

Testimony of Todd Adkins
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“Protecting Access for Hunters and Anglers Act of 2023”
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Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, I thank you for the opportunity to testify in support of H.R. 615, the Protecting Access for Hunters and Anglers Act of 2023. My name is Todd Adkins, and I serve as Vice President of Government Affairs for the Sportsmen’s Alliance, an organization that was founded in 1978 to protect and promote America’s first and best conservationists, sportsmen and women.

To place the importance of H.R. 615 in proper context, it is critical to acknowledge the importance of America’s hunters and anglers to our entire system of fish and wildlife management, often referred to as the North American Model. Although not recognized enough in today’s tension-driven and combative 24-hour news cycle, the North American Model is an amazing success story. Restored fish and wildlife populations, a vast system of public lands for all to enjoy, critical habitat protection, and dedicated agencies devoted to protecting the great outdoors are just a few of the countless benefits of the system we created here in America. Many refer to ours as the most successful conservation model in the world, and I agree.

This system – the North American Model – has its roots in the late 19th and early 20th century, when members of the hunting and fishing communities came together to help forge a new conservation ethos in America, one that would not only protect fish and wildlife, but also secure the robust funding mechanisms necessary to underwrite our commitment to conservation in perpetuity. It is a remarkable story. But this story can only be told by recognizing the critical role played by the hunting and fishing communities in pulling it all together.

It was hunters and anglers that were there to help establish the state fish and wildlife agencies at the outset. We were there to support the creation of licensing and permitting systems, along with regulating season lengths, bag limits, and methods of take. And yes, we were first in line to provide the funding to make it all work. Through state license fees, stamps, permits and federal excise taxes under the Pittman-Robertson¹ and Dingell-Johnson² Acts, hunters and anglers have directly contributed tens of billions of dollars to conservation efforts nationwide. In FY 2022 alone, Pittman-Robertson accounted for more than \$1.1B and Dingell-Johnson appx. \$400M for

¹ 16 U.S.C. 669 et seq. The Pittman-Robertson Act, also known as Federal Aid in Wildlife Restoration Act, established a federal excise tax on firearms, ammunition, and archery equipment to fund wildlife conservation in 1937.

² 16 U.S.C. 777 et seq. The Dingell-Johnson Act, also known as the Federal Aid in Sport Fish Restoration Act, established a federal excise tax on fishing equipment to fund sport fish conservation in 1950. It was expanded to include recreational boats and motor boat fuel in 1984 with passage of the Wallop-Breaux Act.

state fish and wildlife agencies. If we then add our countless hours of volunteering and ongoing financial support for conservation organizations nationwide, the total impact of sportsmen and women is at once incalculable and irreplaceable.

The Sportsmen's Alliance recognizes and honors this history and proudly defends America's hunters and anglers and the rich conservation tradition we helped build. At the same time, however, we fully recognize that there are some who don't have the same view and seek to remove hunters and anglers from the landscape altogether. This is what brings us here today to voice our strong support of H.R. 615.

H.R. 615, with elegant simplicity, establishes important safeguards to protect access for hunters and anglers to our public lands. These safeguards are becoming increasingly critical as animal extremist groups continue to pressure federal land managers to restrict hunting and angling through whatever means possible. Although there are many attacks, among the issues favored by the animal extremist groups in recent times is to press for lead ammunition and fishing tackle bans on public lands. H.R. 615 addresses this issue directly.

The bill protects access by ensuring that the Departments of Agriculture and Interior engage in careful evaluation of the effects of lead exposure for a specific unit of public land (under agency control) before banning the use of lead ammunition or fishing tackle on such property. In addition, the bill requires the Departments to maintain consistency with state law/regulation and coordinate with state agencies as they develop such policies.

In this way, H.R. 615 only requires the Departments of Agriculture and Interior to engage in the type of scientific inquiry our community has always supported. A major pillar of the North American Model is that science drive fish and wildlife decision making, and H.R. 615 structures decisions to ban lead ammunition or fishing tackle with a specific fact-finding process before implementing such a policy change.

Moreover, as the primary managers of fish and wildlife resources, we believe that state fish and wildlife agencies should always be part of the decision-making process, including hunting and fishing policy on federal lands. By recognizing the importance of state agencies in this process, H.R. 615 rightly requires the Departments of Agriculture and Interior to include the state agencies or at least ensure that any policy to ban lead ammunition or fishing tackle is consistent with state law or policy where the unit is located.

The safeguards of H.R. 615 are critical going forward because we have been here before and know that lead ammunition and fishing tackle bans will result in the loss of hunters and anglers from the landscape. While animal extremists would applaud this loss, it is imperative that everyone who believes in fish and wildlife conservation understands that when we lose hunters and anglers, we lose the financial backbone of our entire system. A loss of even 5% of this nation's hunters and anglers will have a profound and staggering effect on conservation funding at the federal and state levels.

Although it is common for many to refer to 1991 as the year lead ammunition was banned for waterfowl hunting in the United States, a better year to focus on is 1976, the first year of the

initial “phase in” of a proposed lead ammunition ban by the U.S. Fish and Wildlife Service (FWS), starting on the Atlantic Flyway, or along the East coast. That was followed by the Mississippi Flyway in 1977, the Central Flyway in 1978, and the Pacific Flyway in 1979.

These “phase in” bans were initially limited within the states to “hot spots” where hunters congregated while waterfowl hunting, typically state or federal public lands where waterfowl hunting success was high, and thus, hunting pressure followed. For a state like Michigan, as an example, the majority of waterfowl harvested in any given year is from the “hot spots” where lead was banned beginning in 1977. So even though a “phase in,” these initial bans were felt across the entire waterfowl hunting community.

It is instructive to review waterfowl hunter numbers from this period forward to analyze the effect of the initial lead ammunition bans on hunter recruitment and retention. According to FWS, there were 2,207,318 duck stamps sold in 1975-76. Ten years later, that number had fallen to 1,680,972 (85-86), and by the time of the nationwide lead ban in 1991-92, the number had cratered to 1,298,649. While duck stamp sales are an imprecise method to count waterfowl hunter numbers in any given year, this stark trendline indicates that a very significant number of waterfowl hunters were leaving the community over the period, of this there can be no doubt. These numbers point to losses of approximately 24% over ten years and 42% over 15 years. This is striking when one considers that total hunter numbers peaked in 1982, after the extreme slide among waterfowl hunters was well underway.

I experienced two phase-in lead bans as a waterfowl hunter. I grew up in Michigan and regularly hunted at one of the “hot spots” identified for the initial lead ammunition ban in 1977. I was there on opening day in 1977 as all of us wondered what it would be like to hunt with steel shot. Then later, I was a professional waterfowl hunting guide on Maryland’s Eastern Shore during the “phase in” of the lead ban there. In both cases, I can attest that cost was a factor for many hunters in making the decision to give up waterfowl hunting. I don’t need a scientific study to know this, I was there, and it was the same in two very different parts of the country, hundreds of miles apart. This was particularly true for those I knew with limited income and resources.

We know this from our own experiences, not just for hunting and fishing, but all human activities and behavior. When you make something more expensive, people will do it less. Price sensitivity is real, and hunters and anglers aren’t unique in this respect, they are just like everyone else. The difference, of course, is that when hunters and anglers decide to give up going afield, the cost to conservation can be substantial. This is why our community insists on rigorous science and data supporting any policy decision that will drive hunters and anglers from the fold.

The “2022-23 Station-Specific Hunting and Sport Fishing Regulations,” (“*Hunt/Fish Rule*”) promulgated by FWS,³ is an example of how H.R. 615 will protect hunters and anglers if the bill is passed, but allow me to explain. The *Hunt/Fish Rule* is an annual rulemaking conducted by FWS to propose, and then finalize, hunting and fishing rules for the nation’s National Wildlife Refuges (NWRs). FWS will often announce the new *Hunt/Fish Rule* in late spring or early summer, and then finalize the Rule early in the fall.

³ 2022-2023 Station-Specific Hunting and Sport Fishing Regulations, 87 Fed. Reg. 57108 (September 16, 2022)

Within the 2022-23 Hunt/Fish Rule, FWS announced a plan to ban lead ammunition and fishing on several refuges in future years, while also suggesting that a more robust plan for broader implementation might be in the works, because the rule “...is not expected to add to the use of lead on refuges beyond 2026...”⁴ While FWS announced plans for a number of future bans on various NWRs, the 2023 Hunt/Fish Rule finalized the lead ammunition and fishing tackle ban at Patoka River NWR in Indiana, starting in 2026. Other NWR lead bans will be announced in the 2023-24 Hunt/Fish Rule.

As a critical part of the administrative record, the Environmental Assessment (EA) conducted by Patoka River NWR FWS personnel (September 2022)⁵ is extremely helpful in reviewing the overall approach taken by FWS when the agency analyzes where a lead ban is necessary.

Although the Patoka River EA uses the phrase “the best available science” in describing the need to ban lead ammunition and fishing tackle, the EA contains admissions that directly undermine this chosen course of action:

“No documented wildlife or aquatic species deaths have been associated with lead poisoning on the refuge over the last 20 years, so it is unlikely that the impacts of lead entering the environment from fishing and hunting activities are causing direct mortality of wildlife and aquatic species” (page 29).

“...there have been no reports of wildlife that have been impacted by lead poisoning on the refuge for at least the last 20 years or longer, based on staff experience and records” (page 19).

And when discussing the 4-year gap between the final rule and 2026, when the lead ban will take effect:

“Until such time that the restrictions take place, added lead to the environment from the fishing and hunting activities is not expected to cause more than negligible impact to wildlife and aquatic species” (page 29).

“Given the hunting practices and amount of take estimated using lead ammunition, the amount of lead entering the environment is expected to be insignificant” (page 33).

“...impacts to migratory birds and eagles from the use of lead and hunting activities ... are likely negligible” (page 33).

These statements illustrate that the lead ban rule at Patoka River NWR was not driven by the scientific realities on the ground, at the Refuge. The decision was made to implement the ban, even though the impact of lead use by hunters and anglers is “negligible” or “insignificant,” leading to “no documented wildlife or aquatic species deaths” over a 20-year time period.

⁴ Id. at 57112.

⁵ FWS-HQ-NWRS-2022-0055-16104; Patoka River NWRMA_IN_Hunt and Fish Package All Documents_Final_2022e

Citing to “the best available science” doesn’t create a magic shortcut in the scientific method. Specific facts and real experience matters, especially when engaged in policy-making that has the potential to diminish conservation dollars by forcing hunters and anglers off the landscape, impacting the health and abundance of all fish and wildlife. Evidence derived from facts on the ground, when taken together with the experience of fish and wildlife professionals at the site, is decisively strongly than fish and wildlife management theory generated from afar or from unrelated “best available science.”

Equally as troubling is how the Patoka River EA raises but discards the “...negative economic impacts for socioeconomically disadvantaged hunters and anglers who must comply with the requirements.”⁶ Although we appreciate the discussion, this section of the analysis is replete with problems, inaccuracies, and wishful thinking that fails to take into account the realities of the market now or how the market will react in response to lead ammunition and fishing tackle bans or restrictions in the future.

The EA states that “...the price of non-lead ammunition is the same or less than that of premium lead ammunition.”⁷ This is at best very misleading. While it is true that a small handful of premium ammunition offerings can approach or even eclipse *a few* nonlead alternatives in price, lead ammunition across all classifications is much less expensive than nonlead alternatives. The point is not whether a hunter *may be able* to find nonlead ammunition that is less expensive than a small segment of the premium lead ammunition market, a price sensitive hunter *will always* find lead ammunition to be the least expensive.

The transition for anglers will be equally as problematic. Thankfully, the EA agrees with this, stating that “the cost of lead tackle is still much less than the lead-free alternatives.”⁸ To counter these stated problems, however, the FWS cites mitigation measures which are neither fully defined nor described. An education campaign is discussed briefly, but how this will mitigate rising costs is unknown. A fair reading of FWS’ claims regarding this topic suggests the agency might not take the potential loss of hunter and anglers as seriously as we do. As hunters and anglers remain priority users of the entire NWR system, we remain hopeful this is not the case.

More importantly, however, there is a fatal limitation to FWS’ entire line of reasoning on cost. In the Patoka River EA and numerous other rulemakings,⁹ FWS continues to treat the question of cost as if the ammunition and fishing tackle market will retain current supply and demand dynamics between lead and nonlead offerings as the “phase in” of the proposed lead bans expand.

This cannot be so, however, because the cost of the underlying materials is so vastly different. As nonlead alternatives take up larger segments of the ammunition and fishing tackle markets due to additional bans, the cost of the nonlead alternatives will increase in response to rising demand. Lead is currently priced on the open market at around 44 cents a pound where copper (as one

⁶ Id. at 51.

⁷ Id.

⁸ Id.

⁹ Hunt/Fish Rule, *supra*, note 3.

example of an alternative) is currently approaching almost four dollars a pound. This is an order of magnitude difference that will result in a significant burden on hunters and anglers as the “phase in” of lead bans is expanded by FWS. There can be little doubt that as this burden increases (rising cost), a number of hunters and anglers will simply be priced out of participating.

This is why H.R. 615 is so vitally important. The Patoka River NWR EA, as a foundational document to the entire 2022-23 Hunt/Fish rulemaking process, illustrates a number of glaring weaknesses in the scientific method deployed by FWS in developing the lead ammunition and fishing tackle ban for the Patoka River NWR, which presumably, will be repeated in the 2023-24 Hunt/Fish Rule for additional lead bans on other NWRs. By FWS’ own words, exposure to lead ammunition and fishing tackle is not a problem for *any* aquatic or wildlife species at the Patoka River Refuge.

Instead, FWS’ cites to the “best available science,” where the agency favors a number of studies which tend to show that lead is indeed toxic but routinely fail to establish a causal relationship between lead ammunition or fishing tackle use and negative consequences for fish and wildlife populations.¹⁰ As an example, FWS referenced one paper in the 2022-23 Hunt/Fish rule where the authors found, and FWS agreed, that while eagle populations are among our greatest success stories of wildlife recovery in the modern era, with the bald eagle population more than quadrupling since 2009,¹¹ lead ammunition and fishing tackle should be further restricted because lead is suppressing the overall growth curve of the population. Limiting, I might add, by an extremely small percentage point.

In many ways this comes down to a difference of priorities. If the “best available science” is utilized to regulate or prohibit activities even where a wildlife population has quadrupled in a short period of time and has reached what everyone agrees is a fully recovered status, then I’m not sure where we draw the line. We know that wind farms kill eagles and other raptors, we know that automobiles kill neotropical migratory birds, ungulates, and a multitude of other species. Bicycle riding, hiking, camping can all be described as “limiters” on population growth of one species or another when you get right down to it. Just about every policy choice made in these hallowed halls recognizes that priorities must be set. And in our view, unless you have the science clearly in hand, you must not promulgate regulations that will lead to the guaranteed loss of hunters and anglers from the landscape.

This is why the safeguards contained in the Protecting Access to Hunters and Anglers Act of 2023 – H.R. 615 – are vitally important going forward. This important legislation would remedy the failures I’ve described throughout my testimony. And by doing so, this bill will ensure that the increased costs associated with the alternatives to lead ammunition and fishing tackle – driving hunters and anglers from the field – will only be required when we know there are direct and negative consequences to fish and wildlife populations that will be mitigated by such a move.

¹⁰ See, e.g., Fallon, J.A., P.T. Redig, T.A. Miller, M. Lanzone, and T.E. Katzner. 2017. Guidelines for evaluation and treatment of lead poisoning of wild raptors. *Wildlife Society Bulletin* 41:205-211.

¹¹ <https://www.fws.gov/species/bald-eagle-haliaeetus-leucocephalus>

I thank you Mr. Chairman, Ranking Member Huffman, and members of the Subcommittee for the opportunity to testify here today on this very important subject. I look forward to any questions you may have about my remarks.