

From: [Kodis, Martin](#)
To: [Matthew Huggler](#)
Subject: Briefing Papers Blow by Blow
Date: Thursday, October 12, 2017 9:59:53 AM
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Matt,

We had 5 working days to do the assignment. (Chris sent his email Friday 9/29 at 630pm, due last Friday, Oct. 6). Secretary's meetings are October 24th.

We also were working on 2 late breaking hearings and had staff out during those 5 days so it was a challenge to review the papers and we had to prepare 2 new papers.

I told you and Barbara about the papers on the 930 call nearly each morning during last week, and about our plan to update the papers ourselves and get approval after the fact.

On Friday Oct 6 the papers were finished and sent to Salotti per the deadline. I forwarded that transmittal to you and Barbara (see below) and indicated that we would do after the fact approval as discussed on our 930 calls.

Also on Friday Oct 6 we created a DTS record and uploaded the papers. BP Database DCN 034326. We controlled to the programs for simultaneous surname. Next stop would be DOB, then CLA/EA, D, FWP.

We figured there would be mostly pro-forma review and approval and the process should be

smooth.

I'll call you about how to move forward. The programs have had basically Tues and Wed to review. None have surnamed.

Marty

----- Forwarded message -----

From: **Martin Kodis** <martin_kodis@fws.gov>

Date: Fri, Oct 6, 2017 at 1:51 PM

Subject: Fwd: Briefing Papers

To: Barbara Wainman <barbara_wainman@fws.gov>, Matthew Huggler <matthew_huggler@fws.gov>

FYI the first step of this process is done. Next we will create a DTS record and run it through the approval process after the fact.

Marty

Sent from my iPhone

Begin forwarded message:

From: "Pool, Taylor" <taylor_pool@fws.gov>

Date: October 6, 2017 at 1:50:07 PM EDT

To: Dominic Maione <dominic_maione@ios.doi.gov>

Cc: "Salotti, Christopher" <chris_salotti@ios.doi.gov>, "Kodis, Martin" <martin_kodis@fws.gov>, Angela Gustavson <angela_gustavson@fws.gov>

Subject: Briefing Papers

Hi Dominic,

Attached to this email you will find the updated briefing papers for Secretary Zinke's upcoming Member courtesy meetings.

Please let me know if you have any issues opening any of the attached documents, and if there is anything else that you may need.

Thanks.

Best,
Taylor

Taylor Pool
Congressional/Legislative Affairs Specialist

U.S. Fish and Wildlife Service
E: taylor_pool@fws.gov
O: 703-358-2128
C: 202-657-2989

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Martin Kodis
Chief, Division of Congressional and Legislative Affairs
U.S. Fish and Wildlife Service

5275 Leesburg Pike
Falls Church, VA 22041

703-358-2241 ph
703-358-2245 fax

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Young, Grijalva, Beyer, Flake, Portman, McCollum, Udall
ISSUE: Combating Wildlife Trafficking

I. ISSUE BACKGROUND

- FWS (via DOI) is a co-chair, along with the State Department and Department of Justice, of the interagency Task Force on Wildlife Trafficking.
- In 2016, Congress passed the bipartisan, bicameral END Wildlife Trafficking Act, which codified the Task Force, National Strategy, and Implementation Plan, and included additional requirements of federal agencies.
- In 2016, FWS finalized regulations to prohibit most commercial domestic trade in African elephant ivory. Exemptions for antiques and items containing small amounts of ivory were included to allow for the continued trade in items that do not impact conservation of African elephants.
- In February 2017, the President signed an Executive Order on Transnational Organized Crime, which states the U.S. shall address threats to national security from transnational criminal organizations involved in a variety of activities, including wildlife trafficking.
- FWS has stationed law enforcement special agents at U.S. embassies as international attachés to address wildlife trafficking in key nations.

II. POSITION of INTERESTED PARTIES

- Combating wildlife trafficking has strong bipartisan support in Congress.
- Several Members of Congress are also supportive of FWS' broader international conservation and wildlife law enforcement work.
- Some Members have sought to limit FWS authority to restrict elephant ivory trade.

III. RECENT CONGRESSIONAL ACTIVITY

- In the 115th Congress, there have been several bills introduced that address wildlife trafficking and international conservation, including:
 - H.R. 227, sponsored by Rep. Young (R-AK-AL) reauthorizes the Multinational Species Conservation Funds (Funds).
 - H.R. 1247, sponsored by Rep. Donovan (R-NY-11), and S. 480, sponsored by Sen. Portman (R-OH), reauthorize the Tiger Stamp.
 - S. 826, sponsored by Sen. Barrasso (R-WY), reauthorizes the Funds and creates a prize competition to address wildlife trafficking.
 - H.R. 226, sponsored by Rep. Young (R-AK-AL), would allow for the commercial trade of African elephant ivory.

IV. NEXT STEPS/OUTLOOK

- The Task Force continues to implement the END Wildlife Trafficking Act. FWS and State have taken the lead in developing a list of countries of concern due to wildlife trafficking. This list will be included in a report due to Congress in early October.
- We expect less focus on wildlife trafficking issues in this Congress given the passage of the END Wildlife Trafficking Act in the 114th Congress. However, there are still Members who are focused on this issue who will pursue events, briefings, and additional legislation.
- In FY 2018, the Service requests \$8.9 million specifically dedicated for combating wildlife trafficking.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: McCollum, Udall, Feinstein, Stewart, Bishop
ISSUE: Southwest Border Law Enforcement and Conservation Issues

I. ISSUE BACKGROUND

- There are eight National Wildlife Refuges along the U.S.-Mexico border, three in Texas, two in California and three in Arizona. FWS has 18 Federal Wildlife Officers (FWO) that cover these refuges.
- Santa Ana National Wildlife Refuge sits along the U.S.-Mexico border in Texas, and has been identified as a location for early preparations for border wall construction. The Refuge has been visited this year by Senator Cornyn's (R-TX) staff and Representative O'Rourke (D-TX-16). Senator Cruz (R-TX) has expressed an interest in visiting the refuge as well.
- The FWOs at border refuges provide safety and security for visitors and protect fish, wildlife, cultural, and archaeological resources. Additionally, working closely with DHS, they address border issues that spill onto refuges, including drug and human trafficking and fatalities of undocumented immigrants.
- These refuges also face increased habitat degradation from significant amounts of human trash and waste left on site, escaped camp fires, sewage spills, and trail and road erosion. Additional trash is generated on Arizona border refuges by humanitarian organizations who, contrary to refuge regulations, leave stock piles of food, water, and clothing for illegal border crossers.
- Many native animals, like pronghorn antelope and ocelots, migrate across the Southwest border; physical barriers could also affect movement of wildlife and could affect surface water movement, causing local flooding.
- Sec. 102. of the REAL ID Act (P.L. 109-13), signed into law in 2005, gives the Department of Homeland Security authority to waive most environmental laws, including NEPA and the ESA, to ensure expeditious construction of barriers and roads.

II. POSITION of INTERESTED PARTIES

- Some Congressional Members have expressed concern about the cost of expanding and maintain a wall along the border, and the impact it may have on species and habitat in the area, as well as the impact on public lands, including National Wildlife Refuges.
- Other Members have explained how effective border security protects the environment by deterring illegal activity and border crossings.

III. RECENT CONGRESSIONAL ACTIVITY

- On October 4, the House Homeland Security Committee passed the Border Security for America Act (H.R. 3548), which includes a \$10 billion authorization for construction of a U.S.-Mexico border wall.
- On July 27, the House passed the Make America Secure Appropriations Act of 2018 (H.R. 3219), which includes \$1.6 billion in funding for construction of the border wall.

IV. NEXT STEPS/ OUTLOOK

- Congress will continue to debate funding for the border wall.
- The President's FY18 budget request includes \$1.6 billion for border wall construction.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Senator Murkowski (R-AK), Representative Don Young (R-AK-AL)
ISSUE: Alaska Native-Crafted Walrus Ivory

I. ISSUE BACKGROUND

- In 2016, FWS finalized regulations to prohibit most commercial domestic trade in African elephant ivory. Also, several states (including California, New Jersey, Hawaii, and Nevada) have taken steps to ban the intrastate purchase and sale of ivory (some including walrus and other types of ivory). Some state ivory bans have provisions that exempt items expressly authorized by federal law, license, or permit. At least 8 more states are considering such measures.
- Alaska Native artists are expressing concern to the Alaska Congressional delegation about loss of sales, because consumers are nervous about buying ivory and confusion over federal and state laws governing the sale of ivory.
- The U.S. does not prohibit the sale, purchase, import, export, or transport of genuine, Alaska Native-crafted walrus ivory pieces, and these may be brought into the lower 48 states by individual consumers or shipped to retail stores.
- In May of 2017, DOI announced the release of a brochure, coordinated by DOI's Indian Arts and Crafts Board (Board) and FWS to inform consumers and Alaska Native artists about walrus conservation, relevant laws, and how law enforcement recognizes walrus ivory and distinguishes it from elephant ivory.
- This brochure is being distributed online, through DOI venues, and has been offered to cruise lines and other tourism outlets. Related advertisement has also been published.
- FWS ensures its law enforcement officers are fully knowledgeable about identifying elephant vs. walrus ivory during inspections of imports and exports.
- FWS also works closely with the Board to investigate and pursue cases of counterfeit Native arts and crafts that violate the Indian Arts and Crafts Act, including several in AK.
- On October 4, 2017, the Service announced a "not warranted" finding for listing of walrus under the ESA.

II. POSITION of INTERESTED PARTIES

- The Alaska delegation has expressed concern about the impact of the elephant ivory ban and state ivory bans on the sales of genuine Alaska Native-crafted walrus ivory.
- Members are pleased with the efforts of FWS and the Board to inform consumers and artists about the importance of Native American arts and crafts, and the legality of the sale of Alaska Native-crafted walrus ivory, as well as our efforts to enforce the Indian Arts and Crafts Act.

III. RECENT CONGRESSIONAL ACTIVITY

- This issue was raised by Senator Murkowski during the June 21, 2017 Senate Interior Appropriations hearing for FY 2018.
- FWS and the Board have met on this issue with staff of the three AK delegation offices.

IV. NEXT STEPS/ OUTLOOK

- The Department will continue to work to increase awareness and provide best information about relevant Federal laws.
- During the FY 2018 Senate Interior appropriations hearing, the Secretary committed to a Secretarial Order and to convene a working group on the matter.

October 6, 2017

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Bishop, McClintock, Pearce, Grijalva, Tsongas, Beyer, Huffman
ISSUE: ESA Reform and Legislation

I. ISSUE BACKGROUND

- In this Congress, the EPW Committee and HNR Committee have expressed an interest in moving legislation that would amend the ESA, and have held related oversight hearings.
- Hearings and oversight in the 114th Congress centered on the role of litigation and settlements, use of data, transparency in decision-making, policies for designating critical habitat, and barriers to recovery.
- FWS is participating in a multi-year process led by the Western Governors' Association (WGA) to examine species conservation and the ESA and to identify actions to improve the statute or its implementation.

II. POSITION of INTERESTED PARTIES

- Last June, the WGA passed a resolution urging Congress to reauthorize the ESA, including several principles to reform the law.
- This March, the National Governor's Association adopted a policy similar to the WGA.
- The Association of Fish and Wildlife Agencies has participated in discussions on ESA reform, including an April EPW staff briefing with other state officials.
- Chairman Bishop (R-UT-1) has expressed strong interest in reforming the ESA.
- Ranking Member Grijalva (D-AZ-3) is opposed to reforming the ESA.

III. RECENT CONGRESSIONAL ACTIVITY

- H.R. 3916 (Calvert: R-CA) – Would transfer management of ESA-listed anadromous fish (salmon, sturgeon, etc.) from NOAA Fisheries to FWS. HNR Subcommittee legislative hearing is scheduled for Oct. 12. DOI statement for the record supports the bill.
- FWS Acting Director Greg Sheehan testified in July before HNR generally in support of 5 bills to amend the ESA. All 5 bills passed out of HNR on Oct. 4.
 - H.R. 424 – Gray Wolf State Management Act (Peterson: D-MN) – Reinstates delisting of Western Great Lakes and WY wolves.
 - H.R. 717 – Listing Reform Act (Olson: R-TX) – Requires economic analysis at listing for threatened species, gives flexibility to prioritize petitions, removes 90-day and 12-month deadlines.
 - H.R. 1274 – State, Tribal, and Local Species Transparency and Recovery Act (Newhouse: R-WA) – Requires data transparency, requires all data be provided to states prior to listing, defines best available data to include state & local.
 - H.R. 2603 – Saving America's Endangered Species (SAVES) Act (Gohmert: R-TX) -- Nonnative species in U.S. not considered listed under ESA.
 - H.R. 3131 – Endangered Species Litigation Reasonableness Act (Huizenga: R-MI) – Would tie ESA fee awards to EAJA cap of \$125/hr

IV. NEXT STEPS/ OUTLOOK

- The WGA issued recommendations for ESA reform over the summer.
- We anticipate continued oversight and legislative activity from HNR and EPW regarding ESA implementation and modernization.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Bishop, Grijalva, Huffman, Calvert
ISSUE: Delisting/Downlisting 3-Year Plan

I. ISSUE BACKGROUND

- In order to recognize success in recovering species under the Endangered Species Act (ESA), keep the lists of endangered and threatened wildlife and plant species accurate and up-to-date, and focus conservation resources on those species most in need, the FWS reviews the status of listed species every five years, and responds to petitions received from the public to determine whether listed species should be reclassified from endangered to threatened (downlisted) or removed from the list (delisted).
- The FWS has developed a national workplan reflecting our schedule for actions addressing 5-year status review recommendations and substantive petitions to downlist and delist species over the next three years.
- The workplan was developed to provide greater clarity and predictability regarding the timing of eventual downlisting and delisting determinations to state wildlife agencies, non-profit organizations, and other stakeholders and partners.
- A species' inclusion in this workplan does not mean that a final decision has been made to downlist or delist.

II. POSITION of INTERESTED PARTIES

- There is congressional interest in focusing ESA recovery funding on activities that are inherently federal, such as 5-year reviews and status changes.

III. RECENT CONGRESSIONAL ACTIVITY

- The House FY 2018 Interior Appropriations bill contains \$85,570,000 for ESA recovery activities, including \$3,000,000 for delisting and downlisting activities.
- The House FY 2018 Interior Appropriations Committee Report directed the Service to complete all five-year reviews within the period required by law, and, for any determination on the basis of such review whether a species should be delisted, downlisted, or uplisted, promulgate an associated regulation prior to initiating the next status review for such species.

III. NEXT STEPS

- To keep the public informed of our progress in recovering species, the FWS plans to periodically update this work plan to reflect our consideration of new information over time, new status reviews initiated as a result of petitions, and new recommendations resulting from our 5-year reviews.

BUREAU: U.S. Fish and Wildlife Service (FWS)

MEMBER: Feinstein, McCarthy, Calvert, McClintock, Denham, LaMalfa, Costa, Huffman

ISSUE: Delta Smelt, 08 Biological Opinion, California WaterFix Consultation, FISH Act

I. ISSUE BACKGROUND

- The threatened Delta smelt is a small fish endemic to the San Francisco Bay-Delta that completes its entire one-year lifecycle in and near where fresh and salt water mix in the estuary. The Bay-Delta has been altered by land use changes, water development, and invasive species, reducing the amount of high quality habitat available for Delta smelt.
- Record-low abundance of Delta smelt reflects decades of habitat change, competition and predation from invasive species, and the recent multi-year drought.
- In 2008, FWS issued a jeopardy Biological Opinion (BiOp) on the operation of the Central Valley Project and State Water Project. FWS included a Reasonable and Prudent Alternative (RPA), affecting the amount of water that can be used from the system, to avoid jeopardy and adverse modification, which remains in place today.
- The WaterFix project represents the State of California's plan to upgrade outdated infrastructure in the Delta to secure water supplies and improve the Delta's ecosystem. FWS finalized the WaterFix BiOp in June 2017.

II. POSITION of INTERESTED PARTIES

- Water export restrictions to protect Delta smelt are opposed by agricultural and municipal water users, but supported by environmental groups and fishing interests.
- WaterFix is supported by a number of agricultural and municipal interests and the State of California, but opposed by many environmental groups (who have filed litigation challenging the WaterFix BiOp) and local landowners. The Westlands Water District Board recently voted against participating in WaterFix stating that the project is not financially viable.

III. RECENT CONGRESSIONAL ACTIVITY

- FWS is working with partners to implement the requirements contained in the 2016 WIIN (Water Infrastructure Improvements for the Nation) Act, which contained a requirement to develop and expand captive breeding capability.
- This month, Congressmen Calvert, LaMalfa, and others introduced the Federally Integrated Species Health (FISH) Act to consolidate management and regulation of the Endangered Species Act (ESA) with the FWS. This would essentially transfer authority over ESA-listed marine mammals and anadromous fish, such as salmon, from the National Marine Fisheries Service to FWS.

IV. NEXT STEPS/ OUTLOOK

- Last August, a multi-year process, led by Bureau of Reclamation with federal and state partners, began to develop a new BiOp to find balance between the needs of agriculture, municipalities and conservation.
- FWS approved Reclamation's proposal to modify implementation of RPA Action 4 from the 2008 BiOp in October 2017, which is intended to maintain the low salinity zone in specific locations in the estuary during the fall in wet and above normal water years.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Daines, Tester, Merkley, Kilmer, Simpson
ISSUE: Dreissenid Mussel Discovery in Montana near Columbia River Headwaters

I. ISSUE BACKGROUND

- Zebra mussels and quagga mussels (Dreissenids) have since spread throughout the Great Lakes region, south along the Mississippi River and to areas west of the Mississippi. In January 2007, the first population of Dreissenid mussels west of the 100th Meridian was discovered in Lake Mead. Both species are easily spread between water bodies by watercraft, and cause damage to water-based infrastructure that is estimated to be in the hundreds of millions of dollars.
- In October 2016, Dreissenids (microscopic larvae called veligers) were detected for the first time in the upper Missouri River Basin in Montana, near the headwaters of the Columbia River.

II. POSITION of INTERESTED PARTIES

- The Montana Governor has declared an environmental disaster. The Idaho legislature and governor responded by enacting emergency state supplemental funding.
- The Montana Legislature called for development of the Upper Columbia Conservation Commission to address threats of Dreissenid mussels. DOI bureaus have been asked to participate.

III. RECENT CONGRESSIONAL ACTIVITY

- The QZAP was developed by the Western Regional Panel and approved by the ANSTF in 2010, and is the Department of Interior (DOI) roadmap for this issue. The FWS works with other DOI Bureaus, the U.S. Army Corps of Engineers, States, and partners to support boat inspection and decontamination, early warning systems, and training.
- Congress has appropriated approximately \$2 million per year since FY 2010 to support this effort.

IV. NEXT STEPS

- The FWS Region 6 dive team specializes in Dreissenid mussel detection. They deployed to both Canyon Ferry and Tiber Reservoirs in Montana as well as the Columbia River Basin Team rapid response test exercise in Washington.
- In FY16 and FY 17, FWS allocated about \$930,000 each year to partners through grants for projects to control the spread of invasive mussels in the western U.S. under the *Quagga-Zebra Mussel Action Plan for Western U.S. Waters (QZAP)*, with emphasis on containment and prevention. FY 2018 Budget Request included \$2 million for support.
- FWS delivers \$1 million of the QZAP funding to states and regional groups with Aquatic Nuisance Species (ANS) plans which have been signed by the respective governor and approved by the ANS Task Force (ANSTF). In FY17, each approved plan was awarded \$46,715. Montana received an additional \$16K from FWS R6 to support veliger detection.
- July 2017: DOI announced the “Safeguarding the West from Invasive Species” package to address the Columbia River Basin and other uninfested Western waters, to help better integrate government efforts to stop the spread of invasive mussels.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Tester, Daines, Simpson, McCollum, Barrasso, Risch, Labrador, Cheney, Grijalva, Newhouse
ISSUE: Grizzly Bears

I. ISSUE BACKGROUND

- In 1975, FWS listed the grizzly bear as threatened in the lower 48 states.
- FWS organizes grizzly bears into six recovery zones/ecosystems to allow for targeted recovery efforts. Recovery zones include parts of WA, ID, MT, and WY.
- In March 2007, FWS finalized a rule to establish the Greater Yellowstone Ecosystem grizzly bear distinct population segment (DPS) and to delist this DPS due to recovery. Courts overturned this rule in 2009, reinstating ESA protections for Yellowstone bears.
- In June 2017, FWS published a new final rule to delist the Yellowstone DPS. The rule does not change the threatened status of the remaining grizzly bears in the lower 48 states. FWS has received several complaints from environmental groups and tribal interests challenging the rule.
- In early 2017, the National Park Service and FWS published a draft Environmental Impact Statement on alternatives to restore grizzly bear in the North Cascades Recovery Unit. Alternatives range from no action to the establishment of a population of grizzly bears in the North Cascades Ecosystem.

II. POSITION of INTERESTED PARTIES

- (b) (5) DPP [Redacted]

III. RECENT CONGRESSIONAL ACTIVITY

- Senators Daines (R-MT), Barrasso (R-WY), Enzi (R-WY), Rep. Cheney (R-WY), and House Natural Resources Chairman Bishop (R-UT) issued statements supporting the final delisting of the Yellowstone grizzly bear.
- Rep. Grijalva (D-AZ-3) opposed delisting, citing tribal rights and hunting concerns.
- (b) (5) DPP [Redacted]

IV. NEXT STEPS/ OUTLOOK

- The comment period on the North Cascades draft EIS closed in April 2017. (b) (5) DPP [Redacted]
- In August 2017, in regards to delisting wolves in the Western Great Lakes, a court ruled that FWS failed to reasonably analyze or consider: (1) the impacts of partial delisting; and, (2) historical range loss on the already listed species. (b) (5) DPP [Redacted]

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Murkowski, Bishop, Cantwell, Grijalva
ISSUE: FWS' Deferred Maintenance Backlog

I. ISSUE BACKGROUND

- Over 51 million people visited FWS hatcheries and refuges last year, including hunters, anglers, birders, and other outdoor recreationists.
- FWS real property assets include: 6,500 buildings; 8,600 water management structures; nearly 14,000 roads, bridges, and dams; and 10,500 “other” structures.
- Inadequate investments in asset maintenance have led to failing infrastructure and a deferred maintenance backlog at the FWS.
- While the FWS has reduced its backlog since 2010, a current FWS deferred maintenance (DM) backlog of approximately \$1.4 billion remains.

II. POSITION of INTERESTED PARTIES

- There is congressional interest in addressing the DM backlog at the FWS, and across the Department of the Interior.
- Chairman Rob Bishop (R-UT) and other Members have taken the position that funding the Department's DM backlog should be prioritized, specifically over new land acquisition funding.
- Chairwoman Murkowski (R-AK) has emphasized public-private partnerships to address DM funding.
- Ranking Members Cantwell (D-WA) and Grijalva (D-AZ) are supportive of DM funding.

III. RECENT CONGRESSIONAL ACTIVITY

- The House Natural Resources Committee included addressing the DM backlog in the Committee's oversight plan for the 115th Congress.
- Chairwoman Murkowski's Senate Energy and Natural Resources Committee hosted staff briefings in March on the DM backlog where FWS and other Bureaus presented.
- Chairwoman Murkowski held a hearing in March on the topic of “opportunities to improve and expand infrastructure important to federal lands, recreation, water, and resources” where she highlighted addressing the Department's DM backlog.

IV. NEXT STEPS/ OUTLOOK

- The President's FY18 budget request emphasizes DM funding, requesting \$41.0 million in Refuge DM and \$10.2 million in Hatchery DM.
- The House-passed FY18 omnibus appropriations bill increased Refuge DM by \$1.3 million to \$42.3 million and added \$3.0 million to Hatchery DM for a total of \$13.2 million.
- Outside of the annual appropriations process, Congress and the Administration are considering a separate infrastructure package that would likely include provisions to address the FWS's and the Department's DM.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Bergman, Westerman, Gosar, Cochran, Leahy
ISSUE: Cormorant Depredation of Fish in Southeast, Northeast, and Midwestern States

I. ISSUE BACKGROUND

- Double-crested cormorants are fish-eating birds that are protected under the Migratory Bird Treaty Act (MBTA). The MBTA prohibits the take (killing, capture, selling, trading, transport, etc.) of protected migratory bird species without prior authorization.
- Cormorants congregate in the southern states in the fall and winter, where they impact aquaculture facilities. In the spring and summer, cormorants congregate in northern states where they are perceived to be a competitor to fishermen for wild free-swimming fish.
- In May 2016, the U.S. District Court for the District of Columbia vacated two FWS Depredation Orders that previously allowed for the lethal take of cormorants, citing inadequate NEPA documentation.

II. POSITION OF INTERESTED PARTIES

- Senate Appropriations Committee Chairman Thad Cochran and other Members representing affected southern states (AL, AR, LA, MS, NC) have urged the FWS to allow for the take of cormorants before they return to southern aquaculture facilities.
- Members from Northeast and Midwest states (MI, MN, NH, NY, VT) have urged the FWS to address cormorant impacts on wild free-swimming fish that are perceived to effect commercial and recreational fisheries in their states.

III. RECENT CONGRESSIONAL ACTIVITY

- In the 115th Congress, Rep. Crawford and Sen. Cotton introduced companion bills, H.R. 368 and S. 219, cosponsored by Members from AR, AL, MS, and NC, to address cormorant impacts on aquaculture by reinstating the FWS Depredation Order that the U.S. District Court vacated.
- The FY 2017 appropriations conference report directed the FWS to expedite NEPA documents that would allow the agency to issue cormorant depredation permits per the direction of the U.S. District Court.
- On July 22, 2017 Rep. Bergman used his time during a House Natural Resources Committee to ask Sec. Zinke to address the cormorant and wild fish issue in his district.

IV. NEXT STEPS / OUTLOOK

- (b) (5) DPP [Redacted]

BUREAU: U.S. Fish and Wildlife Service (FWS)

MEMBER: Thompson, Portman, Stabenow, Bergman, Franken, Duckworth, McCollum, Joyce, Kaptur

ISSUE: Asian Carp

I. ISSUE BACKGROUND

- Bighead, Black, and Silver carps (Asian carp) are listed as injurious wildlife under the Lacey Act (18 USC 42) and may not be imported or transported between the continental U.S., the District of Columbia, Hawaii, Puerto Rico, or any other territory of the U.S.
- FWS works with state and federal agency partners to implement the national *Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States* (Plan), which addresses Asian carp issues across the nation. The Plan was written by the Asian Carp Working Group of the Aquatic Nuisance Species Task Force (ANSTF). It was approved by the ANSTF in 2007.
- FWS and the U.S. Environmental Protection Agency (EPA) co-chair the 27-member Asian Carp Regional Coordinating Committee (ACRCC), which develops an annual Action Plan with activities funded through agency base appropriations and Great Lakes Restoration Initiative funding.
- FWS leads federal implementation of the Water Resources Reform and Development Act (WRRDA) Sec. 1039, which calls for increased inter-agency collaboration to prevent the spread of Asian carp in the Upper Mississippi (UMRB) and Ohio River (ORB) Basins.

II. POSITION of INTERESTED PARTIES

- Asian carp are a high-priority for the Great Lakes Task Force, other Members from the Great Lakes, UMRB and ORB, State leadership, conservation groups, and the media.

• (b) (5) DPP
[REDACTED]

III. RECENT CONGRESSIONAL ACTIVITY

- Sens. Stabenow and Portman held a Great Lakes Task Force meeting to discuss actions within the Midwest on Asian carp. FWS presented. Fourteen Members attended.
- FWS testified in March 2017 before the Senate Environment and Public Works Committee hearing, *“Examining Innovative Solutions to Control Invasive Species and Promote Wildlife Conservation”*.
- FWS delivered the ANSTF’s 2015 Report to Congress.
- July, 2017: In response to a silver carp being found above the last electrical barrier before Lake Michigan, FWS led a Congressional briefing on the 2017 Asian Carp Monitoring and Response Plan and the Upper Illinois Waterway Contingency Response Plan.

IV. NEXT STEPS/ OUTLOOK

- (b) (5) DPP
[REDACTED]
- The FY 2018 request for FWS’s Asian carp effort is \$7,885,000.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Frelinghuysen
ISSUE: Highlands Conservation Act

I. ISSUE BACKGROUND

- The Highlands Conservation Act (HCA) was enacted in 2004 to provide assistance to States to preserve and protect high quality conservation land in the 3.4 million acre Highlands region of New York, New Jersey, Pennsylvania and Connecticut.
- The program was first funded in 2007. The program also received funding in 2008, 2009, 2010, 2012, 2015, 2016, and 2017.
- In FY 2016, Congress increased the appropriation “up to \$10 million,” and included administrative funding to the FWS, which had not been provided in several years. FWS works with the U.S. Forest Service and the four states to identify projects that meet the intent of the law to conserve important habitat in the Highlands region.
- To date, more than \$26 million in Federal funds has been allocated to the four states for land acquisition. These funds have resulted in the permanent protection of over 6,200 acres and leveraged non-Federal funds at a nearly 3:1 ratio.
- Funding for the program comes from the Land and Water Conservation Fund.
- There is no funding for Highlands in the FY 2018 President’s Budget.

II. POSITION of INTERESTED PARTIES

- The Highlands Coalition is comprised of more than 200 national, regional, state and local organizations that work collaboratively with state agencies, the U.S. Forest Service and FWS to implement critical conservation in the Highlands region. This broad coalition has yielded sustained congressional support.

- (b) (5) DPP [Redacted]

III. RECENT CONGRESSIONAL ACTIVITY

- Chairman Frelinghuysen introduced H.R. 1281(S. 1627, Sen. Gillibrand [D-NY]) to reauthorize the law through 2021. No Congressional action has been taken to date.

IV. NEXT STEPS

- (b) (5) DPP [Redacted]

- August, 2017: FWS announced funding distribution of \$2,420,000 to each of the four states. Announcements of funding to states were sent to Congressional offices.
- The 2018 President’s Budget did not include funding for Highlands.

BUREAU: U.S. Fish and Wildlife Service (FWS)

MEMBER: Gohmert, Westerman, Johnson, Denham, and Tsongas

ISSUE: D.C. Circuit Decision on FWS Interpretation of Lacey Act Interstate Transport Prohibition

I. ISSUE BACKGROUND

- Under the Lacey Act (18 U.S.C. §42), the Secretary of the Interior is authorized to regulate the importation and transport between the continental U.S., the District of Columbia, Hawaii, Puerto Rico, or any other territory of the U.S., of species determined to be injurious to human beings, the interests of agriculture, horticulture or forestry, or to wildlife or wildlife resources of the U.S. FWS has long interpreted the language related to shipment of injurious species to prohibit transportation of injurious species between states within the continental U.S.
- The U.S. Association of Reptile Keepers (USARK) filed a lawsuit in December 2013 challenging FWS authority. The District Court for the District of Columbia found that 18 U.S.C. § 42(a)(1) does not prohibit interstate transport of injurious wildlife between states within the continental U.S. and enjoined FWS from implementing that provision with respect to two species at issue in the litigation. FWS appealed this decision.
- On April 7, 2017, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court's judgment and held that FWS lacks authority pursuant to the Lacey Act to prohibit shipments of injurious species between states within the continental U.S.

II. POSITION of INTERESTED PARTIES

- (b) (5) DPP [Redacted]

III. RECENT CONGRESSIONAL ACTIVITY

- Rep. Gohmert (R-TX-1) introduced HR 1807 - Public Water Supply Invasive Species Compliance Act of 2017 (companion bill in the Senate, S. 789 sponsored by Sen. Cruz (R-TX)), exempting certain water transfers between public water supplies located on, along, or across the boundaries of Texas, Arkansas, and Louisiana from the Lacey Act. Reps. Westerman (R-AR-4) and Mike Johnson (R-LA-4), who are on the House Natural Resources Committee, are co-sponsors. The bill was passed out of committee.
- October, 2017: Senator Gillibrand (D-NY) had a press conference on the emerald ash borer beetle in the Adirondacks, mentioning the injurious species listing process. Gillibrand has previously introduced legislation to reform this process. Reintroduction of this legislation is likely to occur this session; but, it has not yet happened.

IV. NEXT STEPS/ OUTLOOK

- (b) (5) DPP [Redacted]

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Multiple Member interest
ISSUE: Oil and Gas Development in the Arctic National Wildlife Refuge

I. ISSUE BACKGROUND

- The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 created the 19 million acre Arctic National Wildlife Refuge (Arctic Refuge).
- Section 1002 of ANILCA required DOI to conduct a resource assessment, completed in 1987, of the 1.5 million acre Arctic Refuge coastal plain area (1002 Area) located adjacent to the Beaufort Sea.
- In the 1987 assessment, the Secretary recommended that Congress consider leasing the 1002 Area for oil and gas. In 2009, the USGS determined the area had a mean estimate of 10.35 billion barrels of technically recoverable oil with 80 to 90 percent of that volume being economically recoverable.
- The Arctic Refuge's initial Comprehensive Conservation Plan (CCP), completed in 1988, recognized the coastal plain as a critical calving area for the Porcupine caribou herd, which are an important subsistence resource for Alaska Native people.
- A revised CCP with a final EIS was completed on April 3, 2015. It recommended designating 12 million acres of the Arctic Refuge as Wilderness, including the 1002 Area. Additionally, four rivers were recommended for inclusion into the National Wild and Scenic Rivers System.

II. POSITION of INTERESTED PARTIES

- The Alaska delegation supports leasing the coastal plain for oil and gas development.
- The State of Alaska, North Slope Borough, Arctic Slope Regional Corporation, and other development interests oppose the proposed Wilderness and Wild and Scenic River designations in the Arctic Refuge.
- The Native Gwich'in people, as well as environmental and conservation groups, support permanent wilderness designation.
- The majority of public comments on the 2015 CCP supported wilderness designation.

III. RECENT CONGRESSIONAL ACTIVITY

- In the 115th Congress, Sen. Markey (D-MA) introduced S. 820, and Rep. Huffman (D-CA-2) introduced H.R. 1889, nearly identical bills which would designate 1.6 million acres of the Arctic Refuge as wilderness.
- Sen. Murkowski (R-AK) introduced S. 49, and Rep. Young (R-AK) introduced H.R. 49, which would both allow oil and gas leasing in the coastal plain of the Arctic Refuge.
- The Senate and House FY18 Budget Resolutions contain instructions for obtaining \$1 and \$5 billion in revenue to the Senate Energy and Natural Resources and House Natural Resources Committees respectively.

IV. NEXT STEPS/ OUTLOOK

- The Department included a legislative proposal in the FY 2018 President's Budget to open the coastal plain to oil and gas leasing. The first lease sales are projected to be in 2022 or 2023. A second lease sale would occur four years later.
- A FY18 Congressional Budget Resolution could pave the way for opening the 1002 Area.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Murkowski, Young
ISSUE: Izembek National Wildlife Refuge and King Cove Road

I. ISSUE BACKGROUND

- This issue centers on construction of a road through wilderness areas of the Izembek Refuge to provide access to an all-weather airport for the community of King Cove, AK.
- Congress previously appropriated funds to upgrade the local medical clinic, improve the King Cove airstrip, and enhance a marine transportation link between the communities of King Cove and Cold Bay.
- The Omnibus Public Land Management Act of 2009 directed the Secretary to develop an EIS to evaluate a three-party land exchange between the federal government, the State of Alaska, and the King Cove Corporation for the purpose of constructing a road between King Cove and Cold Bay, which has an existing all-weather airport.
- As part of the proposed land exchange, about 56,000 acres owned by the State and King Cove Corporation would be transferred to the Izembek and Alaska Peninsula Refuges.
- The proposed King Cove road would cross designated wilderness in the Izembek Refuge, potentially creating adverse impacts to high value habitat.
- In December 2013, as required by the 2009 law, former Interior Secretary Jewell issued a final decision that found the land exchange was not in the public interest.

II. POSITION of INTERESTED PARTIES

- The Alaska Congressional Delegation strongly supports the road and land exchange.
- The communities of King Cove and Cold Bay support the land exchange and road.
- Wilderness and environmental groups strongly oppose a road due to the impact to pristine habitat and the precedent set.
- Some Alaska Natives and subsistence users in the Yukon Delta also oppose the road.

III. RECENT CONGRESSIONAL ACTIVITY

- Senator Murkowski included policy language in the FY16 and FY17 Interior-Environment appropriations bills that would require a land transfer at Izembek. The language was not ultimately included in the final FY16 or FY17 appropriations bills.
- At the time of drafting, the FY18 Senate appropriations bill was not yet released.
- This year, bills were introduced by Sen. Murkowski (S. 101) and Rep. Young (H.R. 218) to provide a land exchange for the construction of a road between the two communities. H.R. 218 passed the House on July 20, 2017.

IV. NEXT STEPS/ OUTLOOK

- Next steps depend on whether the land exchange is with the State of Alaska or Native Corporation. For example, if land is exchanged with the Native Corporation, the Alaska Native Claims Settlement Act (ANCSA) Section 22(g) and its implementing regulation, 50 CFR 25.21, stipulates that Alaska Native Village Corporation lands within the boundaries of a National Wildlife Refuge established prior to ANCSA are subject to National Wildlife Refuge System compatibility requirements. If land is exchanged with the State of Alaska, then a National Environmental Policy Act EIS is likely required, unless new statute dictates otherwise.

BUREAU: U.S. Fish and Wildlife Service (FWS)

MEMBER: Bishop, Lamborn, Labrador, Tipton, Cheney, Barrasso, Risch, Daines, Calvert, Stewart, Simpson, Amodei, Lee

ISSUE: Greater sage-grouse

I. ISSUE BACKGROUND

- In 2010, FWS made the greater sage-grouse a candidate for listing under the Endangered Species Act. In response, the Bureau of Land Management (BLM) and Forest Service (USFS) worked with the states to develop a land use strategy to conserve and restore sagebrush habitat across the species' range.
- In 2015, citing the federal land use strategy and associated rangeland fire strategy, along with state and private lands conservation efforts, FWS determined that the greater sage-grouse was not warranted for listing under the ESA.
- The 2015 "not warranted" finding included a commitment to revisit the status of the species in 5 years, a commitment made to strengthen the defensibility of that finding.
- FWS and a coalition of public and private partners, particularly the states, have built a durable, collaborative effort to conserve sagebrush-dependent species, avoid future listing of those species, and secure a healthy sagebrush ecosystem for people and wildlife.
- BLM and USFS amended or revised nearly 100 resource and land management plans to improve protections for sage-grouse and sagebrush habitat.
- All states have sage-grouse plans; some interface seamlessly with the federal plans. States have management responsibility for the species and are leading the larger effort to proactively conserve the larger sagebrush ecosystem.
- In August 2017, Secretary Zinke received a report from the Department's Sage-Grouse Review Team regarding possible plan and policy modifications to complement state efforts to improve greater sage-grouse conservation and economic development on public lands, as required by Secretarial Order 3353.

II. POSITION of INTERESTED PARTIES

- Some conservation groups were critical of the FWS' not-warranted determination; others were highly supportive.
- Some industry and trade groups have filed litigation opposing the federal plans.

III. RECENT CONGRESSIONAL ACTIVITY

- In the 115th Congress, legislation seeks to provide state management over federal land management plans and delay future action to list the sage-grouse. Sponsors include Sens. Risch (R-ID), Lee (R-UT), and Daines (R-MT) and Reps. Simpson (R-ID), Amodei (R-NV), Gosar (R-AZ), Stewart (R-UT), Tipton (R-CO), and Cheney (R-WY).
- The FY17 Omnibus appropriations bill bars FWS from expending any funds for status reviews, listing determinations, or rulemakings regarding the greater sage-grouse.

IV. NEXT STEPS/ OUTLOOK

- FWS will continue to provide technical assistance to public and private partners as they implement sage-grouse conservation measures. FWS will also continue to support collaborative efforts to conserve the larger sagebrush ecosystem.

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Gardner, Cole, Calvert, Gohmert, Pearce, Tipton
ISSUE: Lesser Prairie-Chicken

I. ISSUE BACKGROUND

- In April 2014, FWS listed the lesser prairie-chicken as threatened under the Endangered Species Act (ESA) and concurrently finalized a special rule under section 4(d) of the ESA that established compliance with the State-led Range-wide Conservation Plan as also being ESA compliant.
- In June 2014, the Permian Basin Petroleum Association and four New Mexico counties filed a lawsuit challenging the FWS's final rule to list the lesser prairie-chicken. Separate lawsuits were filed by other plaintiffs, including environmental groups.
- In September 2015, a U.S. District Court ruled on the Permian Basin lawsuit and vacated the FWS's listing rule. The Government decided not to appeal.
- Prior to the 2015 court ruling, FWS began work on a species status assessment for the lesser prairie-chicken, with input from the five range states. The goal of the status assessment was to synthesize the best available science to inform recovery planning and conservation actions.
- In September 2016, FWS was petitioned to list the lesser prairie-chicken as endangered. FWS found the petition to be substantial. The status assessment will also serve to inform the 12 month finding on that petition.

II. POSITION of INTERESTED PARTIES

- The Western Association of Fish and Wildlife Agencies (WAFWA), in partnership with New Mexico, Colorado, Kansas, Oklahoma and Texas, created *The Lesser Prairie-Chicken Range-wide Conservation Plan* to develop a conservation and mitigation strategy for the species. (b) (5) DPP
[REDACTED]
- Several Members of Congress disagreed with FWS's 2014 decision to list the lesser prairie-chicken under the ESA.

III. RECENT CONGRESSIONAL ACTIVITY

- In the 114th Congress, Rep. Lucas (R-OK) filed an amendment to the House National Defense Authorization Act (NDAA) to prohibit listing the bird under the ESA; the amendment was withdrawn. Similar language was included in other NDAA amendments, appropriations bills, and a standalone bill.
- There has been no relevant legislation introduced in the 115th Congress.

IV. NEXT STEPS/ OUTLOOK

- (b) (5) DPP
[REDACTED]

BUREAU: U.S. Fish and Wildlife Service (FWS)

MEMBER: Barrasso, Flake, Heinrich, Gardner, Stabenow, Franken, Wyden, Merkley, Udall, McCollum, Stewart, Pearce, Gosar, Bishop, Tipton, Bergman, Cheney, Rouzer

ISSUE: Wolves

I. ISSUE BACKGROUND

- FWS believes the wolf is recovered under the ESA, and has attempted to delist it nationwide, except for the Mexican wolf and the red wolf subspecies.
- In 2014, final rules delisting **Gray wolves** in Wyoming and in the Western Great Lakes (WGL) were vacated by separate District Court judges; ESA protections were reinstated for these populations. FWS appealed both of these rulings.
- In March 2017, a court ruled in favor of FWS delisting WY wolves and, in April, the FWS reinstated its previous Wyoming delisting rule.
- In August 2017, a court ruled against FWS delisting of WGL wolves; Wolves remain federally endangered in WI and MI and threatened in MN.
- Wolves are under state management in eastern WA and OR, but wolves in the western portions of those states remain endangered, limiting management options.
- In January 2015, FWS separately listed the **Mexican wolf** as endangered and revised regulations for the nonessential experimental population under ESA section 10(j).
- In 2016, New Mexico sued FWS to enjoin release of Mexican wolves without state permits. An injunction was issued, but vacated upon appeal in April 2017. FWS is reviewing comments on the draft revised recovery plan for the Mexican wolf subspecies.
- **Red wolves** are listed as endangered and exist in the wild as a non-essential, experimental population (NEP) in eastern NC. In September 2016, after a review of the red wolf recovery program, FWS announced plans to propose changes to the NEP management, expand the captive population, and revise the recovery plan.

II. POSITION of INTERESTED PARTIES

- (b) (5) DPP
[Redacted]

III. RECENT CONGRESSIONAL ACTIVITY

- 115th Congress Legislation: S. 368, Requires revised recovery plan for Mexican wolves (Sen. Flake); S. 164 and H.R. 424, Reinstates FWS final rules delisting wolves in Wyoming and WGL (Sen. Barrasso and Reps. Cheney, Labrador, Simpson, Bergman). Similar language is included in sportsmen's legislation and the House appropriations bill.
- In July 2017, Acting FWS Director Sheehan testified in support of H.R. 424.
- In the 114th Congress, the House Natural Resources Committee held an oversight hearing on Federal management of gray, Mexican, and red wolves.
- Rep. Newhouse sought to delist wolves in OR, WA, UT, and NV in the 114th Congress.

IV. NEXT STEPS/ OUTLOOK

- (b) (5) DPP
[Redacted]

BUREAU: U.S. Fish and Wildlife Service (FWS)
MEMBER: Murkowski, Simpson
ISSUE: FWS Mitigation Policy Status

I. ISSUE BACKGROUND

- The FWS has used a mitigation policy since 1981 to guide agency recommendations on mitigating the adverse impacts of land and water development projects on fish, wildlife, plants, and their habitats.
- In 2016, FWS finalized revisions to the 1981 policy. Notably, the scope of the revised policy expanded to address all resources for which FWS has authority to require or recommend mitigation, including those listed under the Endangered Species Act (ESA).
- In December 2016, the FWS finalized the ESA compensatory mitigation policy, a more detailed, ESA-specific stepdown of the revised Service-wide mitigation policy.
- These policies were consistent with the Presidential Memorandum entitled *Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment* (PM) (November 3, 2015) and with Secretarial Order 3330, *Improving Mitigation Policies and Practices of the Department of the Interior* (October 31, 2013).
- A March 28, 2017, Executive Order (EO) rescinded the 2015 PM and directed all agencies to identify affected agency actions (including existing regulations, orders, and policies) and, as appropriate, suspend, revise, or rescind them.
- Sec. Order (SO) 3349 (March 29, 2017) implements the March 2017 EO. It revoked SO 3330 and required the Deputy Secretary to inform the Bureaus whether to proceed with reconsideration, modification, or rescission of actions related to the PM or SO 3330.

II. POSITION of INTERESTED PARTIES

- (b) (5) DPP
[REDACTED]
- At a March 2016 Senate Energy and Natural Resources Committee hearing, the State of Alaska expressed concerns with the PM and requested its revision to incorporate the Alaska Native Settlement Claims Act and Alaska National Interest Lands Conservation.
- Response from State agencies varied; FWS received comments from States both supporting and expressing concerns with the policies.
- In some cases, industry had concerns that the policies were an attempt to create new authority for FWS.

III. RECENT CONGRESSIONAL ACTIVITY

- Rep. Newhouse (R-WA) introduced two resolutions to disapprove the two FWS mitigation policies through the Congressional Review Act (CRA), but no further action has been taken on them.

IV. NEXT STEPS

- (b) (5) DPP
[REDACTED]