility in using these existing grant mechanisms. Thank you again, Mr. Chairman, and we look forward to working with you to effectively address solutions to this problem. [The prepared statement of Mr. Taylor follows:]

**Statement of Gary J. Taylor, Legislative Director,
International Association of Fish and Wildlife Agencies, on H.R. 2057**

Thank you, Mr. Chairman, for the opportunity to share with you the Association's perspectives on H.R. 2057 and the status of management of Chronic Wasting Disease (CWD) in general. I am Gary Taylor, Legislative Director of the Association, and accompanying me today is Dr. John Fischer, Director of the Southeastern Cooperative Wildlife Disease Study, and Chair of the Association's Fish and Wildlife Health Committee. All 50 State fish and wildlife agencies are members of the Association. The Association looks forward to continuing to work with you in particular to provide the state and Federal agencies with the fiscal resources that they need to manage this disease. Further, we continue to urge that decisions with respect to management of this disease be well grounded in science. And, finally, we see the need for even more comprehensive (than just USDA and USDI) Federal agency cooperation and coordination to effectively manage this disease.

The International Association of Fish and Wildlife Agencies was founded in 1902 as a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and Federal Governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening Federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

While we are not convinced of the need for further authorizing legislation, the Association wishes to commend Chairman McNinnis, Congressman Kind, Congressman Ryan and others in particular for their diligence in ensuring that a coordinated Federal-state effort is directed at this issue. What is most needed are adequate Congressional appropriations to the Federal agencies involved for both their efforts and to pass through to the state fish and wildlife agencies, state universities and state agriculture departments, to manage CWD. The Association looks forward to working with you to increase appropriations for these purposes.

Let me summarize where we are in management of this disease by reflecting on the good progress that has been made over the last year. Just a little over a year ago, as a result of a hearing before these same two subcommittees, the U.S. Department of Agriculture and U.S. Department of the Interior convened a Federal task force to coordinate CWD management. Under the chairmanship of Bobby Acord, Administrator, APHIS, and Steve Williams, Director, U.S. Fish Wildlife Service, they quickly recognized the need for and utility of adding state fish and wildlife agency representatives to the Task Force. That was expeditiously done and 6 working groups each comprised of Federal, state and university representatives, ultimately drafted the national plan that the Task Force released to the public ("A Plan for Assisting States, Federal Agencies, and Tribes in Managing Chronic Wasting Disease in Wildlife and Captive Cervids") on June 26, 2002. The plan proposes goals and actions and serves as a blueprint for future activities to identify the extent of the disease and management actions needed to eliminate it or prevent its spread. Let me commend Chairman McNinnis and others for acting as a catalyst to get this done, Bob Acord and Steve Williams for their patience and vigilance in overseeing it, and all participants for their dedication and diligence in completing the plan.

Subsequently, an Implementation Document for said plan was produced on October 11, 2002 by a team of 3 State fish and wildlife agency representatives, 4 USDA, and 4 USDI representatives working with input from a myriad of wildlife management and animal health professionals from across the nation. The Implementation Document steps down the goals in the national plan to action items,

assigns agency responsibilities, and identifies timelines and budgets for each of 6 categories of diagnostics, disease management, communications, research, surveillance, and information dissemination. This Implementation Plan effort chaired by Bruce Morrison, NE Game and Parks Commission, represents what we believe is the best and most current thinking with respect to what is necessary to successfully manage this disease. The budget recommendations were thoughtfully constructed under the constraint of “reasonable and realistic”—they are not “pie in the sky” requests. These budget recommendations are the basis for the Association’s appropriations request that we have asked each of our State Directors to encourage their members of Congress to support.

In April 2003, APHIS made available \$4 Million in Fiscal Year 2003 appropriated funds to the State fish and wildlife agencies for surveillance and management of CWD. In designing the protocol for distribution of the funds, APHIS engaged Dr. John Fischer, Dr. Tom Thorne (WY Game and Fish Department) and myself to ensure an appropriate and effective process. Collectively with APHIS we arrived at a formula that established 3 tiers of States: Tier 1 includes states with known occurrence of CWD in free ranging cervids; Tier 2 includes states adjacent to Tier 1 states or states with known CWD occurrence in farmed or captive cervids; and Tier 3 includes all other states. While one could argue the need for more money in one tier versus the other, we felt this was equitable, advanced our knowledge of presence/absence of the disease which is one of the most critical pieces of information we need, and assisted with the tremendous cost of managing the disease. The solution to getting more funds to states with CWD in free-ranging cervids, of course, is to grow the appropriated dollars, a goal to which we are all committed. Many thanks to Bob Acord and his staff at APHIS for both making these funds available and for enlisting the State fish and wildlife agencies in designing an equitable protocol that will expeditiously get money to them through a cooperative agreement.

Let me now reflect a little bit on the need for engaging yet other Federal agencies—in particular the Food and Drug Administration and the Environmental Protection Agency—in a more coordinated effort to manage CWD based on sound science. Attention to all Transmissible Spongiform Encephalopathies (TSE) has increased dramatically in the last year, not just because of CWD, but most recently due to the diagnosis of Bovine Spongiform Encephalopathy (BSE) in a domestic cow in Canada. Unfortunately there is a great deal of misinformation and anxiety among the general public that may be eliciting ill-founded proposals from these Federal agencies.

In November 2002, and then again more formally in May 2003, FDA proposed guidance for the rendering industry regarding the “Use of Material from Deer and Elk in Animal Feed”. Unfortunately, this draft guidance, as currently written, hinders animal health and wildlife management agency efforts to identify new areas where CWD occurs and it simultaneously increases, rather than decreases, the likelihood of CWD positive carcasses entering the non-ruminant animal food chain.

The Association believes the draft guidance is an overreaction and simply cannot be supported with good science. CWD is not BSE. BSE is known to be a food-borne disease and consumption of material containing BSE—contaminated tissues is the only known natural mode of transmission of BSE. For this reason, the use of materials derived from any ruminant, including cattle, sheep, deer and elk, cannot be fed to ruminant animals according to 21CFR589.2000. By contrast, CWD is known to be transmitted laterally from affected deer and elk to susceptible deer and elk; and there is no evidence CWD is a food borne disease transmissible to non-ruminant animals.

In addition to the inaccurate message it portrays, the Association is most concerned about the recommendation in the FDA draft guidance that would trigger a recall of feed or feed ingredients containing material from a CWD positive animal. This actually hinders our ability to find new areas where CWD occurs because it promotes avoidance of CWD testing, thereby increasing the chances for CWD to go undetected and for positive animals to enter the animal feed system. Experience has demonstrated that current CWD surveillance techniques can detect the disease in a new area while at relatively low prevalence but it takes higher prevalence before discovery if detection is delayed. Early detection offers greater opportunities to eliminate the disease and early detection depends on the cooperation of hunters, meat processors, taxidermists and renderers. This cooperation was severely impacted by FDA’s action in November 2002, and the draft guidance will perpetuate this highly undesirable situation.

Finally, the Association is concerned about some draft recommendations that the USEPA has been working on in their Region 8 Office that could likewise seriously impede our ability to detect and manage CWD in wild and captive cervids. The Region 8 proposal would require certain standards and permits for treatment of

wastewater from laboratory facilities handling animals or samples from animals with CWD. Labs wishing to continue or initiate work with CWD would incur huge costs to come into compliance or would have to cease their efforts related to CWD. Should this come to fruition, the Association is concerned that the next application of these standards and permit requirements would be to meat processors, taxidermists, and rendering plants. Once again, the Association believes this proposal is not science-based and seeks to impose a standard of "no risk" as opposed to acceptable "low risk". Action of this type would seriously affect the cooperation of hunters, meat processors, taxidermists and renderers and thereby impede our ability to detect the disease in a new area. Furthermore, these same standards do not now, nor is EPA proposing that they apply to scrapie, another TSE that has been around for centuries, and for several decades in the United States. While EPA has slowed-down the internal process leading to agency endorsement of these recommendations pending further discussion with the State Fish and Wildlife Agencies, State Departments of Agriculture, and State Departments of Environmental Quality, we remain concerned that ultimately a regulation would be promulgated that is poorly grounded in science.

Both the FDA and EPA proposals compel the need for greater communication and coordination among all of the Federal and state agencies involved in managing CWD. We would strongly encourage Bob Acord and Steve Williams to convene the Federal task force and invite FDA and EPA to participate in a forthright discussion of anticipated agency actions on CWD.

On the issue of funding, Mr. Chairman, we all agree that more is needed, and the Association is committed to working with you and Congress to make that happen. With respect to expeditiously getting money to the state fish and wildlife agencies, we will work with any Federal agency, but let me suggest the utility of using an agency that has an existing mechanism for getting grant money to the State fish and wildlife agencies as the most effective mechanism. As I indicated, USDA-APHIS has or is executing cooperative agreements for granting CWD dollars to the State fish and wildlife agencies. In the Department of the Interior, the USFWS has a long-standing office, machinery and process for annually granting funds from several programs to state fish and wildlife agencies. It seems to us that using these existing grant mechanisms would be the most expeditious way to deliver funds to the State fish and wildlife agencies.

In conclusion, Mr. Chairman, the Association looks forward to working with you to improve our capability to manage this disease. We sincerely appreciate your support in the past, and I would be pleased to answer any questions.

Mr. McINNIS. Thank you, and once again I thank the panel for their testimony. Now what I would like to do—and I will begin the process—is to allow the Committee to ask questions and have an exchange here for the time that we have remaining.

I am only going to ask one question in order to transfer that time to my colleagues, but Mr. George, and Mr. Taylor, I am specifically interested—obviously the Administration is supportive of working directly with the States, and my sense is that the best thing we can do is kind of exclusively provide direct financial assistance, and Mr. George, as you very well stated in your comments, and as you and I have discussed in numerous conversations.

In rewriting my legislation, to make a straightforward grant and aid program, who would—each of you, if you would just give me your suggestion, what agency would be the best agency to administer that grant type of program? Mr. George and Mr. Taylor, please.

Mr. GEORGE. Thank you, Mr. Chairman. For the Colorado Division of Wildlife, I would say it would be the United States Fish and Wildlife Service. We have a number of ongoing programs. I would venture to say that the relationship between Colorado and the region Fish and Wildlife Agency has never been better.

We would welcome the opportunity to add another program. We believe that the relationship is such that we could step in quickly,

file the applications, get the money out and on the ground in the front line of the battle. So that would work for us.

Mr. MCINNIS. Thank you. Mr. Taylor.

Mr. TAYLOR. I certainly concur with Director George's assessment of the Fish and Wildlife Service. In Interior, for Agriculture appropriated dollars, I would strongly suggest that it continue to be APHIS, Mr. Chairman.

Mr. MCINNIS. Thank you. Mr. Tancredo.

Mr. TANCREDO. I have no questions.

Mr. MCINNIS. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. Mr. Acord, I think you have heard over and over again that the critical issue that we have is doing what is necessary to get resources out obviously to the States.

You delivered some very good news to our Chairman about where things are at with the State of Colorado. Can you tell me from the money in last year's Omnibus Bill how much of that money is slated to go this year to the State of Wisconsin?

Mr. ACORD. Mr. Chairman, or Mr. Green, I think there is—we do not yet have from the State of Wisconsin their request under the surveillance plan that we had talked about, and the plans that the States were going to submit by July 1.

We hear from them that they are clearly going to meet the July 1 deadline and will have a request. I believe in total that they will wind up with somewhere in the neighborhood of a half-a-million dollars.

Mr. GREEN. But the request has not been made yet?

Mr. ACORD. The request has not been made. We have already provided some assistance, but the request has not yet been made at this point.

Mr. GREEN. But we should get it by July 1st. OK. Can you tell me what the turnaround time is then from the time that you get such a request to processing it, and getting money out?

Mr. ACORD. Well, we are trying to process the request as we get them, and while the deadline is July 1, as we have seen in the case of Colorado, we had their plan already, and we acted on that based on what we saw in the plan.

We believe that it will be a matter of just a few weeks before we could turn that around, and I think certainly for the Tier One States, which is the category that Wisconsin fits into, we would move quickly I think on those States to get it done.

Mr. GREEN. Great. And finally, Mr. George, you began to talk about it. As policymakers here, again, what is it that we can do to be most effective in assisting States like Colorado in fighting this problem?

Mr. GEORGE. Thank you. I would like to recognize that the States are on the front line, and that I think that those States who are involved have already shown an ability and a capacity to deal with this disease but for resources.

So what we are suggesting is to help us pay the costs. Right now we are moving other resources around, and we are not doing things that we would otherwise do or should do in managing wildlife because we are using our resources to focus on this very important task.

But we need help with those resources. And we would ask that you do it in a way that gets it to us quickly and without a lot of strings attached. Time matters and money matters, and I think if we do this with a good and strong partnership between the States and the Federal agencies that we might actually have a chance to get ahead of this disease before it really gets unmanageable.

Mr. MCINNIS. Mr. Udall.

Mr. MARK UDALL. Thank you, Mr. Chairman. I want to begin by thanking you for holding the hearing and for the important leadership that you have demonstrated on this issue, a great concern to Coloradans. I want to thank you for the good work on your bill, and I would like to be added as a co-sponsor to your important legislation.

I also want to welcome my good friend, Russ George. It is always great to have you here in Washington, although it is a long trip, and Colorado in many ways is closer to our hearts. But it is great to have you here and to see the leadership that you are providing on this important issue.

Mr. GEORGE. Thank you.

Mr. MARK UDALL. You talked about the educational efforts that we have to put forward. What would be included in those efforts, and what have you found already in Colorado when it has come to the hunting community and the general public in their response to this situation?

Mr. GEORGE. One of the concerns that we have with education is that there is a lot of confusion among the media, and therefore, probably in the general public, about the differences among the different types of TSEs.

They are different, and it is a matter of science, and it is not always the science that is brought forward to educate the public. So that what the public hears causes them to worry about human health concerns, and that breeds a level of fear that then distorts the way that we react to the disease.

So what we need to do is first of all remember that we are dealing with science, and science means specific fact, and we need to know as much about that as we can, but we need to communicate that to everyone who is interested so that that is the first information that they hear, that it is accurate, and then they can form opinions about how does it affect them and their lives.

So it just needs to be managed in such a way that we can communicate at all levels to all the public who would care. So many programs from all levels of government.

Mr. MARK UDALL. Russ, you talked about the science that is unfolding right now. Have we gained any additional insights over the last year or year-and-a-half that you could share with the Committee?

Mr. GEORGE. There is a lot of activity throughout the country. USDA is engaged in a number of research projects with USGS, and several States. One new bit of information, and I would defer to Dr. Fisher on the science of this, but because of the number of samples that we were able to take this year, and these were all classified according to location, and type of animal, and gender of animal, so that we could then process that data.

And we have actually learned that there may be something to gender differences in this disease which we had not seen before. That is new and we don't know quite where that goes. But that is just an example of what can happen if we can step up the numbers of tests available all across infected areas, and then be able to process that data.

So that is why time is important. As I said, this year we are going to double once again the data points that we are going to object, and that should help teach us more about the disease.

Mr. MARK UDALL. If I might direct this question to the entire panel, including you, Russ. There has been some sensitive discussions about captive versus wild game, and whether CWD is more apt to be discovered in a captive game situation or in the wild. Is there any additional thoughts or perspectives on that question at this point?

Mr. GEORGE. Let me begin, and then others can follow. Of course, the disease knows no difference among captive or wild, and that is the key, and that is what we have tried to do in Colorado, is to let that be the target, and not the jurisdictional differences, and not the economic differences.

And what we have accomplished in Colorado is that now the Colorado Department of Education, of Agriculture, excuse me, and the Colorado Division of Wildlife, maybe for the first time in history have joint regulations on the issue, so that we are both going the same direction at the same time.

We are sharing each other's jurisdiction so that when we make decisions about chronic wasting disease that we have considered what does this do to the captive population, and what does this mean to the wild population. I think that is a good model.

Mr. MARK UDALL. Is there anybody else on the panel who would like to comment?

Mr. ACORD. I would certainly echo what Russ has said. I think that one of the benefits, if there is ever a benefit to something like this, is the closer working relationship that the Departments of Agriculture and Departments of Natural Resources have fostered in an effort to combat this disease, and I think that has been key to a lot of the success.

It keeps resources used efficiently, and I think it causes everybody to work in a common spirit, and we have not always seen that. So I certainly agree with everything that Russ has said.

Mr. MARK UDALL. I want to thank the panel and thank the Chairman, and I would just note, Chairman McInnis, that the bill has also been assigned to the Ag Committee, and I am on the Ag Committee and would like to work with you over there in any way that I can to help. Thank you.

Mr. MCINNIS. Thank you, Mr. Udall.

Mr. Ryan.

Mr. RYAN. Thank you, Mr. Chairman. Thank you for including us in this hearing as well. Mr. Taylor, I wanted to ask you about the rendering regulations from FDA and EPA. Can you just quickly summarize how they are harmful toward testing and advancing the rendering concept?

Mr. TAYLOR. I will try to do it quickly, Congressman. With respect to the rendering proposal, the concern that we principally

have is the threat of recall for feed or products that would be manufactured from carcasses submitted to renderers, and we experienced in the last—our States experienced in the last hunting season several rendering facilities who refused to take deer or elk simply because they were concerned that if a recall—that if an animal subsequently was diagnosed as positive with chronic wasting disease that it could affect them by compelling them to recall products that went through their plant, and that came into contact with that infected animal.

So first of all, it discourages the sportsmen from having their animals tested, because rendering facilities are saying that if an animal comes in that you have submitted the head for testing, we won't take it. On the other hand, if you bring us an animal in with the head attached, that's fine, or if you bring us an animal in with documentation that you have taken it to a taxidermist, but that it is not being tested for CWD—

Mr. RYAN. There is a disincentive attached to it.

Mr. TAYLOR. So it would discourage testing, and as I said, early detection is predicated on the cooperation of everybody, and we have the same concern about the proposal that EPA is considering because it again would impede our ability to detect the prevalence of the disease because if laboratory facilities detecting it can't measure up to the no risk standards that it would impose, then we have fewer places where it can be detected.

Also, quite honestly, if they are going to apply this standard to laboratories, then we are concerned that next they are going to start applying it to butchering facilities, the taxidermists, and to rendering plants. Then you are going to see a lot of those go out of business, and it is just going to snowball.

Mr. RYAN. Well, in Wisconsin, the rendering industry is willing to take deer carcasses, and they are willing to dedicate separate facilities to process those carcasses, and not to put the food or the rendered material back in the food chain, but use it for fuel to burn in power plants.

So there is a concept that has been advanced. It means that we don't have to put carcasses in landfills. You don't have the lecitihin issues that arise with that. So the industry is coming up with novel ideas on how to handle these things, and get some use out of it without even having the threat of putting it into a food chain where you would have that problem.

It sounds like EPA and the FDA need to be brought in the loop on the task force. Then that brings me to you, Mr. Acord. Have you considered bringing the EPA and the FDA in on the joint task force so that they can come on board with the whole strategy here?

Mr. ACORD. Yes, we have. As a matter of fact the FDA has been added to that task force. We have had a number of discussions with the FDA about this issue. We have also had meetings with the EPA about it, and we will soon add the EPA to this effort.

Mr. RYAN. When was the FDA added?

Mr. ACORD. Well, we brought them into the discussions. We have not had a formal meeting of the task force recently and so there has been no formal on paper addition if you will, but if we have another meeting anytime soon, they will be included.

Mr. RYAN. You will bring the FDA and EPA in on the meeting?

Mr. ACORD. Yes.

Mr. RYAN. OK. And will this be, I hope, one of your agenda items that you are going to discuss on how to make the rendering option a workable option?

Mr. ACORD. That is certainly an issue that we have to work with.

Mr. RYAN. I see that I still have a little bit of time. I just wanted to ask, that you said in your testimony that you developed a new test. Can you give us a few little details on that?

Mr. ACORD. Well, we approved one that was developed by private industry, and it is simply a rapid test that the industry can use, and it is available for purchase.

Mr. RYAN. And what is the turnaround time on that particular test?

Mr. ACORD. I think the turnaround time is somewhere in the neighborhood of 6 hours, I believe, or something like that.

Mr. RYAN. All right. Thank you. Thank you, Mr. Chairman.

Mr. MCINNIS. I welcome the Ranking Member, Mr. Inslee. Mr. Inslee, you may proceed.

Mr. INSLEE. Thank you. I am sorry that I missed your earlier testimony. You may have covered this, but could you give me just a description on either of the bills under consideration what percentages or coverage there may be for testing of game farm animals transferred interstate?

And whether that would occur, and if so, on what percentages; and if not, what you think we should be thinking of as far as routine screening of interstate game farm animals, which at least appear to me to be a considerable vector for transmission.

And that is an open question to any of the gentlemen, and if you can help me with that.

Mr. ACORD. Well, one of the things that we are undertaking on at least the farm cervid side is a herd certification program, where we will have herds that will be registered.

The animals will be identified, and we will run testing over a period of time to determine if there is any disease that exists in those herds, and if there are, then we will dispose of them and pay the owners an indemnity for those animals that are taken.

Over a period of time then, we can begin to certify those herds as free of chronic wasting disease, provided that there is no new introductions of animals or anything like that. I would think that perhaps for game farms or those kinds of animals that a similar system could be adopted for that.

Mr. INSLEE. Now, what you just described, is that taking place without passage of this legislation?

Mr. ACORD. Yes. Yes. Under the Animal Health Protection Act, we have rather broad authority to deal with those kinds of issues.

Mr. INSLEE. So at the moment if a game farm in Colorado wants to ship 20 deer to a deer farm in Texas, is there any mandatory inspection process in that transfer now?

Mr. ACORD. No, not that I am aware of.

Mr. INSLEE. Is there any contemplated by the Service, at least without new legislation?

Mr. ACORD. There is none contemplated by—well, one of the things that we are contemplating is requiring some testing when animals are moved between States, but that is an issue that is still

to be worked out with the State Fish and Wildlife Agencies, and State Departments of Agriculture.

Mr. INSLEE. And would either of these bills affect that issue?

Mr. ACORD. I don't believe so, sir, or at least not from the perspective of the U.S. Department of Agriculture.

Mr. INSLEE. Now, it appears to me, and again I am just a lay person, but that this is a considerable vector for transmission of fairly contagious disease. Should we have a system for at least some percentage of testing of interstate conveyance of these game farm animals; and if so, what should we expect in that regard?

Mr. ACORD. Well, I personally believe that we should have—and a number of States have enacted restrictions, or put regulations in place, to prohibit the movement of farm cervids, or the translocation of wild cervids from one State to the other.

And frankly I think that it is a needed addition. I think that it can be done under existing authority I guess is my view. At least we could in the Department of Agriculture.

Mr. INSLEE. Yes? Russ.

Mr. GEORGE. May I just add a point here that let's not forget the underlying assumption. Remember that there is no live test today, and so you cannot order testing in advance of movement. It is always after the fact. The only time we know an animal was infected is after that animal is dead and tested.

So the only thing you could do under today's science is as Mr. Acord has indicated, you look backward over time so that we have a 5-year certification period. That is imposed in a number of States. Colorado started it, and we reached 5 years ago this past May.

I think that North Dakota has already reached 5 years. So what that does is look at the history of what is happening in that herd. Five years is scientifically founded, that we have not found animals who have lived longer than 5 years once having been infected.

Mr. INSLEE. So should we consider a prohibition of interstate transfer if you had a 5 year experience in your herd, and should that be a Federal obligation rather than a State one? And is this a national issue that should require a Federal rule in this regard?

Mr. GEORGE. The States are doing that. The States can control importation and exportation. Colorado has already established a rule that unless there is 60 months of certification that there will be no importation.

Mr. INSLEE. How many States have similar prohibitions? Does anybody know?

Mr. TAYLOR. Virtually all of them, Congressman. I mean, every State has very restrictive regulations relative not only to the import-export of live cervids, but the interstate movement of live cervids as a response to the need to manage this disease.

And many States in fact outright prohibit the importation of live cervids for any purpose into their State, and let me acknowledge that while there is a lot that we don't know about this disease, we do know that greatly restricting the movement of live cervids is an effective way to contain it. And so the States have acted proactively to try and address that.

Mr. INSLEE. Thank you.

Mr. McINNIS. I noticed that Mr. McGovern is in the audience, and if you would like to, Mr. McGovern, you are welcome to sit at the dais while you are awaiting your bill.

Mr. McGOVERN. I'm fine.

Mr. McINNIS. All right. Mr. Renzi.

[No response.]

Mr. McINNIS. Mr. Udall. Tom.

Mr. TOM UDALL. Thank you, Mr. Chairman. How many cervids nationwide are currently carrying chronic wasting disease according to the best estimates, and I guess I am directing this to Mr. Groat and Mr. Acord, but anybody else can chip in here.

Mr. ACORD. I don't think you can put a number with that, sir.

Mr. TOM UDALL. There is no number that can be put on that at all?

Mr. ACORD. I don't believe that we have that kind of a number in either farmed animals or in the wild.

Mr. TOM UDALL. How many States—does everybody agree with that, all the panelists? Nobody is willing to put a number on the table?

Mr. GEORGE. Let me enlarge on that, Mr. Udall, why that is so.

Mr. TOM UDALL. Russ.

Mr. GEORGE. Because there is no way to test a live animal to know. There is just simply no way to know, unless the animal happens to be in the later stages, where you see the clinical symptoms. You have no way of knowing other than what type of overall screening you can do, which is the point of having as many tests of hunter-killed animals each year as you can get, and test those, and know where those animals were taken, and then you found the negatives and the positives.

For example, in Colorado, just to use some numbers, we know that we have 300,000 live elk, wild elk. In our Statewide sampling, we found something less than 1 percent in some parts of the State, but not everywhere.

So that is as close as we could get to an answer to your question. And we do the same thing for deer. We know that we have 500,000 wild deer in some places of the State, and we found somewhere around 1 percent infectivity. But there is no other way to know that.

And we don't know every State that has it. The only way we know is when some captive or wild cervid has died and been tested, and been found positive. On then do you know that it is there in some number. Not every State has tested and so we don't know all the States.

Mr. TOM UDALL. But what I am trying to get at is has anybody looked at, let's say, a herd in a particular area, and from the testing that you have done been able to extrapolate in a statistical way, or in an epidemiological way, to say that in this particular area we are talking about certain percentages.

So based on that, you can look at Statewide numbers or something, the estimates that I am talking about. We have not been able to do that, I guess?

Mr. GEORGE. Well, the Colorado and Wyoming experience has the most time in it. We have been aware of the existence of the disease in Northeast Colorado, Southeast Wyoming, for 20 to 30 years.

And both States have invested time and resources in trying to get to the very question that you are asking.

And we can. We can show you drawings that say, all right, we think—here is the center and here as it spreads from that center what the prevalence rate is. But it can only be done by successive years of testing of any given number of samples. You cannot from that geographical area say anything about any other area of the United States.

Mr. GROAT. And I would support that. I think that the infection rates in studied areas is something that we are getting a handle on, but the extrapolation of it is either cannot be done or has not been done.

Mr. TOM UDALL. And do we know from this testing and observation that has gone in the last 20 or 30 years how many States are affected and which States are at highest risk?

Mr. GEORGE. Well, again, unless a State has tested its own population, you don't know. So the only way we know is when either a captive or wild cervid has for whatever reason died, or been killed, and then tested and found positive. That is the only way you know.

But there isn't any way to predict it, because—well, wild movements are somewhat known, and so you can at least imagine that if you have it in one area, could the migration patterns take it to another. But across the country there is not any way to know that.

Mr. TOM UDALL. What factors have contributed to the increasingly rapid spread of CWD over the last 5 years in both captive and wild populations? Is this primarily due to transport, in terms of human transport, or is it more due to natural migration? What are your thoughts on that, any of you?

Mr. ACORD. I don't think—again, I think the thing that you demonstrate by all the questions it has been asking is the importance of research to this particular disease and what we know, and what we don't know, and we don't have enough information to put forth answers to these kind of questions.

At this point, it is really speculation, and there are a lot of theories about how this has happened, but I don't think that there are any real facts associated with it that I am aware of. I can tell you that right now there are eight States that have had cases of chronic wasting disease.

Mr. TOM UDALL. What are those States?

Mr. ACORD. Colorado, Illinois, Nebraska, New Mexico, South Dakota, Utah, Wisconsin, and Wyoming.

Mr. TOM UDALL. Thank you, and I thank the panel. I yield back to the Chairman.

Mr. MCINNIS. All right. Thank you, Mr. Udall. I believe it was Mr. George who in the last hearing we had on this made the statement that unfortunately there is a lot more that we don't know about the disease than there is that we do know about the disease, and that is the importance of this research.

A lot of your questions were very meritorious, but we don't have answers for them. Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman. I want to thank the panelists for your testimony. This is the second hearing that we have had on this very important issue of CWD, and Mr. George, I have

had a couple of conversations with you already, and we have always been very impressed with the aggressive stance that you have taken there in Colorado in light of the history of the disease in that area, too.

Obviously there is a lot more education going on here on Capital Hill about the disease, and the effect that it is having, not only on quality of life issues, but economic issues in our respective States that are directly affected.

Obviously the State of Wisconsin has come into play in a big sort of way over the last couple of years, and we have been trying to move aggressively on that front, too. And I am glad to see my friend, Mark Green, here and the whole Wisconsin delegation working hard to try to find the best answer on how to deal with this.

The southern part of my Congressional District is ground zero for the outbreak of CWD. We probably had the most extensive testing of deer in the white-tail herd in the history of our Nation over the last deer-hunting season.

All 72 counties had submitted test samples to find out whether it spread outside the containment zone that has been established in Wisconsin, and fortunately it has not to date, which is good news. But there is still a lot of work that needs to be done.

And I am sure that it has been mentioned in the panel earlier, but I think it needs reiterating, that we need to be cautious in regards to the hype surrounding this disease. I mean, the World Health Organization has indicated that there is no known transmission of CWD to any humans that is documented, or any known transmission to any livestock that has been documented, which is good news.

But I agree with Mr. McInnis that with the legislation that he has introduced and that I am co-sponsoring with him, and I have comparable legislation, but the long term answer to this is research, research, research. We need to get the research in place, and we need to get the answers so that we know how best to react.

So that we know the pathology of this disease, and how it is contracted and transmitted, and whether we can ultimately say to the American people that humans are safe, that other livestock are safe, and that is why it is so important that we work together in trying to move this bipartisan legislation and get the research in place.

I have introduced a couple of bills myself. I think the main difference between mine and Mr. McInnis' legislation is that I have tried to avoid the jurisdictional conflict that was created in the last session with the Agriculture Committee, and some reluctance by some of the members there on the Committee to delve into this issue and have hearings, and to try and move the legislation as it affects USDA and APHIS jurisdiction, and Mr. Acord in particular.

But last year we saw in Wisconsin about a 15 percent decline in hunters because of the misinformation that is in the field right now. So part of the legislation that we are calling for is public outreach and education campaign, so that we do a better job with the hunting community, and the families, and the spouses of hunters, who are very reluctant to let people go out, let their spouses go out in the field and take the deer and bring it home.

So there is a lot of work that needs to be done. We formed a task force as part of the Congressional Sportsmen Caucus to further educate our colleagues, and to further provide focus on this very important issue.

And obviously when you get a 15 percent decline in hunter participation in a State like Wisconsin, where we approximate a million hunters in the field during the deer season, that has a tremendous economic effect on all of our communities. So there is a lot at play with this.

Mr. Groat, I am glad to see you, because I know that USGS has been doing some very important work on it. I had a chance to visit your lab in Madison, and be brought up to speed on the type of research that is taking place there, the development of a live diagnostic test.

Maybe I can ask you in regards to your assessment in the state of research, and more importantly the coordination of the research that is being done between the Federal agencies, and State, and universities, that are dealing with some form of paleon research right now, and if there is room for improvement in regards to the coordination and collaboration in this research field.

Mr. GROAT. Thank you for the kind words, Mr. Kind. I would like to feel that we are involved in the heart of the research, and feel that the multifaceted aspect of the problem itself calls for lots of people to pay attention to it, and I think that one thing that scientists have a tendency to do is that when they have the resources, whether they be university scientists, or government scientists, is to attack the problem.

And one thing they do by their natural selves is to associate with each other, and coordinate, and interact, and we have had a couple of workshops recently with multiple agencies and university participation that demonstrate that that is happening.

And I think that it is also particularly important to attack that side of it, not only for the reasons that are outlined here today, but the fact that we don't understand some pretty fundamental things about CWD itself amongst the wild and farm populations, but with a growing concern that the public has about the interaction between wild life diseases and human diseases, the civets and SARS, and the monkey pox, and so forth.

There is this increased concern about wild life disease and its human interactions, and in this case where we don't have any demonstrated becomes even more important that we do demonstrate that we do understand this, and that aspect of CWD needs a lot of attention as well.

So in sum I think the research community is energized, and I think that there are lots of strong participants, and I think that as the resources flow that we will get further along the way, and I don't think there will be any problem in getting interaction and coordination among those institutions.

Mr. KIND. All right. And thank you, and let me just commend Mr. McInnis again for your interest and your leadership on this issue, and thank you all for your input, and obviously it is an ongoing working relationship that we have developed, and so I look forward to working with you and the rest of our colleagues here to try to move some of this important legislation and get it in place so

that we can finally find the answers that we are all craving for out there in the field. Thank you again for coming.

Mr. MCINNIS. Thank you, Mr. Kind. I also want to thank the Committee. We have had a lot of bipartisan communication and support in trying to do whatever we can do to assist those of you out there in the field that are on the front lines of this.

I want to thank each member of the panel. Mr. Acord, I appreciate the grant of the State of Colorado. I am sure that Russ will buy you lunch as a result of that. He is a kind guy. Mr. Groat, Mr. Taylor, and Mr. Fisher, all of you, thank you again very much for making your appearance today. The panel will be dismissed.

Mr. GEORGE. Thank you, Mr. Chairman.

Mr. ACORD. Thank you, Mr. Chairman.

Mr. GROAT. Thank you, Mr. Chairman.

Mr. MCINNIS. All right. We will go ahead and bring up our panel on 2416, our colleague, Mr. McGovern, Dr. Forster, Mr. Lamb, and Ms. Estill. Members, if you could take your conversations out in the hallway, we are trying to get this other panel put on before we have a vote, which could come at any moment.

I want to thank our panel, our second panel today, and I appreciate you coming in on this bill, H.R. 2416. I appreciate the time that you are going to spend with us in the next few minutes.

I will tell the panel that as you know from the previous panel—there goes the vote. So what we are going to attempt to do here is we will go first to Mr. McGovern, and we will go ahead and waive any opening statements if that is all right with Mr. Inslee, and we will go straight to you for your opening statements, and then we will try and get a couple of the panel in.

We will have to leave here in about 8 minutes, maybe 9. Mr. McGovern, and thank you for coming.

STATEMENT OF THE HON. JAMES MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. MCGOVERN. Well, thank you very much, Mr. Chairman, and I want to thank you, Chairman McInnis, and I also want to thank Chairman Gilchrest for your support of this bill. I also want to thank the professional and amateur paleontologists, including Ted Vlamis, who you will hear from shortly, for helping to push this issue forward, and for his thoughtful guidance in drafting this legislation.

I am also grateful to our friends at the Department of Interior who have been very helpful, and Chairman McInnis, I also want to single out Amy Brown of the Forests and Forest Health Subcommittee staff for the tireless work that she has done on this bill.

She is a credit to you and this entire Committee, and so I appreciate that. I am grateful for the opportunity to testify before this joint Subcommittee today on H.R. 2416, the Paleontological Resources Preservation Act.

Like most people, I have always been and continue to be fascinated with dinosaurs and natural history, and with the evolving awareness of our planet's history. As both a conservationist and a former member of the House Resources Committee, I am committed to promoting fossil research and preserving our natural heritage for future generations.

In that spirit, many of my colleagues and I on both sides of the aisle have introduced legislation again in this session of Congress to protect the irreplaceable and historically significant resources that are found on public land.

Neither the rarity of these fossils, nor the growing problem of theft and vandalism of these resources should be estimated. Far less than 1 percent of all organisms that have ever lived become fossils, and these fossils provide clues that help us solve the mysteries of life on earth.

They are one of the few ways we can study evolutionary patterns and environmental change. These fossils are an educational and scientific research tool for not only our generation, but for generations to come.

Simply stated, fossils teach us about the history of life on earth, and it is unlikely that history will ever be fully written without the most complete fossil record possible. Protecting that fossil record is precisely why this legislation is so urgently needed.

As we sit here today the most significant threat to vertebrate fossil resources, like dinosaurs, is the illegal collection of specimens from Federal lands. The commercial value of America's fossils has spawned an international black market trade that is exploding.

The sale of fossils has become a highly profitable industry that has led to the theft of fossils from both public and private land. The National Park Service conducted a service-wide study in 1999 that revealed an alarming 721 documented incidents of fossil theft or vandalism between 1995 and 1998.

A study commissioned by the Forest Service produced even more shocking results. The Forest Service found no less than one-third of paleontological sites surveyed in the Oglala National Grassland in Nebraska showed evidence of unauthorized collecting.

These are public resources on public lands, and they belong to all of us, and we must not allow them to disappear into the hands of unscrupulous dealers and black-marketeers. Unfortunately, as illegal fossil collection has flourished, we have failed to develop a clear, consistent, and unified policy that gives Federal land managers the authority to properly protect these resources.

The Paleontological Preservation Resources Act is the product of bipartisan Congressional collaboration, which has included numerous Federal agencies, respected members of the professional and amateur paleontologists community, and distinguished research scientists, including many from Massachusetts, most notably the Peabody Museum at Harvard University.

It begins by identifying the fundamental and intrinsic value of these public resources. The bill provides still penalties for crimes involving the theft and vandalism of fossils of national significance, in order to deter the illegal collection of these resources on public lands.

It is important to note that the bill seeks only to penalize those who seek to profit illegally from these public resources. It does not place any new restrictions on amateur collectors, who by and large respect the value of these fossils. And furthermore the bill requires that all such fossils taken from Federal lands be curated at museums or suitable depositories.

Lastly, this bill standardizes the excavation permitting practices on public land to ensure that fossils are not needlessly damaged. Mr. Chairman, I am convinced that the Paleontological Resources Preservation Act represents the best chance we have to guard our shared history on this planet from being stolen us any further, and to protect the legacy for future generations.

And last for those of us who have kids, and I have a 5 year old boy who loves Jurassic Park almost as much as I do, there is a special reason for us to move forward on this bill. I mean, for my son, if he can't have the real thing, the bones are the second best thing to be able to have.

And if you have ever seen the face of a kid at a museum, or at The Smithsonian, in looking at a dinosaur skeleton, the wonderment and the fascination in their eyes, you can begin to understand how vitally important this bill is.

And it is within our grasp to solve this problem. The other body in the last session passed this legislation unanimously, and I hope that we can do the same here today and move this to the President's desk, and I thank you very much for this hearing and for all of your support. Thank you.

[The prepared statement of Mr. McGovern follows:]

Statement of The Honorable James P. McGovern, a Representative in Congress from the State of Massachusetts, on H.R. 2416

I am grateful for the opportunity to testify before this Joint Subcommittee Hearing today on H.R. 2416, The Paleontological Resources Preservation Act. Like most people, I have always been and continue to be fascinated with dinosaurs, with natural history and with the evolving awareness of our planet's history. As both a conservationist and a former member of the House Resources Committee, I am committed to promoting fossil research and preserving our natural heritage for future generations.

In that spirit, many colleagues and I—on both sides of the aisle—have introduced legislation again in this session of Congress to protect the irreplaceable and historically significant resources that are found on public land. Neither the rarity of these fossils nor the growing problem of theft and vandalism of these resources should be underestimated.

Far less than 1% of all organisms that have ever lived become fossils. These fossils provide clues that help us solve the mysteries of life on earth. They are one of the few ways we can study evolutionary patterns and environmental change. These fossils are an educational and scientific research tool for not only for our generation but for generations to come. Simply stated, fossils teach us about the history of life on earth. And, it is unlikely that that history will ever be fully written without the most complete fossil record possible.

Protecting that fossil record is precisely why this legislation is so urgently needed. As we sit here today, the most significant threat to vertebrate fossil resources like dinosaurs is the illegal collection of specimens from Federal lands. The commercial value of America's fossils has spawned an international black-market trade that is exploding. The sale of fossils has become a highly profitable industry that has led to the theft of fossils from both public and private land. The National Park Service conducted a service wide study in 1999 that revealed an alarming 721 documented incidents of fossil theft or vandalism between 1995 and 1998. A study commissioned by the Forest Service produced even more shocking results. The Forest Service found no less than one-third of paleontological sites surveyed in the Oglala National Grassland in Nebraska showed evidence of unauthorized collecting.

These are public resources on public lands. They belong to all of us, and we must not allow them to disappear into the hands of unscrupulous dealers and black marketers.

Unfortunately, as illegal fossil collection has flourished, we have failed until to develop a clear, consistent and unified policy that gives Federal land managers the authority to properly protect these resources. The Paleontological Preservation Resources Act is the product of bi-partisan congressional collaboration which has included numerous Federal agencies, respected members of the professional and

amateur paleontologist community and distinguished research scientists, including many from Massachusetts. It begins by identifying the fundamental and intrinsic value of these public resources. The bill provides stiff penalties for crimes involving the theft and vandalism of Fossils of National Significance (FONS) in order to deter the illegal collection of these resources on public lands. It is important to note that the bill seeks only to penalize those who seek to profit illegally from these public resources. It does not place any new restrictions on amateur collectors who by and large respect the value of these fossils. Furthermore, the bill requires that all such fossils taken from Federal lands be curated at museums or suitable depositories. Lastly, this bill standardizes the excavation permitting practices on public land to ensure that fossils are not needlessly damaged.

I am convinced that the Paleontological Resources Preservation Act represents the best chance we have to guard our shared history on this planet from being stolen from us any further, and to protect that legacy for future generations to enjoy.

Mr. McINNIS. Thank you, Mr. McGovern. I find your comments interesting, that if your son can't have the real thing that he had to get the bones. So if something happens to you, we will remember that, and we will remember that he gets your bones.

Panel, I am sorry to do this to you, but we are going to have to recess. It will probably be about 20 minutes. We will get back here as soon as we can, and so if you will be patient, we will return. The panel is in recess.

[Recess.]

Mr. McINNIS. The Committee will come to order. I would ask anyone with a cell phone to please turn it off, or just put it on the vibrate mode. And before we recessed, we had just heard from Mr. McGovern, and now we will go to the panel, and we will begin with Mr. Lamb. Mr. Lamb, and the panel, you will have 5 minutes each, and you may proceed.

**STATEMENT OF ROBERT LAMB, SENIOR ADVISOR TO THE
SECRETARY OF POLICY, MANAGEMENT AND BUDGET, U.S.
DEPARTMENT OF THE INTERIOR**

Mr. LAMB. Thank you, Mr. Chairman, and Members of the Committee. I will abbreviate my remarks in the interest of time. I want to thank you for the opportunity to testify on behalf of the Department.

We strongly support the intent of the Paleontological Resources Preservation Act. We support its purposes, and we wish to work with the Committee as we have been doing to continue to perfect this legislation, which we think is vitally important.

I am subbing for our Deputy Assistant Secretary, who has worked hardest and longest on this, and in talking to our paleontology staff in the last 2 days, I have discovered that this is a work in progress, some 25 years in the making.

The Department has long sought this legislation, and I think there is rising support for it. There certainly is a need. H.R. 2416 adopts the recommendations contained in a report submitted to the Congress at its request in 2000, called The Fossils on Federal and Indian Lands Report, the so-called Interagency Fossil Report.

The report identified a significant problem. The lack of unified policies and standards for the management of fossils on Federal lands was resulting in the deterioration and the loss of fossils.

During the preparation of that report there was significant public involvement, and there was strong support for three principles.

First, that the majority of people who commented knew that fossils on Federal lands were an essential part of America's heritage.

Secondly, the public recommended that vertebrae fossils continue to be protected as rare and within the ownership of the Federal Government. And, third, they supported the involvement of amateurs in the science and enjoyment of fossils, including the availability of most plant and invertebrate fossils for casual collections on lands managed by the Bureau of Land Management and the Forest Service.

Public interest in fossils has grown rapidly as we heard this morning, and with this interest the commercial value of fossils has also increased. The unfortunate consequence is that there has been a loss of fossils from Federal lands through insensitive and at times criminal acts, including theft and vandalism, and from the United States itself through the international trafficking of these resources.

These factors reduce scientific and public access to fossils and destroy the contextual information that is so critical to interpreting them. H.R. 2416 provides a unified Federal policy to ensure that scientifically significant fossils on certain Federal lands are inventoried, monitored, protected, and curated consistently, while accommodating the Agency's distinct missions.

The provisions of this bill do not apply to private lands, nor do they apply to Indian lands that are held in trust. The bill provides a unified approach for Federal agencies, and enhances overall management of fossils on Federal lands, and approves the collaboration and cooperation that exists between agencies, scientists, and the public that we serve.

Today, vertebrate fossils located on Federal lands may only be collected with a permit for scientific and educational purposes. H.R. 2416 would codify this policy and standardize the permitting requirements among the various Federal agencies, thus assisting the public.

It would ensure that these fossils are retained as public property and curated in suitable repositories for current and future generations. H.R. 2416 also provides one important exception to the permitting requirement. It allows for casual collection of certain paleontological resources for personal scientific educational and recreational uses.

This is a very important provision, which would authorize the Secretary to allow the public to casually collect common invertebrate and plant fossils without permit on certain Federal lands.

In other words, under this bill visitors to BLM lands who enjoy paleontology could continue to collect and keep for their personal use a wide variety of common plant and invertebrate fossils.

The casual collection of such fossils can be an important component for the public's enjoyment of Federal lands, and is generally consistent with scientific and educational goals. We have included an amendment at the end of my testimony to clarify this and other small provisions of the bill.

This would provide the secretary in the amendment through regulation the ability to define the amount and kind of fossils to be casually collected. H.R. 2416 would also codify the land

management agency's existing prohibition on commercial fossil collecting from Federal lands.

It also would provide additional protection by prohibiting the excavation, damaged, transport or sale, of paleontological resources located on Federal lands. Penalties for these acts would be set by classification following fine and imprisonment penalties imposed under Federal law.

H.R. 2416 would also provide the Secretary with the flexibility to keep an inventory and monitor exposed fossils based onsite specific geology and the paleontology of management units.

It would balance the need for public access to fossils with the recognition that the unlimited disclosure of certain information about particularly significant fossils can lead to theft and vandalism of these fossils, and it would mirror similar provisions in the National Park Omnibus Management Act of 1998.

We have included several amendments as I mentioned for the Committee's consideration. We look forward to working with the Committee on these changes to ensure the bill achieves the purposes of this act.

As the price of fossils rise, the Federal Land Managing Agencies will be under increased pressure to both protect scientifically significant fossil resources, and to assure their appropriate availability to the general public. We commend the Committee for its consideration of 2416, and we look forward to working with you.

[The prepared statement of Mr. Lamb follows:]

Statement of Robert J. Lamb, Senior Advisor to the Assistant Secretary of Policy, Management and Budget, U.S. Department of the Interior, on H.R. 2416

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on H.R. 2416, the Paleontological Resources Preservation Act. The Department supports the purpose of H.R. 2416 to protect paleontological resources on Federal lands but would like to work with the Committee on amendments consistent with those provided at the end of this testimony.

H.R. 2416 adopts the recommendation of a report submitted to Congress in May 2000, titled "Fossils on Federal and Indian Lands" (the Interagency Fossil Report). Concerned about the lack of unified policies and standards for the management of fossils on Federal lands and the resulting deterioration and loss of fossils, Congress directed the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Reclamation, the Fish and Wildlife Service, the Forest Service, the National Park Service, the Smithsonian Institution and the U.S. Geological Survey to develop a report assessing the need for a unified Federal management policy. During development of the report, three major themes emerged from the public comments received. First, a majority of people who commented viewed fossils on Federal lands as part of America's heritage. Second, they recommended that vertebrate fossils continue to be protected as rare and within the ownership of the Federal Government. Third, they supported the involvement of amateurs in the science and enjoyment of fossils, including the availability of most plant and invertebrate fossils for casual collection on lands managed by the Bureau of Land Management and the Forest Service. To meet these and other goals, the report recommends the establishment of a framework for fossil management, analogous to the Archeological Resources Protection Act of 1979 (ARPA).

Fossils are non-renewable and often fragile resources which, with the exception of microfossils and those that make up commercially developed minerals, such as coal, are relatively rare and have significant scientific, educational and recreational values. Federal lands, the majority of which are in the drier western part of the United States, contain a rich array of plant, invertebrate and vertebrate fossils. For more than a century, Federal agencies have managed fossils from their lands within their unique missions. These agencies have protected all vertebrate fossils from Federal lands, requiring permits for their excavation and removal, with the stipulation that the resources remain in Federal ownership in perpetuity.

In recent years, public interest in fossils has grown rapidly, and with this interest, the commercial value of fossils also has increased. The unfortunate consequence has been a loss of fossils from Federal lands, through insensitive and criminal acts, including theft and vandalism, and from the United States itself through international trafficking. These factors reduce scientific and public access to fossils and destroy the contextual information critical for interpreting the fossils.

H.R. 2416 should provide a unified Federal policy to ensure that scientifically significant fossils on certain Federal lands are inventoried, monitored, protected, and curated consistently, while accommodating the agencies' distinct missions. The provisions in this bill do not apply to Indian lands or private lands. As we understand it, the bill, in large measure, reflects the current practice of agencies in the management of fossils on Federal land. Streamlining the practices of the various land management agencies into a unified approach will enhance overall management of fossils on Federal lands by reducing public confusion and improving collaboration and cooperation among agencies, scientists, and the public.

Under the agencies' existing regulations and policies, vertebrate fossils located on Federal lands may only be collected with a permit for scientific and educational purposes. H.R. 2416 would codify this collection policy and standardize the permitting requirements among the various agencies, as recommended in the Interagency Fossil Report. It would ensure that these fossils are retained as public property and curated in suitable repositories for current and future generations of scientists and the public to study and enjoy. Scientists use the information from specimens in repository collections to build on our understanding of the history of life and the physical environment on Earth. Millions of visitors enjoy the displays offered by public repositories of the most spectacular and educational fossils, many originating from Federal lands.

One exception to the permitting requirements under H.R. 2416 is for casual collection of certain paleontological resources for personal, scientific, educational and recreational uses. This important provision would authorize the Secretary to allow the public to casually collect common invertebrate and plant fossils without a permit on certain Federal lands. In other words, under this bill, visitors to BLM lands who enjoy paleontology as a hobby could continue to collect and keep for their personal use a wide variety of common plant and invertebrate fossils. The casual collection of such fossils can be an important component of the public's enjoyment of some Federal lands and is generally consistent with scientific and educational goals. We have included an amendment at the end of this testimony to clarify this provision.

H.R. 2416 would codify the land managing agencies' existing prohibition on commercial fossil collecting from Federal lands. By prohibiting such collecting, this legislation ensures that vertebrate fossils on Federal lands, a rich part of America's heritage, remain in public hands, that they are not bought or sold, and that the Federal Government does not have to use taxpayer funds to purchase fossils found on lands that it owns.

H.R. 2416 would provide additional protection by prohibiting the excavation, damage, transport or sale of paleontological resources located on Federal lands. Criminal penalties for these acts would be set by classification, following fine and imprisonment penalties imposed under Federal law.

Keeping an appropriate inventory and monitoring are crucial components of fossil management. H.R. 2416 would provide the Secretary with the flexibility to keep an inventory and monitor exposed fossils based on the site-specific geology and paleontology of management units. The exposure of fossils by erosion varies, based on the type of rock in which they are found and local climate. Some fossils remain exposed at the surface for decades or centuries, while others weather away soon after exposure depending on the nature of their preservation.

H.R. 2416 would balance the need for public access to fossils with the recognition that unlimited disclosure of certain information about particularly significant fossils can lead to the theft or vandalism of those fossils. In the National Parks Omnibus Management Act of 1998, Congress authorized the National Park Service to withhold information about the nature and specific location of paleontological resources in park units unless certain criteria were met. H.R. 2416 would extend this same authority to the other Federal land managing agencies.

At the end of this testimony, we have included several amendments for the Committee's consideration. We look forward to working with the Committee on these and other changes to ensure that this bill achieves the purposes of this Act.

As the prices of fossils rise, the Federal land managing agencies will be under increasing pressure to both protect scientifically significant fossil resources and ensure their appropriate availability to the general public. H.R. 2416 would create a single legislative framework for paleontological resource management that will facilitate sharing of resources, personnel and partnership opportunities across agency lines.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Committee may have.

Proposed Amendments for H.R. 2416

- On p. 3, line 2, strike "of a reasonable amount".
- On p. 3, line 4, after "resources" insert ",as determined by the Secretary and in an amount determined by the Secretary to be reasonable,".
- On p. 4, line 19, strike (7) and renumber accordingly.
 - creates ambiguity with regard to vertebrates and is addressed in amendment on p. 3, line 4.
- On p. 4, line 23, strike (8) and renumber accordingly.
 - creates ambiguity and is addressed in amendment on p. 3, line 4.
- On p. 5, line 3, insert new (9):
 - "(9) QUALIFIED APPLICANT.—The term "qualified applicant" means a person who demonstrates relevant scientific training and scientific field experience; who is formally associated with a reputable scientific or educational institution or Federal, tribal, or state agency; and who has any other qualifications determined necessary by the Secretary."
- On p. 3, line 16, after "means lands" insert "controlled or".
 - clarifies the bill's inclusion of all lands (except Indian lands) managed by the Departments.
- On p. 6, line 13, after "Federal lands" insert "controlled or".
 - clarifies generally where casual collecting may be allowed
- On p. 8, line 5, after "of" insert "a".
- On p. 8, line 15, after "permit" insert "issued under this Act".
 - ensures that the permit referenced is the permit established under this Act
- On p. 8, line 19, after "Acts;" insert "Criminal"
 - clarifies that Section 9 addresses criminal penalties, in contrast with Section 10 which addresses civil penalties
- On p. 11, line 5, after "involved.", insert ", as determined by the Secretary."
- On p. 11, line 22, strike entire subsection (b), insert:
 - "(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—
- (1) JUDICIAL REVIEW—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. The Secretary shall promptly file in such court a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.
- (2) FAILURE TO PAY—If any person fails to pay a penalty under this section within thirty (30) days-
 - (A) after the order making the assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or
 - (B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty,
 the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person is found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.
 - is the standard enforcement provision found in other laws including the Clean Water Act
- On p. 13, line 18, strike "may be subject to forfeiture...involved in the violation." insert
 - "shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural

provisions of Chapter 46 to Title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have been incurred under the provisions of this Act.”.

- makes a distinction between civil forfeiture and ensures that criminal forfeiture only could occur upon conviction
- makes clear that the protections of the Civil Asset Forfeiture Reform Act (CAFRA), an act to provide a more just and uniform procedure for Federal civil forfeitures, would apply

On p. 14, after line 3, insert new (c):

“(c) TRANSFER OF SEIZED RESOURCES.—The Secretary is authorized to transfer ownership or administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.”

- allows the establishment of partnerships with schools and other entities to transfer seized resources (for example, some resources that are recovered with no record of their context may have lost value to a museum, but may still have educational value)

On p. 14, line 8, strike “withheld . . . the responsible Secretary”, insert:

- exempt from disclosure under section 552 of title 5, United States Code and any other law, unless the Secretary”.
- clarifies the existing provision and more closely follows other exemption language

On p. 15, line 22, strike “public” insert “Federal”.

On p. 15, line 20, after “time” insert “under”.

On p. 15, line 23, strike “amateur” insert “casual”.

Mr. RENZI [presiding]. Thank you, Mr. Lamb.
Ms. Estill.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF, PROGRAMS, LEGISLATION AND COMMUNICATIONS, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. ESTILL. Thank you again very much for the opportunity for the opportunity to present USDA’s position on this very important piece of legislation that will help us not only recognize paleontological resources as a real opportunity for the public to learn more about ecosystems and early life on earth, but will also help us protect those into the future.

The Department supports the purpose of this bill, but we would like to continue to work with the Committee on some aspects of it. H.R. 2416 directs the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources using scientific principles.

It recognizes the non-renewable nature of fossils, and defines paleontological resources as fossilized remains preserved in or on the earth’s crust. This distinguishes paleontological resources from archeological resources covered under the Archeological Resource Protection Act, and culture items, covered under the Natural Historic Preservation Act, and Native Americans Graves Protection and Repatriation Act, and Mineral Resources.

An important aspect of this bill is its formal recognition that casual collection of invertebrate and plant fossils for recreational, non-commercial, use is a valid public activity on National Forest system lands, unless there is some other overriding land use designation.

if enacted this bill would establish collection provisions for paleontological resources, including permitting requirements for scientific and educational purposes, as well as recreational collection of rocks and minerals for personal use.

Currently there is a very complex mix of laws, regulations, and guidelines that have created significant jurisprudential challenges. We support penalties that are consistent with recent amendments to the Federal sentencing guidelines of the U.S. Sentencing Commission for increased penalties for cultural heritage resources.

H.R. 2416 also provides that the proceeds arising from civil and criminal penalties established under the bill may be available for payment to those who provided information in investigations that might lead to civil violations or criminal convictions for which the penalties were assessed.

However, the currently worded language in Section 11 provides a maximum reward amount that we believe would be ineffective in most cases. We believe that the appropriate reward amount to be offered or paid for assistance in investigations would be best determined by the agency and the prosecutor based on the significance of the case and the assistance provided or needed.

In addition to the recommendations that I just mentioned, we would like to work with the Subcommittee to make several minor technical improvements. This concludes my testimony, and I have submitted my full testimony for the record, and I would be happy to answer any questions.

[The prepared statement of Ms. Estill follows:]

Statement of Elizabeth Estill, Deputy Chief, Programs, Legislation, and Communications, Forest Service, U.S. Department of Agriculture, on H.R. 2416

Thank you for the opportunity to appear before you today. I am Elizabeth Estill, Deputy Chief for Programs, Legislation, and Communications, USDA Forest Service. I would like to present the Department's views on H.R. 2416 -- the Paleontological Resources Preservation Act.

H.R. 2416, the Paleontological Resources Preservation Act recognizes that paleontological resources, especially vertebrate fossils, are heritage resources which provide opportunities for the public to learn more about ancient ecosystems and the development of life. The Forest Service, as steward of these heritage resources is committed to their protection while providing opportunities for research, education, and recreation. The Department supports the purpose of this bill, but would like to work with the Subcommittee on some aspects.

H.R. 2416 directs the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources using scientific principles. The bill recognizes the non-renewable nature of fossils and defines paleontological resources as fossilized remains preserved in or on the Earth's crust. This distinguishes these resources from archeological resources, covered under the Archaeological Resources Protection Act (ARPA); cultural items, covered under the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act (NAGPRA); and mineral resources.

An important aspect of this bill is its formal recognition that casual collection of invertebrate and plant fossils for recreational non-commercial use is a valid public activity on National Forest System lands unless there is an overriding land-use designation. If enacted, the bill would establish collection provisions for paleontological resources including permitting requirements for scientific and educational purposes as well as recreational collection of rocks and minerals for personal use. Currently, there is a complex mix of laws, regulations and guidelines that have created significant jurisprudential challenges. We support penalties that are consistent with recent amendments to the Federal sentencing guidelines of the U.S. Sentencing Commission for increased penalties for cultural heritage resources.

H.R. 2416 also provides that the proceeds arising from civil and criminal penalties established under the bill may be available for payment to those who provided information in investigations that lead to the civil violations or criminal convictions for which the penalties were assessed. However, the current reward language in Section 11 provides a maximum reward amount that we believe will be ineffective in most cases. We believe that the appropriate reward amount to be offered or paid

for assistance in investigations is best determined by the agency and prosecutor based on the significance of the case and assistance provided or needed.

In addition to the recommendations just mentioned we would like to work with the Subcommittee to make several minor technical improvements.

This concludes my testimony and I would be happy to answer your questions.

Mr. RENZI. Thank you.
Dr. Forster.

**STATEMENT OF DR. CATHERINE A. FORSTER, MEMBER AT
LARGE, SOCIETY OF VERTEBRATE PALEONTOLOGY**

Ms. FORSTER. I am extremely pleased to be here to talk to you about his bill today as a professional paleontologist. This bill has tremendous support among the paleontology community, both professional and amateur, and also great support among the public.

It is endorsed by the Society of Vertebrate Paleontology, which is an organization that contains over 2,000 professional and amateur paleontologists, and by the American Association of Museums, which represents 11,500 individuals, and they belong to 3,100 institutions.

Vertebrate fossils, which are the remains of animals with backbones, are being illegally collected and vandalized on Federal lands at ever-increasing rates. For example, between 1995 and 1998 the National Park Service documented 721 incidents of paleontological resource theft or vandalism in National Parks alone.

Although it is already illegal to collect fossils on Federal lands, the current penalties are so low, and the market value for fossils so high that current law offers little deterrent to fossil thieves.

For example, a man who had been stealing fossils from a National Park over a number of years, when he was finally caught, was fined only \$50. This gap between resource value and penalty has grown so large that it is well worth of taking the risk of illegally collecting fossils on Federal land.

This is making it increasingly difficult for local land managers to police their paleontological resources. We really need to put some teeth into penalizing fossil theft and this bill will help do that.

Fossils on Federal lands should be collected, but they need to be collected legally by experienced people. There are three reasons for this. First of all, fossils must be properly collected to maximize the preservation of the fossil itself. Fossils are always complex, and they are very often fragile.

Specimens collected improperly usually come out of the ground in irreparable pieces and missing crucial parts, their scientific value greatly compromised. And while the fossil itself contains a wealth of information, the rock in which the fossil is found provides additional data, such as clues to the ancient environment and climate in which the animal lived, the age of the fossil, the attending plant life, and its precise geographic location.

This crucial contextual data must be carefully collected along with the fossil, and often requires a collaboration of other professionals, such as geologists and paleontological botanists. Therefore, even if an illegally collected fossil is recovered, it is likely to be in less than optimal condition, and half of its scientific value is lost without proper contextual data.

Number 2, once properly collected, the fossils must be deposited in a museum or university collection where it will be cared for and held in perpetuity in the public trust. In such collections, the fossil is available for scientific study and for public exhibition, or for use in educational programs.

Illegally collected fossils end up in private hands, and they are sold commercially to the highest bidder, and many are exported from this country illegally. None of these fossils end up in the public trust and none of them contribute to our understanding of past life.

And importantly, number 3, fossils are historical objects that inform us about past life on earth. When collected by professionals and deposited in a public institution for safekeeping, they become widely available for study. The fossil bones themselves can teach us what the animal looked like when it was alive, the speed it ran, how quickly it grew, what it might have eaten, and which other animals it was most closely related to.

Even fossils that have been in collections for over 100 years are still revealing new information to us. This is because as time goes on new techniques and new technologies are developed that can help us glean additional information from these specimens.

So it is not good enough just to look at a fossil once. It must be kept in the public trust so that years from now, or generations from now, they are still available for study. And this is not just esoteric information for the edification of a few paleontologists.

You all know from reading newspapers every day that information on fossils in past life shows up in the news very, very often. For instance, over the last few years there have been many, many articles documenting the evolution of modern birds from small meat eating dinosaurs, and this is something that the public is extremely interested in hearing about.

They are fascinated by dinosaurs and other remains of past life, and fossils, especially dinosaurs, serve as an entre in science for thousands of Americans, possibly millions of Americans, especially for children.

And I know that it had this effect on me. When I was a little girl, I was absolutely awe-inspired by the triceratops skeleton at the Science Museum of Minnesota, and it is one of the reasons that I ended up becoming a paleontologist. That specimen also is collected on Federal land.

The more fossils that end up in the public trust, the more information we paleontologists have regarding past life, and the better we can inform the public about this. So fossils on Federal land are part of our heritage, and they are also part of a global heritage of the history of life on our planet.

And as Americans, I think we have a responsibility to protect these historical treasures that we have. They are on Federal land and they belong to all of the American people, and I think they should remain that way. So we need Bill 2416 to help ensure that these fossils are kept in the public trust for the good of us all. Thank you.

[The prepared statement of Dr. Forster follows:]

**Statement of Catherine Ann Forster, Associate Professor,
Society of Vertebrate Paleontology, on H.R. 2416**

I am very honored to testify in support of H.R. 2416, The Paleontological Resources Preservation Act. This bill has been endorsed by the Society of Vertebrate Paleontology, an organization of more than 2000 professional and amateur paleontologists and by the American Association of Museums, which counts in its membership 11,500 individual museum professionals and volunteers, 3100 institutions, and 1700 corporate members.

A heightened public interest in dinosaurs and other extinct life forms has given paleontologists an unprecedented opportunity to share with the public the excitement of recent advances in this fascinating science that records the history of life on our planet. Dinosaurs and fossils have become the window through which many young children get their first introduction to science, oftentimes inspiring a life-long interest or career in science. The fossil record is our only way of learning about the history of past life on our planet, and it is important for all Americans to have the opportunity to learn from this record. For this reason I'm pleased to see that H.R. 2416 calls for the establishment of a program to increase public awareness about the significance of paleontological resources on Federal lands. As we confront important public policy issues including global climate change and the extinction of countless species of animals and plants, the fossil record provides a critical historical basis to help guide our decisions.

While it is gratifying that the public has become more interested in the history of life on our planet, and while paleontologists have become increasingly eager to share this knowledge, heightened visibility has also led to the increased commercialization of fossils. This has led to a black market trade in fossils from foreign countries (in violation of export laws) and to the theft of fossils from public and private lands in the United States.

I would like to share a little bit of information with you about how paleontological research is done and why this legislation is essential to ensuring maximal public benefit from this research.

Many kinds of fossils, including those of most vertebrates (backboned animals), are rare for several reasons. Many organisms are not readily preserved as fossils because they do not have hard parts. Only rather unusual sedimentary rock environments preserve soft parts long enough to become fossilized. Also, organisms can only be preserved where sediments accumulate at a fairly high rate. Most organic remains are not buried fast enough to contribute to the fossil record. Vertebrate fossils are much less common than invertebrate and plant fossils. Although we are fortunate to have some exceptions, spectacular deposits of diverse and complete organisms are rare over the history of the earth. The majority of fossil vertebrate species are extremely rare or are represented by a single unique specimen. For these reasons the chances of any vertebrate becoming a fossil are very small. Thus, individual vertebrate fossils are extremely valuable as bearers of information about the past. Furthermore, fossils of extinct groups are not renewable. More fossils will be discovered and collected, but always from a finite supply. More than 99% of all life forms that have ever lived on Earth are already extinct and are only potentially known by fossils.

Fossils themselves cannot tell the full story of life on Earth and they must be supplemented with contextual data. The rocks in which the fossils are found provide information about ancient environments and climates, the age of the fossils, position in a historical sequence, and their paleogeographic location. Fossil assemblages can also provide information about ecological interactions and communities.

A fossil collected without this information has lost much of its value, and we know little more than that this animal lived and died. In contrast, when contextual data are collected and studied, we begin to understand how the animal lived and its place in the balance of nature. As paleontologists and geologists learn more ways to interpret ancient environments and ecological communities from fossil assemblages in their original context, this information becomes more and more valuable and important. These contextual data allow us to bring these animals to life for tens of millions of visitors to our museums, to the many young children who have hands-on experience with original specimens, and to the American public.

Our understanding of evolutionary processes and the tree of life comes primarily from comparing the skeletons from different animals to each other. In order to do this researchers must be able to compare new specimens with those previously unearthed. Oftentimes a new analysis many years later shows our earlier understanding was incomplete or mistaken. For example, when Dr. John Ostrom was doing research on *Deinonychus*, a dinosaur similar to the *Velociraptor* popularized in Jurassic Park, he found that a specimen thought to be a carnivorous dinosaur

was actually the rare early bird *Archaeopteryx*. Ostrom's research was critical in establishing the link between dinosaurs and birds that became a proudly recited fact for every young dinosaur aficionado. Only when specimens are properly collected and permanently preserved in public institutions can researchers access these specimens in order to make these comparisons. And when these comparisons and interpretations are made education and the general public greatly benefit by having access to this new interpretive knowledge through media reports, books, and the Internet.

In a poll taken in 1991 of America's major museums, more than 49% of the 1.8 million specimens of dinosaurs and other fossil vertebrates in their collections were from public lands. Of the overall total, amateurs had donated more than 100,000 specimens to museums and significantly less than 1 % of the specimens came from commercial collectors (Stucky and Ware, 1991).

H.R. 2416 does not change any current aspect of access to fossils on public lands on the part of amateurs, educators, or professional scientists. It does codify current land management authority and practice into uniform guidelines. This will help paleontologists to ensure that they are complying with the law when doing research on Federal lands. It also will help increase the awareness of the cooperative spirit of amateurs and professionals and provides for stronger penalties for those who would destroy or permanently remove valuable fossils from our public heritage.

We urgently need stronger penalties for theft and destruction of fossils from public lands. Sadly, some of the most egregious cases of theft and vandalism have occurred on Federal lands belonging to all Americans.

The rapidly increasing commercial value of fossils has created a situation where the limited penalties that exist are not sufficient to deter illegal collecting. In the Report "Fossils on Federal and Indian Lands" it was noted that "the fines currently imposed on fossil thieves are usually low compared to the lost resources. For example, one man who had stolen fossils from a national park over a period of years was fined a total of \$50." (Babbitt, 2000 p. 29)

In many cases the theft of fossils is so widespread and occurs so rapidly that we do not even know what is being lost. In a study commissioned by the Forest Service, it was found that almost one-third of the paleontological sites surveyed in the Ogilala National Grassland showed evidence of unauthorized collecting. In 1999, the National Park Service identified 721 documented incidents of paleontological resource theft or vandalism, many involving many specimens, in the national parks between 1995 and 1998. (Babbitt, 2000 p. 28)

The increased commercial market for fossils worldwide has sometimes led to distortion of the fossil record. In some cases fossils have been altered in order to inflate their commercial value. And we have lost significant specimens from further scientific investigation and exhibit, making it harder for people to see and examine for themselves the authentic objects in our museums. It is critical that scientifically significant fossils from Federal lands, i.e. that portion of the fossil record that belongs to the American people, remain in the public domain so that everyone—children and adults, amateur and professional paleontologists—may benefit from this irreplaceable resource.

I would like to conclude by telling you about one example of the kind of cooperation, which exists between Federal agencies, amateur paleontologists and professional paleontologists. Figure 1 shows a *Tyrannosaurus rex* that was found on Federal land by amateur paleontologist Kathy Wankel. She reported this find to dinosaur paleontologist Jack Horner of the Museum of the Rockies at Montana State University, Bozeman. The MOR was able to collect this fossil and the contextual data and to learn much more about this animal known to all schoolchildren. Dr. Horner is currently in the fifth year of a field study in the Charles M. Russell National Wildlife Refuge in eastern Montana. To date eight *Tyrannosaurus rex* skeletons have been discovered. The field study is yielding valuable information about this most famous of the dinosaurs and the environment in which it lived. The work of the Museum of the Rockies has made it possible for the National Museum of Natural History, Smithsonian Institution, to collect one of these specimens. Thus, our National Museum will be able to display an actual specimen of this celebrated American dinosaur for the first time. The passage of H.R. 2416 will foster more and more opportunities like this and inspire the long-term preservation of these priceless national resources.

References:

- Babbitt, B. 2000. Report of the Secretary of the Interior: Fossils on Federal and Indian Lands
- Stucky, R.K., and S. Ware. 1991. Questionnaire concerning fossil collecting on Federal Lands. DMNH, Denver.

Mr. RENZI. Thank you, Dr. Forster, for your testimony.
I now recognize Mr. Vlamis for 5 minutes.

STATEMENT OF TED J. VLAMIS, AMATEUR PALEONTOLOGIST

Mr. VLAMIS. Thank you very much for the opportunity to testify here today. I am in favor of H.R. 2416, the Paleontological Resources Preservation Act. One of the most gratifying things for me as an amateur paleontologist has been the opportunity to collaborate with professional scientists, to learn from them, and to make my own small contribution to the advancement of scientific knowledge.

H.R. 2416 puts no new restrictions on amateur paleontologists like me. We can continue to collect for personal use common plant and invertebrate fossils on multi-use lands without a permit, and our colleagues who are amateur rock and mineral collectors will benefit from the provisions of Section 14.

H.R. 2416 impacts neither private lands nor existing private collections. The PRPA has been endorsed by both the Western Interior Paleontological Society, an organization of over 300 amateur paleontologists, and by the Dry Dredgers, the Cincinnati area amateur group.

Because of my personal interest in Paleontology, and the nexus between paleontology and public policy, I have studied the problems of illegal collection and theft of fossils from Federal lands for the past several years.

I would like to share with you a couple of case histories that illustrate what is happening to this valuable public resource, beginning with the story of three allosaurus specimens, and this would be what allosaurus is, a large meat-eating dinosaur from the Jurassic period.

In 1991 the BLM discovered an illegal commercial collection taking place on Federal land. They contacted the Museum of the Rockies at Montana State University at Bozeman, and asked them to collect the specimen and hold it in the public trust.

As a result of this the most complete Allosaurus ever found, which this commercial collector intended to sell to a private collector overseas, has now been saved for all the people of the United States.

The commercial collector who had attempted to steal this fossil and the information that it tells us was never prosecuted. Unfortunately, the American people were much less fortunate in the case of another Allosaurus find illegally collected from BLM land near Fremont Junction, Utah.

The collector was not prosecuted because of the lapse of the statute of limitations. The commercial fossil dealer, who purchased the Allosaurus for \$90,000 and sold it to a Japanese collector for \$400,000 plead guilty to the receipt of stolen property and was sentenced to 1 year probation. His company was fined \$50,000.

A profit of \$260,000 is not an effective deterrent. We must have stronger penalties and specific laws protecting fossils on Federal lands to deter this type of illegal activity and this Allosaurus remains in Japan today and has not been able to be recovered for the people of the United States.

A paleontological area near Grand Junction, Colorado, is the first management area specifically protected by the Bureau of Land Management solely because of fossils. During a trip there, I was able to learn much about the important research that is being done at that site.

Unfortunately, I also witnessed the damage that is occurring there because of theft and vandalism. Here in Figure 2, this kind of gray area that you see here is all that remains of what was once a largely intact *Allosaurus* vertebrae.

The remainder of the vertebrae, which protruded from this rock, has been hacked away by people illegally harvesting this. Here in Figure 3, we see the gray here is part of what was once a major portion of an *Allosaurus* skeleton, and over the years people have just lopped off pieces of it to take home and put on their mantles, or sell to people, or whatever, but most of it has disappeared.

And here you can see a depression in the rock, and this is from Dinosaur Hill, which is near the paleontological area. There was once a *deplodicus* femur there, but somebody has carted that away.

The paleontological community is strongly in favor of laws protecting fossils on public lands and of prohibiting their collection for commercial use. The Society of Vertebrate Paleontology collaborated with the Paleontology Society several years ago and issued a joint statement regarding fossils on public lands, which is consistent with 2416.

Together these two societies represent several thousand individuals, including more than 90 percent of the professional paleontologists, and a very large proportion of amateur paleontologists.

Similar, the American people support the type of stewardship of fossils on Federal lands that is embodied in H.R. 2416. In a survey, 85.3 percent agreed with the statement that, quote, fossils of animals with backbones are part of our national heritage and should be protected in much the same way that archeological remains are not protected.

And 88 percent agree, quote, that if laws are created to restrict the collection of fossils on public lands, the only people who should be allowed to collect them are people with appropriate skills for doing so, and with a permit for that purpose. All the fossils that they find should go into museums and universities prepared to protect them.

These are exactly the principles that we see in H.R. 2426. So the amateur and professional paleontological communities, and the general public, need the information from fossils found on Federal lands, and they want these fossils to be protected by theft and vandalism so that this part of our natural heritage is preserved as a national treasure for all Americans.

I want to thank you again for the opportunity to testify here. I have entered further remarks in the written record, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Vlamis follows:]

Statement of Ted J. Vlamis, Amateur Paleontologist, on H.R. 2416

I'd like to thank you for the opportunity to testify in favor of H.R. 2416, the Paleontological Resources Preservation Act. I am an amateur paleontologist, and have seen firsthand how the increased public interest in paleontology has motivated many Americans to make an avocation of the fascinating field of study.

One of the most gratifying things for me has been the opportunity to collaborate with professional scientists—to learn from them, and to make my own small contribution to the advancement of scientific knowledge. I have had the pleasure in participating in fieldwork with the Dinamation International Society, the Universidad Autonoma de México, the Shuler Museum of Paleontology at Southern Methodist University, and the Ft. Worth Museum of Nature and History. I have been an active member of the Society of Vertebrate Paleontology, including serving as a member of its Government Affairs Committee since 1996 and as Affiliated Societies Liaison from 1997–2002. By having amateurs like me serve in significant positions, the SVP has ensured that it reflects the interests of both professional and amateur paleontologists.

H.R. 2416 puts no new restrictions on amateur paleontologists like me. We can continue to collect for personal use common plant and invertebrate fossils on multi-use lands without a permit. And our colleagues who are amateur rock and mineral collectors will benefit from the provisions of Section 14, which recognizes that casual collecting of rocks and minerals for personal use is a valid use of National Forest System lands. H.R. 2416 impacts neither private lands nor existing private collections. The PRPA has been endorsed by both the Western Interior Paleontological Society, an organization of over 300 amateur paleontologists, and by the Dry Dredgers, a Cincinnati area amateur group.

Because of my personal interest in paleontology, and the nexus between paleontology and public policy I have studied the problems of illegal collection and theft of fossils from Federal lands for the past several years. I'd like to share with you a couple case histories that illustrate what is happening to this valuable public resource. I'm going to begin with the story of three *Allosaurus* specimens. *Allosaurus* was a large carnivorous dinosaur of the Jurassic period (fig. 1).

In 1991, the BLM discovered an illegal commercial collection taking place on Federal land. The BLM contacted the Museum of the Rockies at Montana State University—Bozeman and asked them to collect the specimen and hold it in the public trust. As a result of this, the most complete *Allosaurus* ever found, which this commercial collector intended to sell to a private collector overseas, now has been saved for all the people of the United States. As a result of careful analysis of injuries sustained by this dinosaur and preserved in the bones, this particular specimen has yielded a treasure trove of information about how *Allosaurus* lived. The commercial collector, who had attempted to steal this fossil and the information it tells us, was never prosecuted.

Unfortunately, the American people were much less fortunate in the case of another *Allosaurus* find. This *Allosaurus* was illegally collected from BLM land near Fremont Junction, Utah. The collector was not prosecuted because the lapse of the statute of limitations. Last year the commercial fossil dealer, who purchased the *Allosaurus* for \$90,000 and sold it to a Japanese collector for \$400,000, plead guilty to receipt of stolen property and was sentenced to 1 year probation. His company was fined \$50,000. A profit of \$260,000 is not a deterrent. We simply must have stronger penalties and have specific laws protecting fossils on Federal lands in order to deter this type of illegal activity.

The Fruita Paleontological Area near Grand Junction, Colorado became the first management area specially protected by the Bureau of Land Management solely because of fossils in 1976. Specimens from this area include *Allosaurus*, *Apatosaurus*, *Camarasaurus*, *Ceratosaurus*, *Dryosaurus*, and *Stegosaurus*. It has also yielded numerous microvertebrate and invertebrate remains and has facilitated reconstruction of the ecological community in which these animals lived. During a trip to the Fruita Paleontological Area I was able to learn much about the important research being done there. Unfortunately, I also witnessed the damage that is occurring there because of theft and vandalism.

Figure 2 shows the remains of what was once a largely intact *allosaur* vertebrae. The entire portion of the vertebrae that was protruding from the surrounding matrix has been sheared off.

Figure 3 shows what was probably once a major portion of an *allosaur* skeleton. We will never know what scientific information this specimen would have yielded.

In Figure 4 we see the imprint showing where a *Diplodocus* femur was stolen from Dinosaur Hill, a quarry just a short distance from the FPA.

The paleontological community is strongly in favor of laws protecting fossils on public lands, and of prohibiting their collection for commercial use. Several years ago, the Society of Vertebrate Paleontology (SVP) added a Statement of Ethics to its bylaws to help the society and its members handle ethical issues such as those raised by increasing commercialization. I summarized the SVP Ethics Statement and a subsequent Joint Position Statement by the Paleontological Society as follows: "The SVP Ethics Statement contains several principles that are particularly note-

worthy for their public policy implications. It begins by recognizing that vertebrate fossils are usually unique or rare, and that they are part of our natural heritage. The Ethics Statement assigns to vertebrate paleontologists the responsibility of ensuring that pertinent detailed contextual data are recorded when vertebrate fossils are collected and notes that collection and preparation should be done by properly trained personnel. The importance of proper curation and the assurance of access for future researchers are recognized by the Ethics Statements' provision that scientifically significant vertebrate specimens should be curated and accessioned in institutions charged in perpetuity with conserving fossil vertebrates for scientific study and education. The Ethics Statement further recognizes the responsibility of paleontologists to expeditiously disseminate information to other paleontologists and to the general public. Perhaps the most important part of the SVP Ethics Statement from a public policy perspective is the conclusion that "The barter, sale, or purchase of scientifically significant vertebrate fossils is not condoned unless it brings them into, or keeps them within, a public trust" (SVP, 1994).

In order to ensure that the SVP's public policy recommendations and initiatives regarding fossils on Federal lands were also reflective of the wider paleontological community, the SVP initiated a dialogue with the Paleontological Society. Together these two scientific societies include several thousand individuals, representing more than 90% of professional paleontologists and a very large proportion of amateur paleontologists. This dialogue culminated in 1999 when the two societies issued the joint position statement *Paleontological Resources on U.S. Public Lands*. The PS-SVP joint statement advocates public policy which, like the SVP Ethics Statement, recognizes that fossils are part of our scientific and natural heritage. It goes on to find that fossils on public lands belong to all the people of the United States and that, as such, they need special protection, and should not be collected for commercial purposes. The joint statement concludes that the two societies strongly support actions which "protect fossils on public lands as finite natural resources; encourage responsible stewardship of fossils for educational, recreational, and scientific purposes; promote legitimate access to, and responsible enjoyment of, paleontological resources on public lands by the public and amateur paleontologists for personal use, and by the professional paleontological community, including professional paleontologists from outside the U.S.; and bring fossils from public lands into public institutions where they are available for purposes of education and scientific research" (PS and SVP, 1999)." (Summary from Vlamis, 2001) The Society of Vertebrate Paleontology has endorsed The Paleontological Resources Preservation Act.

Similarly the American people support the type of stewardship of fossils on Federal lands which is embodied in H.R. 2416. MKTG, INC., a market research firm that has conducted over 10,000 studies since its founding in 1979, conducted a survey of American public opinion regarding fossils. This survey of 300 American adults analyzed public responses both to a hypothetical situation involving the discovery of a fossil, and to a series of more general questions pertaining to fossils. A random calling program was utilized which gave every telephone in the U.S. the same probability of being called. The survey results have an accuracy rate of +/- 7%. The findings of this survey are detailed in Vlamis (2001).

Several key points that demonstrate public support for the principles embodied in H.R. 2416. When the hypothetical find is assumed to have been made on public land 86.6 percent agree with the statement that "The fossil is part of our heritage, it belongs to everyone in the United States", 80.0 percent with the statement that "There should be a law against my selling the fossil", 81.0 percent with the statement that "There should be a law against my taking the fossil out of the United States", and 81.0 percent disagree with the statement that "The fossil is mine, finders keepers". The consistency of responses when asked in a variety of different ways is striking.

In the second part of the survey, 85.3 percent agreed with the statement that "Fossils of animals with backbones are part of our national heritage and should be protected in much the same way that archeological remains (human artifacts) are now protected"; and, 88.0 percent agreed that "If laws are created to restrict the collection of fossils on public lands, the only people who should be allowed to collect them are people with appropriate skills for doing so and with a permit for that purpose. All the fossils that they find should go into museums and universities prepared to protect them" (Vlamis, 2001). The American people want our natural heritage preserved as a national treasure.

The amateur and professional paleontological communities and the general public need the information from fossils found on Federal lands and they want these fossils to be protected from theft and vandalism.

References:

Paleontological Society and Society of Vertebrate Paleontology. 1999. Joint Position Statement by The Paleontological Society and The Society of Vertebrate Paleontology on Paleontological Resources on U.S. Public Lands

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APPENDIX 1

SOCIETY OF VERTEBRATE PALEONTOLOGY BY-LAW ON ETHICS

ARTICLE 9. STATEMENT OF ETHICS.

Several goals for the Society of Vertebrate Paleontology follow from its mission statement (Constitution Article 1): to discover, conserve, and protect vertebrate fossils and to foster the scientific, educational, and personal appreciation and understanding of them by amateur, student and professional paleontologists, as well as the general public. Fossil vertebrates are usually unique or rare, nonrenewable scientific and educational resources that, along with their accompanying contextual data, constitute part of our natural heritage. They provide data by which the history of vertebrate life on earth may be reconstructed and are one of the primary means of studying evolutionary patterns and processes as well as environmental change.

It is the responsibility of vertebrate paleontologists to strive to ensure that vertebrate fossils are collected in a professional manner, which includes the detailed recording of pertinent contextual data (e.g. geographic, stratigraphic, sedimentologic, taphonomic).

It is the responsibility of vertebrate paleontologists to assist government agencies in the development of management policies and regulations pertinent to the collection of vertebrate fossils, and to comply with those policies and regulations during and after collection. Necessary permits on all lands administered by Federal, state, and local governments, whether domestic or foreign, must be obtained from the appropriate agency(ies) before fossil vertebrates are collected. Collecting fossils on private lands must only be done with the landowner's consent.

Fossil vertebrate specimens should be prepared by, or under the supervision of, trained personnel.

Scientifically significant fossil vertebrate specimens, along with ancillary data, should be curated and accessioned in the collections of repositories charged in perpetuity with conserving fossil vertebrates for scientific study and education (e.g. accredited museums, universities, colleges, and other educational institutions).

Information about vertebrate fossils and their accompanying data should be disseminated expeditiously to both scientific community and interested general public.

The barter, sale, or purchase of scientifically significant vertebrate fossils is not condoned unless it brings them into, or keeps them within, a public trust. Any other trade or commerce in scientifically significant vertebrate fossils is inconsistent with the foregoing, in that it deprives both the public and professionals of important specimens, which are part of our natural heritage.

APPENDIX 2

JOINT POSITION STATEMENT BY THE PALEONTOLOGICAL SOCIETY AND THE SOCIETY OF VERTEBRATE PALEONTOLOGY ON PALEONTOLOGICAL RESOURCES ON U.S. PUBLIC LANDS

The Paleontological Society and The Society of Vertebrate Paleontology are committed to increasing scientific knowledge, educational benefits, and appreciation of the natural world based on fossils—for everyone—child or adult, the general public, or amateur or professional paleontologists. Fossils are an invaluable part of our scientific and natural heritage. They yield detailed information about the history of life and of our planet, and provide lessons for the modern world and our future.

Many important fossil localities occur on U.S. public lands and belong to all people of the United States, including future generations. The Society of Vertebrate Paleontology and The Paleontological Society therefore support the development of policies and practices that can be used by different Federal agencies to regulate the collection of fossils on U.S. public lands in an appropriate, clear and consistent manner.

Many fossils are common (for example, many non-vertebrate fossils) and should be allowed to be collected—in a responsible way—by any amateur or professional paleontologist, thus allowing them to experience and benefit from the excitement of discovery, recovery, identification and study. In particular, because of the benefits

that derive from increased public appreciation of fossils, it is important that the participation of amateurs in paleontology is not discouraged by Federal policies and practices.

Other fossils are rare (for example, many vertebrate fossils and some non-vertebrate fossils), and require special protection, especially from destruction by vandalism or commercial exploitation. In particular, because of the dangers of over-exploitation and the potential loss of irreplaceable scientific information, commercial collecting of fossil vertebrates on public lands should be prohibited, as in current regulations and policies. The commercial collecting of other paleontological resources on U.S. public lands should be strictly regulated by permit through the appropriate land management agencies. Regulations and policies regarding the collection of paleontological resources from U.S. public lands should be strictly enforced.

In this context, the Council of The Paleontological Society and the Executive Committee of The Society of Vertebrate Paleontology strongly support actions that:

- (i) protect fossils on public lands as finite natural resources,
- (ii) encourage responsible stewardship of fossils for educational, recreational, and scientific purposes,
- (iii) promote legitimate access to, and responsible enjoyment of, paleontological resources on public lands by the public and amateur paleontologists for personal use, and by the professional paleontological community, including professional paleontologists from outside the U.S.; and bring fossils from public lands into public institutions where they are available for purposes of education and scientific research.

The following attachments have been retained in the Committee's official files.

- TJV Figure 1. Allosaurus was a large carnivorous dinosaur of the Jurassic period.
- TJV Figure 2. Shows the remains of what was once a largely intact allosaur vertebrae. The entire portion of the vertebrae that was protruding from the surrounding matrix has been sheared off.
- Figure 3 shows what was probably once a major portion of an allosaur skeleton. We will never know what scientific information this specimen would have yielded.
- TJV Figure 4. The imprint showing where a Diplodocus femur was stolen from Dinosaur Hill, a quarry just a short distance from the Fruita Paleontological Area near Grand Junction, Colorado.

Mr. RENZI. Thank you, sir, and thank you, Mr. Vlamis, for your testimony.

I have a statement from the Honorable Wayne Gilchrest, Chairman, which needs to be put into the record, and without objection. And hearing none, so ordered.

[The prepared statement of Chairman Gilchrest follows:]

Statement of The Honorable Wayne T. Gilchrest, Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans, on H.R. 2057 and H.R. 2416:

Good morning, I am pleased to join with my colleague Scott McInnis in conducting this Joint Hearing on H.R. 2057, the Chronic Wasting Disease Support for the States Act and H.R. 2416, the Paleontological Resources Preservation Act.

First identified in Colorado in 1967, Chronic Wasting Disease or CWD is a progressive, fatal and degenerative illness that has spread to both wild and captive herds of white-tailed deer, mule deer and rocky mountain elk. While the Centers for Disease Control have said that: "there is no evidence that CWD has been transmitted to humans under natural conditions", there are still huge gaps in our knowledge base. For instance, we need to know what is the exact cause of this disease, how it is transmitted to other animals and what is the incubation period in cervids.

H.R. 2057 is a comprehensive proposal that builds upon the efforts of the Department of Agriculture who has established a CWD surveillance, depopulation and indemnity program for affected farmed elk populations and has provided a \$4 million dollar grant to the 22 affected states. While these are positive steps, additional research, control, monitoring and money to combat this dreaded illness is essential. These are the fundamental goals of this legislation and I compliment the Chairman of the Forests Subcommittee for his tireless leadership on this issue.

As an original co-sponsor of H.R. 2416, I believe it is long overdue that we establish a comprehensive national policy for preserving paleontological resources on

Federal lands. In 1999, the National Park Service identified hundreds of documented cases involving theft or vandalism of prehistoric fossils.

While this legislation will not prohibit casual collecting on Federal lands where allowed, it will ensure that these invaluable artifacts are not destroyed. The bones of an Allosaurus, Stegosaurus or Tyrannosaurus must be protected, preserved and managed for the benefit of future generations. They should be displayed in places like the American Museum of Natural History, the Dinosaur National Monument and the Smithsonian's National Museum of Natural History and not stashed away in a private collection, listed on Ebay or sold on the black market.

I compliment the gentleman from Massachusetts, Congressman Jim McGovern for proposing the Paleontological Resources Preservation Act and I look forward to hearing from our distinguished witnesses on these two important pieces of legislation.

Mr. RENZI. We are going to move to questions and I would remind members that we have a 5 minute time limit on questions, and I want to recognize first of all the co-sponsor of the bill from the great State of Massachusetts, Mr. McGovern.

Mr. MCGOVERN. Well, thank you. Since I am the author of the bill, I don't need to be convinced, but you have convinced me again why this is a good idea. I want to say, Mr. Lamb, and Ms. Estill, that I appreciate your comments and also the suggested amendments to the bill, and I am just looking at them very quickly, and most of them seem pretty reasonable to me.

So I look forward to working with you and this Committee in trying to make sure that when this bill is reported out of here is as effective as it possibly can, and it is not weakened, and we are all committed to a stronger bill here.

Dr. Forster, thank you very much for your testimony, and for all of your work in this area, and to my friend, Mr. Vlamis. I want to thank you. He and Pat Leejee with the Museum of the Rockies were actually the first people that came into my office and kind of talked to me about this issue, and I want to also thank you for continuing to bring to me models of T-Rex teeth and other things that I can give to my son.

But I just wanted to make one point, and then I will yield back my time. And I think that all of you kind of mentioned it, but there is a big business in shelling these fossils and these dinosaur bones, and I think that a lot of people don't quite appreciate that.

A number of people have said to me, well, what is the big deal. Well, there is a big deal, and you have mentioned a couple of cases where people have kind of stolen what should be public property, and made huge profits, and one of the things that we are trying to do is to stop that, and to make sure that these things are forever in the public domain, where scientists, and geologists, and people who study this stuff, and even kids, can have an opportunity to view these things.

So again I thank you all for being here, and your testimony, and I look forward to working with all of you. Thank you.

Mr. RENZI. I thank the gentleman from Massachusetts. I now recognize the gentleman from New Mexico, who has personally wrestled an allosaurus in many of his days, Stevan Pearce.

Mr. PEARCE. Thank you, Mr. Chairman. I do appreciate the bill and appreciate the gentleman from Massachusetts bringing it. My questions come kind of from the other direction. If there are tremendous profits to be made, and I know that there are, what

is to keep the scientific community from occasionally slipping something out the back?

Do you have any safeguards in the bill for that? And, Dr. Forster, I would direct that to you.

Ms. FORSTER. Well, I don't know if there are any safeguards in the bill for that, but I know that in our society, the Society of Vertebrate Paleontology, we have a very strong ethics statement that goes along with joining the society, to which almost every professional paleontologist belongs.

And it is absolutely unethical to be selling fossils if you are a professional paleontologist. This is completely wrong. And of course I am sure that occasionally it happens, but I don't know if there are any safeguards in the bill.

But we try to police our own, and it is considered extremely unethical to do something like that.

Mr. PEARCE. Thank you. I do recognize that it would be considered that way, but people being what they are, unless you have the only group of people that are morally bound to every ethical standard that they aspire to.

Ms. ESTILL. But the bill does require a permit for scientific collections, and agencies would monitor those permits, and so we feel like there is some safeguard.

Mr. PEARCE. Thank you, and just in extending my comment, we have got a lot of museums in my district, and when I go into the basements of museums, I am not too frankly impressed by the tracking mechanisms that are in place. I see things scattered in boxes, boxes piled on boxes, and boxes broken up, and things falling on the floor.

And I wonder when we talk about the potential for our museums to safeguard these treasures why we would even continue collecting it at some point when we have so many samples that are being trapped in basements, and not being taken care of.

That is I would say that this treasure should be left where it is at some point. Is there a response to—how do we track this once it gets into the museum system, because even though the paleontologists may have this ethical standard, you have got these boxes that are unkept and probably uninventoried, and through inventory are not checked regularly.

And so then you have janitors and things that have access to those, and I worry about these things.

Ms. FORSTER. I think it is probably a legitimate worry in some places. There are many museums that are not like that at all, where specimens are prepared as they come in, and there aren't jackets and boxes laying around. Every specimen has its place, and they know exactly where every specimen is.

So I am not sure exactly which museum you are talking about, but it sounds like it can be a problem. It is potentially a problem, but again if it is part of the bill that the museum has to care for these specimens and track these specimens, I would hope that the museums would come up to snuff on that as well, because it is in their best interests to do so.

And certainly as a paleontologist, I know where all of my fossils are that I collect, and I would hope that whatever museum you are talking about would come up to snuff as well. One of the problems

of course for a lot of museums lack of funds to prepare fossils, although again museums that I know of are very good at keeping track of what they have got in their collections, even if they are in a box or are still in a jacket, they know what they have got, and they know it is in that jacket.

Mr. VLAMIS. Mr. Pearce, I might add that the provisions to the bill do provide for the revocation of the permit if someone violates the bill, and so that would certainly be a very strong sanction that would happen to any scientist who was selling things out the back door as you expressed in your concern.

Mr. PEARCE. I guess in extending that, my question is that there is no actual monitoring of the permit holders and even the amateurs, or in other words, there is no oversight. We get the permit, but then we depend on the human element to not be attracted by the \$400,000 sales price that is essentially all profit, and that to me worries me that we have no technique to see what is taken by the permit holders, be they professional or amateur.

And then we have no technique to monitor through the stream of progress what is going on, and so at some point I would say without careful safeguards, I would rather see them stay in the ground or on the ground, and they have been preserved for centuries there.

And I would just leave that as an open question if someone wants to deal with it. Mr. Chairman, I would yield back the balance of my time.

Mr. RENZI. Thank you, Mr. Pearce. I want to recognize another gentleman from New Mexico, the land of enchantment, Mr. Udall.

Mr. TOM UDALL. Thank you, Mr. Chairman, and thank you for holding this hearing. I very much appreciate my colleague from Massachusetts, who has taken a great interest in this, and in working with Chairman McInnis to see that we do something about this.

Both my colleagues here from the west, Mr. Pearce, and Mr. Renzi, are very aware that the Federal lands within our congressional districts also contain Indian sacred sites, and I want to ask about that, because I think that is a crucial issue here when we start talking about fossil collections, and Indian sacred sites, and I guess the first thing I want to ask is what effect, if any, does fossil collection have on Indian sacred sites on non-Indian Federal land, and then the second part of this is that Section 5 of this Act would direct the Secretary to develop an inventory and monitoring plans for paleontological resources in accordance with laws, regulations, and policies.

Would it be helpful if this bill also required that plans be developed in accordance with Executive Order 13007 dealing with sacred sites? That is the President's Executive Order on sacred sites, and then any of the panelists can comment on that.

Mr. LAMB. There is a specific provision in the bill with regard to sacred sites on Federal lands. I would welcome the opportunity to do a little research with regard to the Executive Order, and its interplay with this act, rather than just speaking extemporaneously about it.

We are very concerned about protection of such sites, and are active in trying to protect them. By having a system—essentially it

goes also to Mr. Pearce's question. We are currently permitting the excavation of sites to technically qualified individuals and organizations.

What this bill does is provide a more uniformed structure for that. There is very little consistent Federal law with regard to this entire area. We are using our organic statutes across 4 or 5 different agencies. I look, for example, of the definition of paleontological resource, and we have five different definitions.

The public is confused about what its role is, and how it can participate. I recall when Secretary Hodel became Secretary of the Interior, and we were testifying before an appropriations committee, and this topic came up in the '80's.

And he said that he was very concerned about the responsibilities that the Department had, and its ability to enforce, and protect these resources, and he had given the matter considerable thought, and the only way in which to do it is to provide a much greater role for the public, a much greater public participation, a greater involvement with volunteers.

And working with organizations like these professional societies can really enhance our ability to protect these resources. Since that time of his testimony, I might point out that the number of volunteers in the Department of Interior across the board has increased some 180 percent.

We now have 200,000 volunteers working with our employees, some three times the number of volunteers that we have actual employees. One of the things that this bill will do will encourage more partnerships with these professional organizations to meet some of these responsibilities.

Mr. TOM UDALL. Any other panelists have any comments on that? Let me just in the couple of moments that I have left just emphasize that when we are dealing with Indian sacred sites—I mean, a lot of people think of these as this may be something that is old, and there is not an ongoing activity.

And I just spent time on one of my pueblos where the pueblos were showing me a couple of what they would consider sacred sites that dealt with collecting small specimens of rock that they used to paint when they do their dances, which is a continuing, on-going think, and a part of their religious activities.

There was another place that they showed me where they collected a particular type of rock, and if it was in coloring in their pottery, which is also an ongoing activity. And so when I was out there at the time and saw this, they actually pointed out a couple of times as we were looking at these rocks that there were fossils mixed in with some of this.

So I don't think it is an insurmountable issue at all, but I think it is just one that we all need to be very sensitive to, and I know that both the gentlemen from the west here are very aware, because they have Indian reservations and Indian sacred sites in their congressional districts.

Mr. MCGOVERN. Will the gentleman yield?

Mr. TOM UDALL. I certainly will, but I don't have any time. But I am sure that this generous Chairman here will give you time.

Mr. MCGOVERN. Well, the bill specifically states that nothing in this Act shall be construed to affect any lands other than Federal

lands, or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands.

So if the gentleman wants to work on language that—I don't know if that addresses his issue or concern, or whether he wants more restrictions, or—

Mr. VLAMIS. I think I could offer some insight into this. If you look at the definition of paleontological resource in the bill, it specifically exempts fossils which are identified as archeological objects under 16 USC 470.

So those would be protected already by existing law, where you have got a fossil that is part of a sacred Indian site. It would be covered and protected under ARPA, 16 USC 470. And this bill was also written specifically not to conflict with sites that are covered by NAGFRA (phonetic). So I believe what you would find is that this offers additional coverage, and in no way detract from the existing protection, which is already there.

Mr. TOM UDALL. I think the issue here, the bill exempts BIA lands, is that correct, from the sponsors? And what I am talking about is sacred sites on other Federal land, BLM and Forest Service land.

Mr. VLAMIS. Yes, and I am not an attorney, but my understanding is that those would be protected under the Archeological Resources Protection Act, 16 USC 470, and so there is not a need to protect them under this Act, because they are already protected.

Mr. RENZI. Would the gentleman yield also?

Mr. TOM UDALL. Sure.

Mr. RENZI. I may be missing my friend's point, but I think the gentleman is trying to also protect the ability of the Native Americans to harvest the stones, or the rocks that are used in coloring, and not so much to protect the fossils themselves. And it really—am I right my friend?

Mr. TOM UDALL. Yes.

Mr. RENZI. OK. So I know that you are talking about protecting the fossils, but the gentleman is talking about protecting the colored rocks, OK? And that really leads to the question that I am going to get into if the gentleman is completed.

Mr. TOM UDALL. Let me just say that what I am worried about is protecting the religious activities. It is very much a part of Native American communities in my district, and I think in yours, and in Mr. Pearce's, and maybe some of the other members that are on this Committee.

Mr. RENZI. I agree with the gentleman.

Mr. TOM UDALL. And with reference, I think that some cross-reference or something to the Indian Religious Freedom Act may do that.

Mr. RENZI. The Chair would recognize the gentleman from Colorado, Mr. Tancredo.

Mr. TANCREDO. Thank you, Mr. Chairman. I have only one question, and that is would you please tell me what the penalties are in a E Class felony?

Mr. LAMB. I am not an expert on the exact penalties. They have been worked with the Department of Justice, in terms that they would be commensurate with other Federal statutes. I can get that

information for you, sir, but the language is directly from the Justice Department to put them on a comparable standing.

Mr. TANCREDO. Yes. If you could, I would appreciate that information. That is all that I have, Mr. Chairman.

Mr. RENZI. Thank you, Mr. Tancredo. I am going to dove-tail on Mr. Udall's questions, and I had a couple of prepared questions that really fit into his line of questioning.

And particularly Dr. Forster, if you wouldn't mind. I know that there was some discussions about other lands other than Federal lands, and I think that Mr. McGovern has done a wonderful job as far as articulating the fact that we are dealing specifically with Federal lands right now.

Is the idea though that we would eventually look at maybe expanding this to the Bureau of Reclamation lands, or DoD lands, or obviously we have other areas where fossils are also going to be found.

Ms. FORSTER. I think that I am going to refer that to my colleague, Mr. Vlamis, here.

Mr. VLAMIS. I think that is something that might want to be looked at down the road. For example, there are some very important paleontological sites which are located on Army Corps of Engineer's land that are also very accessible, offering the potential of illegal collecting.

Mr. RENZI. Thank you.

Mr. VLAMIS. So that might be a wise future thing to look at.

Mr. LAMB. With regard to the Department of the Interior, this bill would extend provisions to the Bureau of Reclamation since it is one of our Interior—

Mr. RENZI. It would cover lands currently under management by the Bureau of Reclamation?

Mr. LAMB. Yes, it would.

Mr. RENZI. OK. Mr. Lamb, that leads into my second question then, is that Mr. Udall specifically was looking at the ideas that a possibility could exist where Native Americans could be looking at going out and finding sacred stones.

We in the west very much are in the business of land exchange, where we see Federal lands, Bureau of Reclamation lands, and we exchange them for private lands. Does the legislation at all obstruct or hinder our ability to exchange those lands?

Mr. LAMB. As part of those exchanges, there is usually an inventory of the resources of that land, and if there is a significant, scientifically significant, scientifically significant portion of the land that holds immense value, I know from personal experience on exchanges that this becomes a subject matter of the exchange itself, and how that will be protected and what type of arrangements must be made to protect it.

Mr. RENZI. Would we treat it similarly to archeological sites as we now treat it during land exchange?

Mr. LAMB. I believe so.

Mr. RENZI. You imagine so?

Mr. LAMB. In fact, the entire intent of this bill is to treat paleontology much like we treat archeology on Federal lands. That is really the intent of it, in terms of all of the general provisions, is to bring paleontology up to the same standards that we have had in

place very effectively for 25 years, in terms of archeological resources.

Mr. RENZI. OK. Thank you, sir. With that, I want to thank all the witnesses on our second panel for your insights, and your expertise, and also the members for their questions. The members have some additional questions for the witnesses, and we ask that you please respond to them in writing.

The hearing record will be held open for 10 days for these responses. If there is no further business before this Subcommittee, I would like to adjourn for 5 minutes, and then reconvene with the Subcommittee on Forest and Forest Health for our additional bills. The Subcommittee now stands adjourned.

[Whereupon, at 12:31 p.m., the Subcommittee was adjourned.]

