

Testimony of Faith T. Campbell, Ph.D.
Vice President, Center for Invasive Species Prevention
Endorsed also by the Natural Areas Association
Before
The Committee on Energy and Natural Resources,
Subcommittee on Public Lands, Forests and Mining
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Mr. Chairman, on behalf of the Center for Invasive Species Prevention, we greatly appreciate the opportunity to speak to you today about invasive species management in the US. We believe everyone at today's hearing agrees that invasive species cause enormous damage to America's ecosystems and natural resources, our economy in rural and urban areas, and even our health. We agree further with you and the other sponsors of S. 2240 – and many others – that the Nation needs a comprehensive invasive species program that prevents new invasions, as well as more effectively controls existing invaders, including those on public lands under the stewardship of federal agencies. Finally, we agree that Federal leadership is essential – and that the current structure has been unable to provide that leadership.

However, we differ on how best to rectify this failure.

Where does Responsibility Lie?

The staff of the National Invasive Species Council (NISC) does not set policy; the staff carries out the tasks assigned to them by the Council's co-chairs – the Secretaries of the Interior and Agriculture.

We place the responsibility for the lagging federal effort on the secretaries of the Interior and Agriculture, and other decision-makers in these departments, *i.e.*, Assistant and Under secretaries.

Members of Congressional authorization and appropriation committees also play a key role. Invasive species program initiatives operate most efficiently when buttressed by stable long-term funding and guided by solid research and expert staff. Outreach to and engagement with stakeholders is also vitally important to mounting effective ISM prevention and control programs. The Center for Invasive Species Prevention supports the vision of a comprehensive program contained in the manifesto "Tackling the Invasive Species Challenge" endorsed by six members of the National Environmental Coalition on Invasive Species (NECIS). We ask that it be included as part of my testimony.

What Must We Do?

The Center for Invasive Species Prevention joins most invasive species experts in placing top priority on closing the pathways or vectors by which invasive species are introduced and spread. The Energy and Environment Committee has no jurisdiction over our government's principal prevention agency – the USDA Animal and Plant Health Inspection Service (APHIS).

However, the Committee does have jurisdiction over the USDA and Fish and Wildlife Service (FWS or Service), which has legal responsibility for preventing introduction of “injurious” wildlife. The Service’s efforts are severely hampered by both inadequacies in the Lacey Act and insufficient funding.

1. Amend the Lacey Act

Members of the Committee could advance their goals of improving protection for resources on public lands by working with their colleagues to strengthen the Lacey Act and to increase funding for its implementation. The Lacey Act was first adopted in 1900. It was forward-looking for its time, setting up a system to regulate introduction of animals to “localities where they have not heretofore existed”. One hundred and sixteen years later, the Lacey Act needs to be modernized to strengthen the FWS’ ability to make timely, science-based decisions as to whether a candidate for importation is likely to be harmful to the nation’s ecosystems and economy. Members of the National Environmental Coalition on Invasive Species are working with other stakeholders and members of Congress to amend the Lacey Act so as to enable the FWS to

- apply scientific risk assessment tools in evaluating species proposed for importation; and
- act quickly when confronted by an emergency.

The amendments should also clarify FWS’ authority to regulate

- threats of diseases of wildlife; and
- interstate movement of species already listed as “injurious”. [A federal court case, *USARK et al. v. Sally Jewell et al.*, has challenged the Service’ authority to regulate movement of listed species among the 49 continental states.]

2. Use Congressional Powers to Spur Improvements

The Congress can help create a political climate in which land-managing agencies will choose to improve and enhance their invasive species programs. We suggest:

- Providing higher appropriations;
- Strengthening the Lacey Act in accordance with the points discussed above;
- Conducting oversight hearings at which Secretaries and Assistant/Under secretaries are asked about their efforts to address invasive species. Questions which might be pursued include:
 - Has the USDA Forest Service implemented its 2011 internal directive amending the Forest Service Manual? The directive mandates integration of invasive species activities across National Forest System resource management programs, Forest land use planning activities, project-level planning activities, and other NFS operations.
 - Why has neither the USDA Forest Service nor USDI National Park Service adopted a nation-wide policy restricting visitors from bringing their own firewood to campgrounds? Firewood is widely recognized as an important pathway for the spread of tree-killing insects and pathogens.

- Has the Council on Environmental Quality collaborated with NISC to develop overall guidance on implementation of the National Environmental Policy Act?
- Ensuring that the Senate confirmation process for nominees to USDI and USDA Secretarial & Assistant or Under Secretarial positions includes strong emphasis on their intentions with regard to invasive species management.

Components of a Comprehensive Program

The land-managing agencies' invasive species programs should embrace landscape-level strategies carried out collaboratively across federal and state agencies and in cooperation with other stakeholders. The NECIS vision document, attached, provides suggestions on program goals and components. Key among the latter are agency actions aimed at preventing introduction and spread of invasive species by movement of such vectors as boats, seed, gravel, pack stock, landscaping plants, etc.

It is important that agencies' invasive species programs be assessed for their efficacy and improvements made when programs fall short. Such assessments require program metrics that measure outcomes, not just "acres treated". Such efficacy metrics are not yet developed; we welcome inclusion of this task in The National Invasive Species Council's Early Detection and Rapid Response Framework.

Comments on S. 2240

We have grave reservations about this bill. Our concerns center on five areas:

- Funding allocations that undercut essential research, outreach, and development and implementation of effective tools to prevent introduction and spread of invasive species;
- The unrealistic goal of 5% net reduction in invasive species populations;
- Creation of overlapping reporting and coordination requirements;
- Priority-setting procedures that do not reflect the national perspective;
- Broad exclusions of projects from NEPA analysis.

Funding allocation

The Center for Invasive Species Prevention questions the funding allocations in the bill because they would undercut vitally important components of comprehensive invasive species programs: research, educational outreach to members of the public who might transport invasive species, and strategic planning. None of these activities is adequately funded at present. The result of requiring that 75% of all funds be allocated to on-the-ground control will be a net increase in invasion because it will strip funding from prevention and other programs that currently limit the spread of new invaders.

Greater clarity about the extent of the allocation formula might partially allay our objections. Specifically, as regards the USDA Forest Service, does the funding allocation apply to all the agency's invasive species efforts? Or does it apply only to the activities on the National Forest System (including National grasslands)? Similarly, as regards the FWS, does the funding allocation apply to the (already minimal) funds used by the Service for Lacey Act listing activities and enforcement?

The Requirement that Invasive Species be Reduced by 5% Annually

The 5% annual net reduction in invasive species on federal lands is not a reasonable goal. First, it does not recognize that each agency must manage hundreds of species and that management tools are inadequate for many of them (see below re: priority-setting). Given the inherent difficulties, invasive species control on federal lands should be focused on targeted actions to conserve and protect threatened native ecosystems. Furthermore, combining the 5% reduction mandate with the 75% funding requirement will spur each land management agency to focus exclusively on lands under its control rather than address species on the landscape scale – as we believe we all think is best. This will result, at best, in patchwork responses that fail to permanently solve the problem even in areas subjected to repeated treatment.

Coordination Obligations

While we concur that coordination among the many entities engaged with invasive species is important, we worry that overlapping coordination and reporting requirements will increase delays and bureaucratic burdens. Each agency is responsible for managing hundreds of invasive species ranging from brown algae (*e.g.*, sudden oak death) to feral hogs, fish to terrestrial plants. Those species are at different stages of invasion at various locations; and their impacts differ across ecosystem types. The partners appropriate to dealing with these diverse situations will differ – and should not be mandated by law.

Setting Priorities

Furthermore, given that the bill's goal is to “improve the control and management of invasive species that threaten and harm Federal land”, we suggest that the priorities should be set based on the national perspective. Goals should be established by taking into account, *inter alia*:

- The natural and other resources at risk (actual and projected impacts) to the various invasive species;
- The stage of invasion – there is more bang for the buck if the agency can stop the invasion early rather than try to reduce the extent of widespread invader;
- The availability of effective tools (although we support experiments and research to develop new tools); and
- The likelihood of successful restoration (will one invader be replaced by another?)

The federal agency must be free to address an invasive species even when the state where that invasive species is located has chosen not to take action, based on the agency's assessment of the threat to resources on its lands – or those of other national land-managing agencies. For example, the USDA Forest Service is and should try to address three wood-boring beetles in southern California that threaten hardwood trees, including those making up much of the region's riparian forests.

Furthermore, protection of resources on federal lands often requires addressing invasive species on non-federal lands or waters. Most invaders enter the country and first establish on non-federal lands or waters. Examples include `ohi`a wilt, emerald ash borer, sudden oak death, garlic mustard, zebra and quagga mussels, feral pigs ... Does S. 2240 assist or hinder agencies' efforts to work with partners to address invasive species before they reach vulnerable federal lands?

Categorical Exclusion from NEPA

A Categorical Exclusion is defined in the National Environmental Policy Act (NEPA) as "a category of actions which do not individually or cumulatively have a significant effect on the human environment". (40 CFR 1508.4). This tool is open to use for invasive species control and indeed is used by such agencies as the Federal Highway Administration (23 CFR 771.117(c)) where appropriate. Invasive species control actions, including but not limited to application of chemical pesticides, can be expected to have a significant effect on the human environment. These harms could include take of threatened and endangered species, unintended harm to ecosystem structure and function, and health risks to our children, sensitive individuals, and communities at large through placement of chemicals in water supplies and over and around schools and "other similar, valuable infrastructure." NEPA is a critical tool to ensure that these harms are considered in advance. We therefore consider an attempt to create a CE by legislation undermines public health and safety and is inappropriate.

We suggest that the appropriate ways to address roadblocks arising from NEPA compliance are for the Council on Environmental Quality to work with the National Invasive Species Council to draft the long-overdue NEPA guidance; and for the agencies to prepare programmatic environmental impact statements assessments that can serve as the foundation for site-specific environmental assessments.

The National Invasive Species Council's Early Detection and Rapid Response Framework

The Center on Invasive Species Prevention strongly supports development of a more robust and coordinated national early detection and rapid response effort. We are somewhat concerned that the Framework outlines yet another planning and coordinating process. We consider the most important component to be Recommendation 2, which calls for convening policy-level agency leaders to explore the current funding situation and develop a plan to provide additional resources. We suggest that it would be appropriate for the Committee to ask the Council that status of efforts to

- Convene these officials to begin the effort to provide adequate funds;
- Designate a National Early Detection-Rapid Response Coordinator
- Establish the National Early Detection-Rapid Response Task Force and asked agencies to identify their own ED/RR liaisons to participate in the Task Force?

If these steps have not yet been taken, what have been the barriers? Can Congressional oversight help overcome them?

Thank you for the opportunity to present our views. I will be pleased to answer any questions.