

TESTIMONY OF MARTIN CONVISSER, DIRECTOR, OFFICE OF ENVIRONMENTAL AFFAIRS,
DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON FISHERIES AND
WILDLIFE CONSERVATION OF THE HOUSE COMMITTEE ON MERCHANT MARINE AND
FISHERIES, ON H.R. 14527, THURSDAY, JULY 11, 1974.

Mr. Chairman and members of the Committee:

I am pleased to appear before you today to discuss H.R. 14527, which would amend the Fish and Wildlife Coordination Act. The purpose of this bill is to improve procedures to protect and enhance fish and wildlife resources. The Department of Transportation supports the general objectives of this bill; however, we believe the legislation is not necessary.

In discussing this subject, I would first like to provide you with some background on our existing procedures for considering impacts on wetlands and fish and wildlife resources, generally through procedures established pursuant to the National Environmental Policy Act of 1969 and the implementing guidelines of the Council on Environmental Quality; and then discuss the provisions of this bill in relationship to our current procedures.

Generally, the Department considers wetlands impacts through the preparation of environmental impact statements pursuant to the National Environmental Policy Act. The Department's Order implementing NEPA makes the environmental impact statement the "single vehicle" for most environmental findings and determinations under environmentally related legislation in addition to NEPA itself. For instance, the environmental impact statement serves as the documentation for determinations under Section 4(f) of the Department of Transportation Act, which relates to

the preservation of waterfowl and wildlife preserves and public park and recreation lands; Section 106 of the National Historic Preservation Act of 1966, relating to the preservation of historic sites; and Section 309 of the Clean Air Act Amendments of 1970, relating to clean air standards; as well as provisions of the Fish and Wildlife Coordination Act.

I should mention that in our new NEPA implementing procedures, a separate section has been added on wetlands impacts. This section provides for early consultation with relevant public agencies, and for documentation in the environmental impact statement of the results of these consultations.

These procedures generalize for the Department to some extent on the FHWA Instructional Memorandum 21-5-63, which was issued June 12, 1963, on "Coordination of Public Interests of Highway Improvements With Those of Fish and Wildlife Resources." This Memorandum required the State highway department of every State to adopt procedures to be followed in the location, planning, design, and construction of Federal-aid highway projects, so as to afford protection of fish and wildlife resources. To accomplish the desired coordination, highway agencies were required, as a minimum, to (a) submit programs of proposed Federal-aid highway projects to fish and game agencies at an early stage and request them to designate those projects in which they have an interest, (b) furnish notice of public hearings to fish and game agencies, and (c) adopt such other methods as will afford fish and game agencies full opportunity to study

and make recommendations concerning the proposed project to the State highway agency before submission by the State for approval.

The Memorandum also required that after January 1, 1964, all surveys, plans, specifications, and estimates for each proposed Federal-aid project contain a statement that the State highway agency had considered all facts presented by the State fish and game agency and the effect of the proposed construction on fish and wildlife resources. These statements contained (a) a description of the measures planned as project expenditures to minimize the effects of construction on fish and wildlife; (b) a description of measures proposed by the State fish and wildlife agency which differed from those proposed by the highway agency; and (c) to the extent that the highway and fish and wildlife measures differed, an explanation of the factors considered by the State highway agency in arriving at its proposal.

I should also note that an earlier FHWA Circular Memorandum, "Utilization of Highway Embankments for the Impoundment of Water", dated August 15, 1958, provided for the use of highway embankments as dams. This Memorandum was initiated as response to the interest of the Bureau of Sport Fisheries and Wildlife of the Department of the Interior.

In general, then, we believe that the intent of the bill's provisions which are directed towards assuring coordination with fish and wildlife agencies and proper consideration of their views can and is now generally being satisfied by current Department of Transportation procedures. Our environmental impact statements, of course, are made available to the

public, generally meeting the public information objective of the bill, in our view.

Similarly, the Department now can, and does, provide funds for the costs of preventing, mitigating, or compensating for damages to public lands or services. We do not believe additional authority or requirements, as set forth in the bill, are necessary in this regard for the Department of Transportation.

In conclusion, the Department fully supports the general objective of protection of wetlands and of fish and wildlife resources, as well as the objectives of proper planning, consultation, public information, and consideration with respect to fish and wildlife resources, and the prevention and mitigation of damage to those resources. However, we believe the current statutory requirements and our procedures for implementing them provide satisfactory procedures for meeting those objectives.

I will be pleased to answer any questions you may have regarding this subject.