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TO: Colleagues

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RE: Analysis of HR. 2192, the Climate Change Safeguards for Natural  
Resources Conservation Act of 2009

Last week, Representatives Raul Grijalva (D-AZ), Nick Rahall (D-WV), John Dingell (D-MI) and others introduced the Climate Change Safeguards for Natural Resources Conservation Act of 2009. This bill contains the most detailed provisions of any climate change bill in history on natural resources adaptation, measures that if implemented would enable the U.S. to make great strides in protecting its wildlife and other natural resources from the harmful impacts of inevitable global warming. The bill's sponsors are now working with the leadership of the House Energy & Commerce Committee to insert this bill into the Waxman-Markey draft climate change legislation and are advocating that these protection measures be funded with proceeds from the sale of emission allowances. (See below for a brief discussion of the Waxman-Markey draft.)

If Rep. Dingell and other sponsors succeed in securing 5 percent for U.S. natural resources adaptation out of the funds generated by polluter payments under the Waxman-Markey bill, this would amount to an average of roughly **\$4.7 billion** each year for conservation over the first 19 years of the program. (This estimate is derived from the averages of EPA-modeled allowance prices in 2015 and 2030.) Such an investment would represent a landmark achievement in the history of U.S. wildlife and natural resources conservation.

*Key Changes to Waxman-Markey Discussion Draft*

The Grijalva-Rahall-Dingell bill provides a number of additions and clarifications to the natural resources adaptation program that had been set forth in subpart C of the domestic adaptation title of the Waxman-Markey draft climate change legislation. The most significant of these are:

- A new National Wildlife Habitat and Corridors Information system is created. Led by the Interior Department, this system will be built collaboratively by federal agencies, states and tribes and will provide maps, descriptions of projected shifts in fish and wildlife habitats and corridors, and other data to inform land use

- plans and other key decisions. The Secretary of the Interior will make recommendations on how these data can be used to maximize landscape connectivity for fish, wildlife and plants and to avoid habitat fragmentation and other negative impacts of economic activity on these resources.
- The share of natural resources adaptation funding targeted toward tribal wildlife programs is increased from 1 percent to 3 percent. This is in addition to the grant programs, such as Forest Legacy, in which tribal wildlife programs may compete with the states. To pay for this increase, the bill proposes to reduce the shares previously allotted toward NOAA and state coastal programs by .5 percent and 1.5 percent, respectively.
  - The provision capping the states' cost-share obligations at 10 percent has been changed to clarify that this cap applies to all funds flowing to the states, not just to the formula-based distribution of funds. Thus, dollars received by states under various cooperative grant programs would be covered by the 10 percent cap. This will address the concerns of the states about the potential inability to participate in the national adaptation program due to inability to achieve the 50 percent or greater match requirement that typically applies. Of course, states are free to match the federal contribution with a greater than 10 percent share and, as the bill recognizes, the size of a state's match may be considered in awarding competitive grants under the bill.
  - The bill removes the Corps and EPA from the provisions creating a Natural Resources Adaptation Panel and allocating funding. However, the sponsors of the bill have indicated that this is temporary measure necessary for jurisdictional reasons. These agencies will be reinserted once the language is incorporated into the Waxman-Markey bill.

### *Summary of Waxman-Markey Draft Bill*

The discussion draft of the Waxman-Markey legislation released several weeks ago establishes a cap-and-trade program under which the EPA Administrator would annually distribute permits (called "allowances") to release greenhouse gas pollution to industries and government entities, with the number of allowances declining each year (hence the "caps" on emissions). Some of these allowances may be given away free and others may be sold at an auction; in either case, they could then be sold on a secondary market (this is the "trade" part of cap-and-trade). The financial value of these allowances is likely to be in the trillions of dollars over the 38-year life of the program.

Creating this price on carbon emissions is the key to the entire bill's architecture. By setting declining caps on emissions each year, the bill gradually drives up the cost of emission allowances and thereby creates incentives for private companies and public agencies to meet their economic objectives with lower emissions. Those who can accomplish economic objectives by polluting less than allowable levels can benefit financially by selling unused allowances.

The Waxman-Markey draft would make a significant contribution to the world-wide effort to reduce greenhouse gas pollution to levels needed to avoid the worst impacts of

climate change. For example, the caps would reduce greenhouse gas pollution 20 percent below 2005 levels by 2020; roughly 16 percent of additional reductions would be achieved within this time frame through supplemental measures such as reducing carbon emissions from forests in foreign countries. Such aggressive pollution reductions will be essential to avoid the worst effects of global warming on wildlife and other natural resources.

Even assuming the U.S. rapidly enacts aggressive pollution reductions in its domestic legislation and secures significant commitments from other countries in international negotiations, substantial ecosystem disruptions are inevitable due to greenhouse gas emissions already committed to the atmosphere and the related phenomenon of excessive carbon deposition into the oceans. Scientists project that this pollution will lead to increased sea level rise, intensified storms, floods and droughts, disappearing mountain snowpack and altered stream flows, evaporating lakes and wetlands, ocean acidification, and numerous other disruptions. Substantial dedicated funding – focused on implementing carefully designed natural resources adaptation strategies – will be essential to safeguard wildlife and other natural resources from these impacts.

#### *Dedicated Funding for Natural Resources Adaptation Not Yet Addressed*

It is not yet known whether the Waxman-Markey draft will meet the crucial goal of providing large-scale dedicated funding for safeguarding natural resources from climate change impacts. The bill is silent on how the valuable emissions allowances will be allocated. (One exception: 5 percent of allowances will be distributed for the purpose of reducing emissions from deforestation abroad.) Representatives Waxman and Markey are currently engaged in discussions with other members of Congress and their constituents and will soon be making this key judgment. **Now is the time for the conservation community to ramp up its advocacy for 5 percent of allowance value to be used for safeguarding U.S. natural resources from the harmful effects of global warming.**

The decision on whether to allocate a significant portion of allowance value to natural resources protection is being made in the context of competing claims on allowance value from many sectors. The National Wildlife Federation's view is that any decision on allocating dollars from the sale of emissions allowances must follow the principles of Clean, Green and Fair. Allocations should be "Clean" in that they should contribute significantly to reduction of global warming pollution. They should be "Green" in that they should ensure that wildlife and natural resources are conserved for future generations. (The longstanding legal principle of "polluter pays" is a strong reason for using these polluter payments to address natural resources damages from climate change.) Finally, allocations should be "Fair" in that they should ensure that communities most vulnerable to climate change impacts, including those abroad, are given a rightful share of assistance.

### *Waxman-Markey's Four-Pronged Approach to Adaptation*

The Waxman-Markey draft has four sections on adaptation: Subpart 1A creates a national adaptation program designed to address the full array of impacts of climate change in the U.S.; Subpart 1B calls for a national strategy on reducing the impacts of climate change on public health in the U.S.; Subpart 1C creates a U.S. natural resources adaptation program; and Part 2 creates an international adaptation program. This memo discusses Subpart 1C, as amended in the Grijalva-Rahall-Dingell bill.

### *Funding Allocations in Grijalva-Rahall-Dingell*

Under the Grijalva-Rahall-Dingell bill, funding for U.S. natural resources adaptation would be allocated as follows:

State and territorial fish and wildlife agencies	32.5 percent
State coastal agencies	6 percent
Tribal fish and wildlife agencies	3 percent
Department of the Interior (wildlife programs and lands and waters under DOI's jurisdiction)	17 percent
Department of the Interior (cooperative grant programs):	5 percent
Department of the Interior (LWCF) (fee or easement acquisitions by the federal government)	4 percent
Department of the Interior (LWCF) (fee or easement acquisitions by states and tribes)	2 percent
Forest Service (national forests and grasslands)	5 percent
Forest Service (LWCF) (fee or easement acquisitions by the federal government)	4 percent
Forest Service (LWCF) (fee or easement acquisitions by states and tribes through Forest Legacy program)	2 percent
NOAA (coastal, estuarine, coral and marine species and habitats)	7 percent
Other federal agencies	12.5 percent*

*\* This 12.5 percent share is the amount that was set aside for aquatic ecosystem protection and restoration by EPA and the Corps in the Waxman-Markey draft legislation. As noted above, these agencies were not included in the Grijalva-Rahall-Dingell bill for jurisdictional reasons, but are expected to be reinserted once this bill is incorporated into the larger Waxman-Markey bill once it is introduced.*

By allocating funding in this manner, the draft properly recognizes that a wide array of species and ecosystems is threatened by global warming and that the best delivery mechanism for adaptation strategies and projects is the suite of federal, state and tribal agencies currently leading conservation of the various U.S. ecosystem types.

### *Strategic Approaches to Adaptation*

The Grijalva-Rahall-Dingell bill ensures that funds for adaptation are targeted toward strategic approaches to adaptation. It does so by making clear that federal adaptation activities qualify for funding only if they are consistent with a Federal Natural Resource Agency Adaptation Plan “detailing the agency’s current and projected efforts to address the potential impacts of climate change and ocean acidification on natural resources.” This plan, in turn, must be consistent with the national Natural Resources Climate Change Adaptation Strategy. Similarly, state adaptation activities must be consistent with a State Natural Resources Adaptation Plan for assisting natural resources in becoming more resilient and adapting to the impacts of climate change and ocean acidification.

The bill sets forth a host of procedural and substantive requirements for the strategy and plans. For example, the national strategy must include prioritized goals and measures, a schedule for identifying, monitoring and conserving natural resources threatened by climate change and ocean acidification. The strategy must be developed within one year and updated every 5 years. The federal and state plans must be completed within one year thereafter. During that 2-year period, adaptation projects are eligible for funding only if they are consistent with interim workplans developed by federal and state agencies. All of these strategic documents must be developed with public and scientific input.

Adaptation activities in the states’ plans must be consistent with the state’s comprehensive wildlife strategy, also known as the State Wildlife Action Plan (SWAP), and the strategy must be incorporated into the SWAP itself. These requirements will help ensure that SWAPs continue to serve as the blueprints for wildlife conservation in the states.

The bill creates a Natural Resources Climate Change Adaptation Panel, led by the Chair of the Council on Environmental Quality, to coordinate all of the federal government’s natural resources adaptation strategies, plans and programs.

#### *Ensuring that Projects Have a Legitimate Conservation Purpose*

The bill provides a strong definition of the natural resources that must be the focus of conservation actions in order to qualify for funding under the federal and state plans. It defines “natural resources” as “the terrestrial, freshwater, estuarine, marine fish, wildlife, plants, land, water, habitats, and ecosystems of the United States.” Equally important, the bill defines “natural resources adaptation” as “protection, restoration or conservation of natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification,” and it provides funding only to natural resource adaptation activities carried out pursuant to state or federal natural resource adaptation plans.

#### *Ensuring Scientific Integrity*

A key provision of the Grijalva-Rahall-Dingell bill creates a Scientific Advisory Board (SAB), which will help to ensure the scientific integrity of federal adaptation planning and implementation. Comprised of 10 to 20 scientists recommended by the president of the National Academies of Science and appointed by the Secretary of the Interior, the SAB is charged with advising the President and federal agencies on the best available science regarding the impacts of climate change and ocean acidification on wildlife and natural resources, adaptation responses, and research needs. The national strategy must utilize the best available science identified by the SAB.

The bill also creates a Natural Resources Climate Change Adaptation Science and Information Program to be co-led by NOAA and Interior. This program would provide technical assistance, conduct and sponsor research, and assist in adaptation plan development.

### *Habitat Acquisitions*

Acquisition of interests in land (in fee title or conservation easements) and water rights is a crucial tool for helping wildlife and ecosystems survive global warming. As noted above, the discussion draft dedicates 12 percent of natural resources funding toward habitat acquisitions through the Land and Water Conservation Fund (LWCF).

The remaining 88 percent of the funding in the wildlife subtitle that is not tied to LWCF is also available for habitat acquisitions where appropriate. Agencies have the discretion to target their allocated funds toward habitat acquisitions so long as those acquisitions fall within the definition of natural resources adaptation funded by the legislation and are consistent with adaptation strategies prepared pursuant to the legislation.

### *Private Land Conservation*

Although the Grijalva-Rahall-Dingell bill does not create a specific allocation of funds for conservation of wildlife and natural resources on private lands, the bill makes clear that federal and state agencies may use allocated funds to help private landowners conserve wildlife and wildlife habitats. Among the many private land conservation programs highlighted in the bill are the cooperative endangered species conservation fund administered by the Department of the Interior, cooperative programs administered by the Interior and Agriculture departments as part of LWCF, and coastal and estuarine land conservation programs administered by NOAA.

### *Tribal Conservation*

Federally-recognized tribes, which have sovereign rights to natural resources under the Constitution, treaties and legal precedents, are currently experiencing some of the most dramatic negative impacts of global warming. For example, the natural resources of Native villages in coastal Alaska are severely threatened by melting sea ice and sea level rise, and the disappearance of mountain snowpack could cause Pacific Northwest tribes to lose salmon runs that have been central to their cultures and economies for centuries.

This legislation begins to address this problem by dedicating 3 percent of auction revenues to tribes for adaptation activities, to be distributed on a competitive basis through the Tribal Wildlife Grants program administered by the Department of the Interior.

In addition, one-third of the LWCF funds will go to states and tribes for adaptation activities. The Interior Department and Forest Service will allocate these dollars among states and tribes through a competitive grant program.

### *International Adaptation*

The Grijalva-Rahall-Dingell bill authorizes natural resources agencies to contribute to the conservation of non-U.S. natural resources threatened by global warming. For example, the cooperative grant money provided to the Interior Department may be used for adaptation activities under the Migratory Species program and the Wildlife Without Borders program and funds provided to NOAA may be used for ocean conservation. These measures will be supplemental to the broader international adaptation program that is being created under the Waxman-Markey legislation.

In summary, the Grijalva-Rahall-Dingell bill contains numerous positive provisions for helping wildlife and natural resources survive the unprecedented impacts of global warming. If supported by large-scale dedicated funding from the sale of emissions allowances, the bill's natural resources adaptation program would represent a major landmark in the history of wildlife and natural resources conservation.