

90-11

STATEMENT OF ROLLIN SPARROWE, DUPLY ASSISTANT DIRECTOR FOR
REFUGES AND WILDLIFE, UNITED STATES FISH AND WILDLIFE SERVICE,
DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FISHERIES
AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF THE HOUSE
COMMITTEE ON MERCHANT MARINE AND FISHERIES, REGARDING H.R. 2548,
ESTABLISHING THE LAGUNA DE SANTA ROSA NATIONAL WILDLIFE REFUGE

July 31, 1990

Mr. Chairman, I appreciate the opportunity to present the views of the Fish and Wildlife Service on H.R. 2548, to establish the Laguna de Santa Rosa National Wildlife Refuge in California.

While we are most appreciative of all that Congressman Bosco has done for fish and wildlife conservation in California and the Nation, we strongly oppose H.R. 2548 and cannot support the establishment of this refuge. It has very limited migratory bird resources, and endangered species of plants present in the area could be adequately protected through other means, including the alternative of establishing a State Ecological Reserve, as preferred by California Department of Fish and Game. *Not so*

Summary of Provisions

The bill provides a number of purposes for management of the proposed refuge. The Secretary is required, within 90 days of enactment, to designate 9,000 acres of lands and waters within a selection area as suitable for the refuge, prepare a detailed map of the area so designated, and publish a notice of the designation in the Federal Register. The Secretary may acquire 6,000 of the 9,000 acres, and may acquire these only from willing sellers.

Within one year after the establishment of the refuge, the Secretary is required to have formulated, adopted, and begun implementing a resource management plan for the refuge. The bill contains a number of provisions governing the content and purposes of the plan, including:

- o requirements for management practices for the Laguna de Santa Rosa watershed, *? ditto*
- o determination of agricultural practices in the vicinity that would be compatible with management of the refuge,
- o coordinating land use and water policies of other public agencies, and *- Needed*
- o adoption of cooperative agreements with adjacent landowners governing the management of their land.

The Secretary is required to consult with the Director of the California Department of Fish and Game in preparing the management plan, and to hold public hearings before adopting it. Within 60 days of the adoption of the management plan, he is further required to seek to enter into a memorandum of agreement with the

Director of the California Department of Fish and Game setting forth the respective responsibilities of the two agencies in implementing the plan. Where practicable, the Service is required to consult with State and local governments and other interested parties in carrying out the Act.

The bill authorizes appropriation of \$20,000,000 for land acquisition, to be available until expended.

Specific Concerns

* In section 1, we disagree with paragraph 3. Laguna de Santa Rosa is not an "important" wintering and nesting area for migratory waterfowl. Some limited use occurs, but it is not significant enough to warrant acquisition prior to areas already identified for acquisition by the Service. With respect to paragraph 8, the California Department of Fish and Game is very interested in establishing an Ecological Reserve in this area, and has begun land acquisition. Therefore, establishment of the area as a National Wildlife Refuge is not needed to protect the resources found there.

Section 2, which establishes refuge purposes, provides purposes too numerous to permit effective management and still assure compatibility with all the stated purposes. Moreover, purposes 2, 3, and 5 are addressed under other, broad legislation governing all national wildlife refuges.

Probably time on time course
The Service is not capable of implementing section 3, dealing with selection of lands. Even if this action were exempted from the National Environmental Policy Act requirements for evaluation and public comment, 90 days is far too short a period to study the lands, designate 9,000 acres, and publish a notice in the Federal Register. With additional staff, at least 6 months would be needed. With existing staff, it would be very difficult to accomplish within 1 year.

*OK
Standard procedure*
To maintain maximum flexibility in the acquisition process, the Service prefers to prepare generalized maps depicting outside boundaries within which acquisitions may occur. The public is then invited to comment on the boundaries, along with other aspects of each refuge proposal.

** Almost 3000 acres are public owned. Now!*
We do not see any purpose for designating 9,000 acres as appropriate for inclusion in the refuge and then being limited to acquiring only 6,000 of these acres. Any designation should be consistent with the area the Service plans eventually to acquire. In addition, it is possible that the unacquired 3,000 acres could be used as justification for criticisms against the Secretary for de facto condemnation. While we do not believe any such charges would be justified, they certainly could lead to ill feelings against the Service by the affected landowners.

* The willing-seller provisions should be eliminated. They would establish a bad precedent which the Service has consistently opposed. If an area is important enough to establish as a refuge, condemnation must be available in the event it becomes necessary

to protect the area from threats to its viability as wildlife habitat.

The management plan required in section 4 should not be written until after sufficient land has been acquired to constitute a manageable unit. Due-dates should not be set until then; otherwise, the Service cannot plan for all the reserved rights that may come with the land. Formulating a plan would be especially difficult under the proposed designation of 9,000 acres with acquisition of only 6,000 acres.

More importantly, all of the provisions contained in subsection (a)(2) are outside of the authority of the Service. We do not have, nor do we seek, any regulatory powers for land other than our own. There is no basis whatever for the Service to attempt to regulate agricultural practices, land use and water policies, and enforcement of State and local laws on State or private land. Nor, in the interest of maintaining a "good neighbor" policy, would we seek to develop plans for management of our neighbors' land without first having secured their consent to enter into the sort of agreement required in paragraph (a)(2)(E).

While it is not clear what the suggested memorandum of understanding with the California Department of Fish and Game should encompass, we note that there have been discussions at various levels indicating that the Department of Fish and Game should assume management of the refuge. This is contrary to general Service policy, and to our understanding of the intent of Congress with regard to areas acquired with Land and Water Conservation Fund monies.

Section 5 is not needed, as consultation is required in the National Environmental Policy Act and overall refuge legislation and regulations. Finally, the Service is not aware of the content or location of the map dated February 1, 1989, that is referenced in section 6(6).

Conclusion

* Apart from the specific problems with the provisions of the bill, we strongly believe that the fish and wildlife resources of this area are not of sufficient importance, when compared to the many, many other areas we have identified for possible acquisition, to warrant the area being designated a National Wildlife Refuge.

The State of California has begun an acquisition program there, with over 400 acres already acquired and funds available to purchase more land as willing sellers become available. This will provide a more than adequate means for protecting the listed plants found there. *but not many of the other resources involved.*

Mr. Chairman, although I appreciate the opportunity to present our views, we strongly urge that H.R. 2548 not be given further consideration.