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before the

Senate Committee on Environment and Public Works

Subcommittee on Fisheries, Water, and Wildlife

S. 659: "the Bipartisan Sportsmen's Act of 2015"

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On behalf of The Humane Society of the United States, the nation's largest animal protection organization, I submit this testimony in opposition to S. 659, the Bipartisan Sportsmen's Act of 2015. I express my thanks to Chairman Dan Sullivan and Ranking Member Sheldon Whitehouse for granting me the opportunity to testify. I speak today not only on behalf of our millions of supporters, but also on behalf of the many animal protection and environmental groups who share our concerns about an innocuous-sounding bill that contains a number of provisions inimical to wildlife protection.

I want to be clear that the Humane Society of the United States is not opposed to hunting. We've never pushed legislation to restrict hunting deer, ducks, or small game. We have opposed hunting practices that are at odds with the ethic of true sportsmen, and sought to ban captive hunts, bear baiting, and the use of cruel and indiscriminate traps.

This bill, while cast as a measure for rank-and-file sportsmen, actually contains provisions that would benefit only a very small subset of trophy hunters and trappers. This year's bill is even more troubling than last year's version, which stalled in the Senate and did not find its way to the President. Our opposition is grounded on three provisions of S. 659 and three more provisions of S. 405, the larger package of which S. 659 is a part.

First, Section 2 of S. 659 would stop the Environmental Protection Agency from making science-based management decisions on the use of toxic lead ammunition. Lead is a potent neurotoxicant, for which the Centers for Disease Control states there is no safe level of exposure. Pregnant women and children are especially vulnerable to high lead levels that can trigger severe neurological problems, as are hunters who use lead ammunition – and their families and others who eat meat contaminated by lead ammunition.

Lead-based ammunition is the greatest source of lead knowingly discharged into our lands and water. Every year millions of animals – of over 130 different species – are killed by ingesting lead shot, bullet fragments, or prey contaminated with spent lead ammunition. Dove hunting alone is responsible for an estimated 5.2 to 7 million pounds of lead left behind in the environment by hunters.

A nationwide phase-out of lead shot in migratory waterfowl hunting was adopted in 1991 by the Bush Administration after biologists estimated roughly 1.4 million ducks died each year from ingesting spent lead pellets. President Bush was himself a hunter, and one need not be opposed to hunting to judge that lead is dangerous and inappropriate as a form of ammunition. In addition, the National Park Service prohibits the use of lead ammunition by agency staff for the taking of wildlife. Many forms of less-toxic ammunition are readily available at similar cost to lead ammunition, and many hunters use non-lead ammunition for its superior performance, to prevent unnecessary poisoning of wildlife, and to protect themselves and their families from eating contaminated game meat. Making the switch to these non-toxic forms of ammunition for all species will prove as effective and easy as the switch made for waterfowl hunting.

The EPA has so far taken no action to regulate lead at all, so this provision is solely anticipatory, and aimed at preventing the EPA from regulating a known toxic substance should it find in the future that the science supports such regulation. In terms of both policy and process, Section 2 of S. 659 is unwarranted and constitutes an overreaction by its backers.

Second, Section of S. 659 would create a loophole in the Marine Mammal Protection Act to allow a handful of wealthy trophy hunters to import polar bear trophies into the U.S. in defiance of current law. If passed, this will be the fourth major carve-out by Congress since 1994 for Americans who have hunted polar bears in Canada. Although the number of polar bears affected by this loophole will be relatively small, the cumulative impact of these carve-outs has been detrimental to an imperiled species, and it's the sort of Congressional maneuver that suggests special treatment of a few dozen fat cats who didn't obey the law.

These trophy hunters were not caught up in government bureaucracy or red tape. They purposefully rushed to Canada to kill polar bears after the Bush Administration proposed the species for listing as threatened under the ESA, despite repeated warnings from governmental agencies, hunting groups, and the conservation community that the trophies could face a bar on importation and they were hunting at their own risk. Granting their request would reward them for reckless behavior and encourage hunters to race for trophies the moment any species is considered for listing – when such species most need protection – knowing they can rely on Congress to let them import their trophies later.

Third, Section 5 of S. 659 would weaken the Migratory Bird Treaty Act, which has provided vital protections for almost a century, by making it harder for the Fish and Wildlife Service to prosecute poachers who bait migratory game birds. Current Service regulations (50 CFR 20.11) define a "baited area" to include somewhere where someone has laid feed that could lure migratory birds, including for 10 days after the feed has been removed. The Service includes the 10-day provision because "waterfowl will still be attracted to the same area even after the bait is gone." Section 5 would delete the 10-day provision and create a series of exclusions for crops. The cumulative effect would be to increase harmful baiting of migratory game birds while making it harder for law enforcement to prosecute poachers.

We also have some concerns about Section 6 of the bill, and want to note them for the record. Guns are already allowed on the majority of public lands, but there are specific reasons why they are restricted in a narrow class of water resource areas. Section 6 is another example of a one-size-fits-all policy that would usurp decision making by land and water managers who are balancing many competing interests. The interests of other resource users should not be subordinated to the group selected for special privileges in this bill.

It is important to note that S. 659 is only one part of a larger package. And, although not before this Committee, S. 405 contains three other particularly dangerous provisions. First, Section 105(a)(2)(A) of S. 405 takes a step unprecedented in federal law by including the cruel and archaic practice of trapping animals with body-gripping traps in its definition of "hunting." Although roughly 96 percent of affected public lands are already open to hunting, trapping is not currently presumptively allowed in all of these areas. Even with the current restrictions, roughly six million animals are killed in traps every year, according to the Association of Fish and Wildlife Agencies. Held in a painful leghold trap, a beaver, a bobcat, or wolf will try desperately to break free in the hours or days until they succumb to dehydration, predators, or death at the hands of trappers. Legislation to ban steel-jawed leghold traps has been a subject of heated debate in this Congress for decades and no one should minimize the importance of this provision in this bill.

Traps are dangerous and indiscriminate, ensnaring not only target animals but threatened and endangered species, and even pets. This bill would dramatically extend trapping by making it almost impossible for federal wildlife managers to close areas to trapping. This February, a Good Samaritan found a dog named Cub limping along a New Mexico road. Cub was missing one back leg with the other leg barely hanging on, and limping on his exposed bones to move forward. He had clearly been caught in a steel-jawed leghold trap, and a smattering of shotgun pellets in his body suggested that the trapper had found him and failed to put him out of his misery. Thankfully, Cub received veterinary care and is now adjusting to disabled life, but most trapped animals are not so lucky.

Second, Section 109 of S. 405 would allow hunters to take their bows and crossbows into national parks, so long as their arrows are in a case. This will make it far harder for the National Park Service to stop poaching with bows and crossbows in national parks, by forcing rangers to actually catch poachers in the act. Poaching is a serious problem in national parks and there have been numerous string operations about the poaching of bears, elk, and other animals. Cross-bows and bows are silent, increasing the degree of difficulty for wardens charged with the task of catching them doing their illegal killing.

Third, Section 105 of S. 405 would upend current public lands laws by creating an "open unless closed" presumption on approximately 630 million acres of federal public lands – including sensitive wilderness areas – with regard to trapping, hunting, fishing and shooting. Most of this land, which includes Bureau of Land Management (BLM) and Forest Service lands, among others, is already open to hunting, fishing, and shooting. Under current law, agencies have the discretion to enforce closures where they determine that these activities are unsafe or inconsistent with the land's conservation purpose.

But the bill would force the experts at the BLM and Forest Service to go through a cumbersome, and potentially expensive, bureaucratic process if they determine a need to restrict trapping, hunting, fishing, or shooting to protect these areas. In a resource-scarce environment, this could result in sensitive areas left open to damaging activities simply because agencies have neither the staffing nor the funding to undertake the necessary actions to accomplish a closure. Of particular concern, this "open unless closed" policy would apply to the sensitive wilderness areas that Congress in 1964 set as places "where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." Yet this bill would let man remain in these areas, leaving behind traps and even setting up shooting ranges.

The bill would also prioritize trapping, hunting, fishing, and shooting above other uses of public lands – like hiking, bird watching, and canoeing. Far more Americans engage in these non-consumptive outdoor activities than hunt or trap. The Sportsmen's Act is not a bill for all Americans; it is not even a bill for all hunters. Reasonable Americans should – and do – have reasonable objections to many of its provisions. For all of these reasons, I urge this Committee to address the subjects that I've described in this testimony.