

The image shows the cover of a presentation. At the top, there are two photographs: on the left, a white egret with its wings spread, standing in shallow water; on the right, two deer standing in a field of tall grass. Below the photographs is the title 'Public Trust Doctrine and Wildlife Conservation in Florida' in a large, bold, black serif font. Underneath the title is the date 'April 2011' and the organization's name 'Florida Fish and Wildlife Conservation Commission'. To the left of the title is the official seal of the Florida Fish and Wildlife Conservation Commission, which features a fish, a bird, and a deer within a circular border containing the text 'FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION'.

**Public Trust Doctrine and  
Wildlife Conservation in  
Florida**  
April 2011  
Florida Fish and Wildlife Conservation Commission

The purpose of this presentation is to review the principles and implications of the Public Trust Doctrine as it relates to wildlife conservation, and to renew an appreciation of the Florida Fish and Wildlife Conservation Commission's role in upholding this doctrine. Much of the material in this presentation was drawn from these sources:

- The Public Trust Doctrine: Implications for Wildlife Management and Conservation in the United States and Canada. The Wildlife Society, Technical Review 10-01, September 2010.
- Financial Returns to Industry from the Federal Aid in Wildlife Restoration Program. A report by Andrew Loftus Consulting and Southwick Associates, Inc., February 15, 2011.

# The Public Trust Doctrine

- U.S. Supreme Court Ruling in 1842
- Magna Carta 1215
- Roman Law 2<sup>nd</sup> Century A.D.
- Ancient Greek Natural Law



The Public Trust Doctrine is an essential element of North American wildlife law and is firmly rooted in statute and case law in the U.S. The roots of the Public Trust Doctrine can be traced back to early Greek and Roman civil law.

## Public Trust Doctrine – Three Principles:

- Wildlife is ...
  - A public resource
  - Managed for the common good
  - Held in custodianship by trained professionals
    - Serve as trustees
    - Accountable to the public, who individually are the beneficiaries.



These principles lead to the following concepts: Wildlife can be owned by no individual but is held by the state in trust for all the people. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private concerns. The state's responsibility is to keep these trust resources from being depleted or wasted.

## North American Wildlife Conservation Model - History

- Beginnings in 19<sup>th</sup> century
- Hunters and anglers for conservation!
  - Teddy Roosevelt and others
- Awareness of threats of unregulated harvest, industry, and expanding human population on the then current and future wildlife populations and their habitat
- Grassroots crusade, through organizations, led to foundation of wildlife conservation
- Well established by early 20<sup>th</sup> century



The North American Model is the name for the system of conservation and natural resource management that has evolved over the past two centuries in the U.S. and Canada. It is a body of law, policy, program framework, and scientific investigation. The beginnings were in the early 19<sup>th</sup> century and were against the conventional wisdom of the time. In the face of diminishing wildlife populations, hunters, anglers, and their organizations lobbied for new legislation and more enforcement. They called for government to take action. Sportsmen's efforts were the vision, catalyst, energy, and funding mechanism for the development of today's system. The Pittman Robertson Act 1937 is a result, and it established the federal funding base for much of the history of wildlife conservation and management in America. Hunters and shooters said —~~make~~ "make us pay." The resulting tax on sporting equipment hard-wired the funding.

# North American Wildlife Conservation Model

- Only one of its kind in the world – links hunting and conservation
- Two basic principles:
  - Fish and wildlife belong to all North American citizens
  - Management to ensure that populations will be sustained forever for future generations
- Public Trust Doctrine is a crucial element



The Public Trust Doctrine—as it relates to water resources, submerged lands, and by extension to fish, wildlife, and other natural resources—provides the cornerstone upon which the highly successful North American Model of Wildlife Conservation was built.



## Florida Constitution

- **Article IV, SECTION 9. Fish and Wildlife Conservation Commission**
- The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life and shall also exercise regulatory and executive powers of the state with respect to marine life....
- ....for the purposes of management, protection, and conservation of wild animal life and fresh water aquatic life...for the purposes of management, protection, and conservation of marine life



FWC's constitutional authority is consistent with the Public Trust Doctrine. The notions of management for the public benefit and with the agency as a trustee are implicit.

## FWC Mission:

Managing fish and wildlife resources for their long-term well-being and the benefit of people.



FWC's mission clearly and explicitly reflects the intent of the Public Trust Doctrine.

## Public Trust Doctrine Roles: Government as Trustee

- Manage wildlife (the assets or trust resources) that belong to others (beneficiaries- the public)
- Be accountable to the beneficiaries for its actions



According to the doctrine, it is the government's responsibility to act as trustee for natural resources.



## Public Trust Doctrine Roles: Public as Beneficiary

- Public as the beneficiary has legal right to enforce the trustee's (government's) accountability
  - Litigation
  - Elections or ballot initiatives
- Trustee accountability best served by an informed and engaged public
- Public input in decision-making
- Public understanding of
  - Contemporary needs
  - Competing demands



## Contemporary Threats to the Public Trust Doctrine

- Privatization and commercialization of wildlife
- Declining public access to wildlife resources
- Public indifference
- Lack of understanding of natural systems
- Interagency disputes over jurisdiction
- Animal rights



There are many reasons to be concerned about the strength of the North American model, including the Public Trust Doctrine, in the future. The Wildlife Society's recent analysis of the Public Trust Doctrine identified current threats. These represent significant challenges, undermining existing laws and government policies and programs, ultimately inhibiting sound conservation practices. As societal changes come about and the trend of rapidly urbanizing wild lands continues, some questions about the strength and future of the Public Trust Doctrine in Florida are:

Fifty years from now, will there be a critical mass – enough public support for conservation?

Will we have enough citizens who believe it is their responsibility to ensure healthy natural resources for future generations--people who

- are passionate enough to fight for these resources, who support effective conservation organizations?
- understand the role of science?
- care enough to purchase, protect and manage lands that provide habitat?
- are willing to get involved politically?
- are willing to pay the higher price for long-term governmental framework of conservation that benefits all?
- care enough to teach, train, and mentor the next generation of conservationists?

## Public Trust Doctrine – What if we didn't have it?

Predicted outcomes:

- Less public connection with wildlife
- Wildlife seen as an artifact of the past – lack of support for sustainable use
- Wildlife resources viewed as a liability or threat



The systems established for wildlife conservation and management in other countries are often based on private ownership of these resources, which are managed for commercial purposes. The public enjoys little access to or benefit from them. In these types of systems, we might expect less public connection with wildlife contributing to a general disassociation with nature and reduced support for conservation. Wildlife would be considered as an artifact of the past, to be seen and appreciated, but with a lack of understanding and acceptance of sustainable use. Wildlife resources would be viewed as a liability or threat to be minimized rather than an asset to be conserved and managed for current and future generations.

## FWC as Trustee - Legacy Leadership



The FWC consistently upholds its role as trustee, true to the philosophies emanating from the Public Trust Doctrine. These actions strike an appropriate balance between offering contemporary opportunities and freedoms while remaining true to the agency's obligation and responsibility for conserving populations of wildlife into the future. The Florida Youth Conservation Centers Network is the ultimate investment in safeguarding against threats to the Public Trust Doctrine.

## Florida Citizens as Beneficiaries



The citizens of Florida are upholding their role as beneficiaries. They are involved and engaged as partners, active stakeholder voices, and participants in FWC programs and recreational opportunities.

## Why it Works...Tangible Results



Federal Excise Taxes on Sporting Equipment sold in the U.S.

1970-2006 average annual ROI to the hunting and shooting sports industry = **1,100%**

Based on:

- \$251 million in annual tax payments
- \$3.1 billion in average annual wholesale shipments of taxable equipment

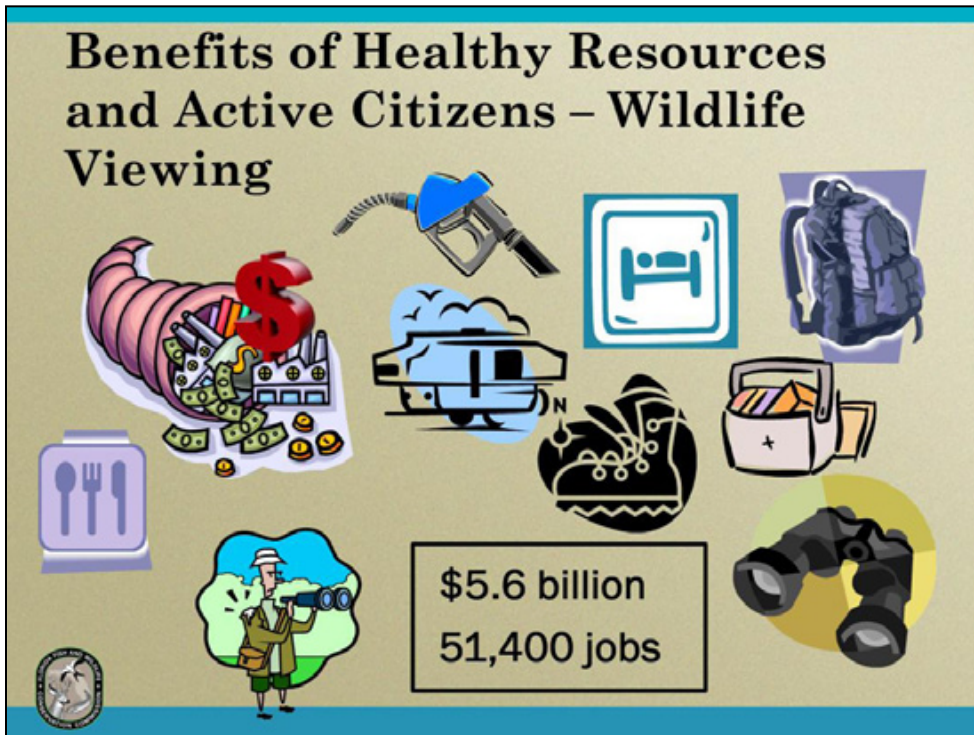


This slide illustrates one facet of the societal benefits resulting from healthy wildlife populations, abundant and productive wildlife habitat, and an active, engaged public. These results come from a recent analysis of the return-on-investment to the hunting and shooting sports industry of the federal excise taxes on sporting equipment. The findings clearly demonstrate a big payoff to the industry from their investment in wildlife management and conservation, paid through the federal excise tax. The analysis was done for the Association of Fish and Wildlife Agencies by Andrew Loftus Consulting and Southwick Associates, Inc.

## Benefits of Healthy Resources and Active Citizens - Hunting



Hunting has an estimated economic impact of \$754 million and supports 10,673 jobs in Florida. Hunters' dollars are spent in all parts of Florida's economy, benefitting every corner of the state.



Significant economic benefits also result from wildlife viewing and associated activities. These are outcomes of a healthy trustee – beneficiary relationship in Florida’s wildlife conservation.



# Florida Youth Conservation Centers Network



HELP US CONSERVE FLORIDA'S  
MOST PRECIOUS RESOURCE.



Looking forward to the year 2060, we know we need to get our kids outdoors if we expect them to develop the strong stewardship ethic needed for conserving Florida's wildlife. Given today's society, it will take a grass-roots, community based effort to get children on the path to becoming active, engaged citizens – exercising their rights as beneficiaries. People are becoming concerned; the sense of urgency is rising. In response, the FWC and its citizen support organization, the Wildlife Foundation of Florida, with the support of the many involved partners and supporting organizations, are putting into action a comprehensive effort to help build the next generation that cares about Florida's native wildlife and natural habitats.

## Public Trust Doctrine – Alive and Well in Florida!



Wildlife is ...

- A public resource
- Managed for the common good
- Held in custodianship by trained professionals



In summary, the essential elements of the Public Trust Doctrine in Florida are in place and fully functioning – a constitutionally authorized state government agency holding true to its obligations as trustee and an increasingly active and engaged public as the beneficiaries. We need to remain aware of the very real threats and continue to address them through focused and effective policies, programs, and regulatory actions when needed. The system, with the trustee and beneficiaries acting in partnership, is moving proactively to ensure the future viability of the trust resources – Florida’s precious and valuable wildlife resources. The future looks bright for the next generations.