



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

NOV 15 2023

The Honorable Cliff Bentz
Chairman
House Natural Resources Subcommittee
on Water, Wildlife, and Fisheries
House of Representatives
Washington, DC 20515

Dear Chairman Bentz:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted to Principal Deputy Assistant Secretary for Water and Science Michael Brain following his appearance at the June 14, 2023, legislative hearing before your subcommittee.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Jared Huffman
Ranking Member

Questions for the Record
Subcommittee on Water, Wildlife, and Fisheries
House Natural Resources Committee
Legislative Hearing
June 14, 2023

Questions from Rep. Boebert

Question 1: Deputy Commissioner Brain, you testified that this bill provides “additional flexibility for Reclamation’s water users and contract holders.” Can you go into more detail on that?

Response: Section 4011 of the Water Infrastructure Improvements for the Nation (WIIN) Act (P.L. 114-322) allowed Reclamation water users and contract holders to convert water service contracts into repayment contracts. The conversion allows for accelerated repayment of construction obligations owed to Reclamation for facilities repayment. As Section 4011 is a voluntary process, it gives contract holders an additional option to address their long-term needs. Further, under Section 4011, once contractors fully repay their construction obligation, they are no longer subject to the acreage limitation requirements of the Reclamation Reform Act. This would allow for use of Reclamation irrigation water on farming operations greater than 960 acres.

Question 2: Deputy Commissioner Brain, you testified that the Bureau of Reclamation worked with 86 contractors that requested consideration for contract prepayment when this was previously authorized.

Can you further discuss the successes of the program and how the dollars collected from prepayment are being used?

Response: As noted, Reclamation entered into agreements with 86 contractors that requested conversion of their water service contracts into repayment contracts under Section 4011(a) of the WIIN Act. Under Section 4011, the funding from these payments has been deposited in a Reclamation Water Storage Account to fund construction of water storage projects.



United States Department of the Interior

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Washington, DC 20240

NOV - 8 2023

The Honorable Thomas R. Carper
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Carper:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted to U.S. Fish and Wildlife Service Director Martha Williams following her appearance at the May 16, 2023, oversight hearing before your Committee entitled, *The U.S. Fish and Wildlife Service's Proposed Fiscal Year 2024 Budget*.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Shelley Moore Capito
Ranking Member

Questions from Chairman Carper:

Question 1: In response to the ongoing U.S. Department of Justice Investigation into the illegal importation of non-human primates (NHPs) from Cambodia and the denial of CITES permits, importers have voluntarily suspended all shipments of NHPs from Cambodia to the United States. This has resulted in a significant and growing shortage of available NHPs for federally required studies in many drug development programs. While it is critically important that the United States know the lineage of purpose bred specimens, it is also critical that the United States and U.S. biopharmaceutical companies have access to an adequate supply of NHPs. Failure to meet this need could halt clinical research, as well as place the U.S. biotech sector at a distinct disadvantage while countries like China seek to grow their domestic biopharmaceutical industry.

- a. In light of these actions, what specifically is the U.S. Fish and Wildlife Service (Service) doing to verify the accuracy of CITES permits for Cambodian NHPs?**
- b. Does the Service have a plan and timeline for establishing testing and lineage criteria that clinical research companies can access to assess the viability of any new imports of NHPs from Cambodia? If so, would you please provide the Committee with that information?**
- c. Has the Service received any proposals from third-party organizations or private companies, and what is the process and timeline for evaluating those proposals?**
- d. Is the Service participating in a broader interagency process to develop and/or evaluate potential solutions to the current shortage of NHPs in the U.S.? If so, which other agencies are involved, and would you describe the process and timeline for developing solutions?**
- e. How does the proposed Fiscal Year 2024 budget support the development of solutions to this problem?**

Response: As you may know from the briefings and information my staff have provided to your staff, in November 2022, the U.S. Attorney's Office for the Southern District of Florida announced an indictment against eight individuals charged with smuggling and conspiracy to violate the Lacey Act and the Endangered Species Act (ESA). The defendants facing these felony charges include the owner/founder of a major primate supply organization, its general manager and four of its employees; and two officials of the Cambodian Forestry Administration, Ministry of Agriculture, Forestry and Fisheries (MAFF).

Long-tailed macaques (*Macaca fascicularis*), also known as crab-eating macaques, are protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and require permits in order to be imported into the U.S. CITES is implemented in the U.S. through the ESA. The indictment reflects an investigation conducted by the U.S. Fish and

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Wildlife Service (Service, FWS) and alleges that these individuals conspired to acquire wild-caught macaques and launder them through Cambodian entities for export to the U.S. and elsewhere, falsely labelled as bred in captivity. It is alleged that in order to make up for a shortage of suitable monkeys at breeding facilities in Cambodia, the co-conspirators enlisted the assistance of the CITES authority in Cambodia and the MAFF to deliver wild-caught macaques illegally taken from multiple sources, including national parks and protected areas in Cambodia. And it is alleged that these illegally-taken wild macaques were delivered to breeding facilities and in some cases they, or their offspring, were subsequently exported under falsified CITES export permits.

Any imports of CITES-listed species, including long-tailed macaques, must comply with all applicable federal laws and regulations, including those found at 50 CFR, Chapter 1, Subchapter B, Part 23. It is up to the importer to prove the validity of their permits, which includes the source of the species. The Service's Office of Law Enforcement is open to discussing shipments with importers on a case-by-case basis, and is accepting written proposals identifying potential protocols which may improve the government's ability to verify parentage and captive-bred status of non-human primates. However, parties that are subject to an ongoing investigation must be referred to the Department of Justice.

From 2018 to 2022, 60,784 live non-human primates were cleared by the Service and imported into the United States for biomedical research. Of that total, 15,157 live non-human primates were cleared by the Service and imported into the United States from Cambodia, or 24.9% of the total. Due to the various codes used by importers for shipments of live non-human primates for biomedical research, this data also includes some imports of live non-human primates for other scientific and educational purposes. This data does not include imports of biomedical samples or tissues sourced from non-human primates. The table below shows yearly totals.

Questions for the Record
 Senate Energy and Public Works Committee
 Oversight Hearing on FWS FY24 Budget
 May 16, 2023

Country	2018	2019	2020	2021	2022	Country Total
BB - Barbados	0	0	192	70	291	553
CA - Canada	20	0	83	27	71	201
CN - China	5,644	4,588	948	762	0	11,942
DE - Germany	35	0	4	0	0	39
FR - France	0	0	0	12	0	12
GB - England	0	0	44	0	0	44
GY - Guyana	25	0	40	93	105	263
ID - Indonesia	50	0	0	120	990	1,160
KH - Cambodia	2,092	2,451	4,536	2,604	3,474	15,157
KN - Saint Kitts & Nevis	254	238	508	536	348	1,884
MU - Mauritius	1,366	2,929	5,910	7,517	5,993	23,715
PH - Philippines	0	700	350	699	362	2,111
VN - Vietnam	120	120	120	1,240	1,607	3,207
ZA - South Africa	166	90	80	80	80	496
Yearly Total	9,772	11,116	12,815	13,760	13,321	
Grand Total						60,784

As the data indicates, in 2020 the People’s Republic of China instituted policies that restricted the export of wildlife, including non-human primates. The restrictions were implemented following the COVID-19 pandemic and have significantly reduced the nation’s supply of non-human primates. As a result, other countries have increased their supply to meet the ongoing demand for live non-human primates in the United States.

Following the November 2022 indictment, the Service met with numerous federal agency partners regarding the alleged trafficking of long-tailed macaques and falsification of CITES documents. The Service is committed to working with other federal agencies, foreign governments, industry, and others to ensure the sustainable and legal trade of wildlife, including long-tailed macaques.

The Service’s Fiscal Year 2024 budget request includes an increase of \$7.234 million for the Office of Law Enforcement, which would enable the Service to hire a new class of special agents. The Service’s network of special agents and international attachés are on the front lines of our efforts to combat wildlife trafficking.

This is an active, ongoing investigation. As such, we are providing this response for each of your questions for the record.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Questions from Senator Cramer:

Question 1: Ms. Williams, the Fish and Wildlife Service's recent Proposed Rule on drain tiling near Waterfowl Production Area easements is a step in the right direction and I thank you for the effort. As we discussed at the hearing, ensuring consistency across federal wetland policies promotes consistency for landowners. Also, working proactively with the agricultural community will help ensure the Proposed Rule constitutes meaningful changes for producers.

a. Will the FWS consult with the U.S. Department of Agriculture's Natural Resources Conservation Service to ensure consistency across federal wetland programs?

Response: Although there are legal differences between the wetland conservation provisions of the Food Security Act of 1985 and Service wetland easements, the Service does consult with U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) and uses a consistent method to calculate drain tile setbacks from protected wetlands. The Service will continue to consult with NRCS to ensure consistency across federal wetland programs whenever possible to support the Service's conservation mission, especially easement programs for which both the Service's wetland easements and NRCS wetland reserve easements prohibit any drainage of protected wetlands.

b. Will you commit to working with the agricultural community in the Prairie Pothole Region to ensure the Proposed Rule makes substantive improvements for farmers and ranchers?

Response: Yes. The Service seeks to work with all affected stakeholders to ensure the Proposed Rule improves the administration of wetland easements in the Prairie Pothole Region. This includes working with farmers and ranchers to provide timely and reliable information with which to confidently plan and install drain tile with a pledge from the Service that future enforcement actions won't be taken. This also includes assurances to the conservation community, and especially those who purchase Federal Duck Stamps, that the Service will continue to work cooperatively with the agricultural community to safeguard easement-protected wetlands in the Prairie Pothole Region, which are vital to the Nation's waterfowl and waterbird populations.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Questions from Senator Ricketts:

Question 1: Please identify the Congressional Act that specifically authorizes the Service to protect 30 percent of our nation's lands and oceans by 2030.

Response: Executive Order 14008 directs the Department of the Interior (Department), Department of Agriculture, Department of Commerce, and the Council on Environmental Quality to outline steps to conserve at least 30% of U.S. lands and waters by the year 2030. The Conserving and Restoring America the Beautiful 2021 Report states its central recommendation is that the pursuit of a decade-long national conservation effort be faithful to eight core principles. These principles—which include a commitment to collaboration, support for voluntary and locally led conservation, and honoring of Tribal sovereignty and private property rights—are essential ingredients to building and maintaining broad support, enthusiasm, and trust for this effort. These principles are also indispensable to achieving durable outcomes that meaningfully improve the lives of Americans. This initiative is rooted in the desire to better support and honor the people and communities who serve as stewards of our lands, waters, and wildlife. The Department is engaging a range of stakeholders, including agricultural and forest landowners, fishermen, outdoor enthusiasts, sovereign Tribal nations, States, U.S. territories, local officials, and others to identify strategies that reflect the priorities of all communities.

The Service has a longstanding commitment to conserving and protecting lands and waters, as well as the species reliant on those lands and waters and uses existing authorities granted by Congress to do so whether under the Migratory Bird Treaty Act, the National Wildlife Refuge System Administration Act, the Endangered Species Act, or numerous other laws.

Question 2: In 2021 The National Fish and Wildlife Foundation was awarded \$440 million over 5 years by the DOI for grants that would implement the 30x30 program.

a. How much of this funding comes out of the USFWS's authorized programs?

Response: Section 40804 of the Infrastructure Investment and Jobs Act (P.L. 117-58) requires the Department to provide grants to States, U.S. territories, and Tribes to implement voluntary ecosystem restoration projects on private or public land. The Service is coordinating with the Department to issue those awards for ecosystem restoration projects.

Section 40804 of P.L. 117-58 provides \$440 million over five years to the Department. To date, \$199.9 million has been awarded to the National Fish and Wildlife Foundation (NFWF) for the management and implementation of this grant program. None of the funding awarded to NFWF for implementation of Section 40804 comes from the Service's appropriations.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

b. Does the Service review and approve any of the 30x30 grants made through the Foundation?

Response: In the implementation of Section 40804, the Service oversees the cooperative agreement and is part of a collaborative selection process with the Department and NFWF and has had substantial involvement in developing the grant program and selection criteria. The Service approves each of the grants under the program to States, U.S. territories, and Tribes.

c. For the Foundation grants you have approved so far, what is the total amount that has been funded for 30x30 programs?

Response: In the implementation of Section 40804, for Fiscal Years 2022 and 2023, \$199.9 million has been awarded to NFWF, and ninety-two projects have been selected to receive funding for ecosystem restoration.

Question 3: What percentage of FWS budget is being used to implement 30x30?

Response: A key part of the America the Beautiful initiative is conservation, which is the primary mission of the Service. The Service's FY 2024 budget request supports the Administration's call to action to support locally led conservation and restoration efforts across public, private, State, and Tribal lands and waters.

Question 4: The 2024 proposed budget requests \$9 million, a \$2 million increase plus a full-time employee to help oversee the NFWF program. If the purpose of giving the money to the Foundation was to streamline the grant process, why is it costing the American people more?

Response: The National Fish and Wildlife Foundation – U.S. Fish and Wildlife Service Conservation Partnership typically delivers around \$7 million in grant funding to a wide variety of recipients to further the conservation and management of fish, wildlife, plants, and other natural resources. NFWF distributes grant funding through a competitive challenge grant program with a statutory non-Federal matching requirement of 1:1, doubling federal investments in these conservation projects. In recent years, NFWF has averaged an even higher 3:1 match.

In Fiscal Year 2024, the Service is proposing to further leverage that successful matched funding to support twenty-four different competitive grant programs, allowing increased scale and geographic impact compared to awards in Fiscal Year 2023. The Fiscal Year 2024 budget request maintains funding for the existing single FTE overseeing this program, who ensures that funded projects comply with relevant federal laws.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Question 5: The US FWS's near-sighted approach has proven to have dire consequences. For example, there was an incident with the Loup Power Canal and the Loup Power District. The Federal Energy Regulatory Commission (FERC) license included a US FWS biological impact statement requiring water flow to be shut off in the canal when the Platte River water temperature reached 93 degrees.

In July 2017, the river reached 93 degrees, and the water flow to the canal was shut off. In anticipation of the rising temperatures, the Loup Canal applied for a waiver with US FWS on Wednesday. FERC failed to approve the waiver until the following Monday. Because of the time it took for the waiver to be approved, stagnant water in the canal lowered and dissolved oxygen levels, and an estimated 50,000 fish died.

What can the US FWS do to take a more integrated and open-minded approach when considering the implications of narrowly tailored biological impact statements?

Response: Fortunately, the type of incident you describe is rare. Federal agencies and applicants are given the opportunity to review draft biological opinions, and when possible the Service develops the reasonable and prudent measures (RPM) and their associated terms and conditions for a biological opinion in collaboration with the federal agency and applicant (see Endangered Species Consultation Handbook at 4-7). This collaboration is intended to help foster a more integrated approach.

Regarding the Loop Power Canal specifically, both the Loup Power District and the Federal Energy Regulatory Commission (FERC) had reviewed the biological opinion before it was finalized, and neither expressed concerns regarding the draft RPM and associated terms and conditions. After the 2017 incident, FWS immediately suspended the RPM and associated terms and conditions. The procedures that resulted in the fish kill have been suspended until those issues are resolved, and there have not been any additional fish kills since the incident. Currently, FWS is collaborating with the Loup Power District, FERC, and the Nebraska Game and Parks Commission to permanently address the issues that caused the 2017 incident.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Questions from Senator Boozman:

Question 1: You suggested in your testimony that the science was clear on the impacts of lead on our country's fish and wildlife populations, and then use that argument to justify putting regulations in place to prohibit the use of lead ammunition and fishing tackle on the public's national refuge system. Yet we are aware of a number of peer reviewed studies and papers that contradict that conclusion.

Why is the Administration picking and choosing certain science and ignoring other science in making a decision to prohibit lead ammunition and fishing tackle on any national wildlife refuge?

Response: The Service evaluates all available scientific information from peer-reviewed studies that we are aware of when we make management decisions to meet the mission of the National Wildlife Refuge System. The Service is not aware of any studies that contradict the conclusion we reached in the 2022-2023 Final Station-Specific Hunting and Sport-Fishing Rule: that lead ammunition and tackle have a negative impact on wildlife and human health. In support of our decision, we cited over 90 scientific sources in our Cumulative Impacts Report, which is available here: <https://www.regulations.gov/document/FWS-HQ-NWRS-2022-0055-16123>.

Question 2: The bald eagle population in North American is on the rise – a terrific accomplishment and one to celebrate. This is an undisputed fact and we have data and graphs to support that bald eagles continue to increase in number, year after year. Yet you sight that lead is having a population level impact on bald eagles.

So why then, would this administration choose to disenfranchise and cast a shadow on millions of hunters and anglers, the original conservationists that have brought back so many species from the brink of extinction, when you have a population that is not only stable, but growing?

Response: The recovery of the bald eagle population in the U.S. is a conservation success story. Bald eagle populations are currently increasing, largely as a result of past efforts to curtail and even ban the introduction of harmful substances into the environment to which eagles are especially sensitive (e.g., Dichlorodiphenyltrichloroethane or DDT). These efforts, and others, led to the successful delisting of the bald eagle under the Endangered Species Act in 2007. The Service continues to prioritize the conservation of bald eagles, in part, because we have been directed to do so by Congress under both the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

There is clear, strong evidence of the negative impact of lead ammunition on bald eagles both for individual birds and at the population level. For instance, a study published in 2022 by the U.S. Geological Survey studied eagles nationwide over an eight-year period and found that just under 50 percent of the individual birds tested showed repeated lead poisoning. The study also found

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

that population growth rates are slowed by lead poisoning at rates of 3.8 percent for bald eagles annually.

The Service considers conservation actions when the science supports intervention, including necessary regulations, to protect species on Service lands and waters. The Service appreciates hunters and anglers and is committed and actively seeks to increase access for hunting and fishing on our refuge system. At the same time, the law requires the Service to ensure these activities are compatible with our mission to conserve and protect fish and wildlife. This is why we took a moderate approach to the 2022/2023/2024 hunt/fish rules.

Question 3: In the justification for the 2022 Hunt/Fish Rule that proposed the prohibition of lead ammunition and/or fishing tackle on 8 NWRS units, you claim that there are affordable alternatives to lead. Would please provide the economic analysis, market studies and peer reviewed data the Service used to back up this statement?

Response: The Service is not aware of any peer-reviewed studies illustrating the cost difference or availability between lead and non-lead ammunition and tackle. Instead, both the Service and other wildlife management entities rely on anecdotal data and observations from retailers, sporting groups, and hunters and anglers themselves.

Many partners and sporting organizations, including states and the North American Non-Lead Partnership, state that the price difference between non-lead ammunition and lead ammunition is typically, at most, \$10 per box (Maine: <https://www.maine.gov/ifw/hunting-trapping/hunting/nonlead-ammunition.html> and Non-Lead Partnership: <https://huntingwithnonlead.org/frequently-asked-questions>). The price of non-lead ammunition is typically the same as premium lead ammunition and, in some cases, it costs less than lead ammunition. Hunters who remain within legal state bag limits are unlikely to use more than one box of ammunition in a season while hunting. Because ammunition and tackle are often the least expensive equipment that hunters and anglers need, this cost difference is low and should not be a barrier to hunting and fishing.

The Service is considering potential giveaway and exchange programs to help hunters and anglers transition from lead to non-lead alternatives in places where we have restricted the use of lead ammunition or tackle. We would target such programs to low-income and subsistence hunters and anglers who would be the most impacted by any additional costs related to non-lead regulations.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Question 4: The Administration is prioritizing refuges near cities and disadvantaged communities, this is laudable as this will provide thousands of acres of outdoor recreational opportunities to the communities. However, it is puzzling, with the Administration's emphasis on disadvantaged communities and tribes, why would you ever consider going down the path of taking access to hunting and fishing out of the reach of the very communities you claim to prioritize by putting regulations in place, that through lack of availability and higher prices, prohibit these individuals from being able to legally hunt and fish?

Response: The Service emphasizes and prioritizes access to hunting and fishing as two of the six priority public uses of the National Wildlife Refuge System. The Service has opened or expanded nearly 2,700 opportunities on over 6.1 million acres since 2017 to provide increased access for hunters and anglers across the country, many of which support disadvantaged communities in both urban and rural areas.

The cost and availability of non-lead ammunition and tackle could potentially contribute to rising costs associated with outdoor recreation; however, we remain interested in finding ways to help ameliorate those costs, including increased demand for non-lead ammunition and tackle. Our increased focus on urban areas and increased access, along with efforts to minimize the compliance burden of regulations on individuals and businesses, should help to address these issues overall. In places where we have proposed phasing out the use of lead ammunition or tackle, we are considering potential giveaway and exchange programs to help hunters and anglers transition from lead to non-lead alternatives in places where we have restricted the use of lead ammunition or tackle. Such programs would be targeted to low-income and subsistence hunters and anglers who would stand to be the most impacted by any additional costs.

Question 5: There are numerous examples around the country of where education and voluntary actions have led to hunters and anglers to using non-lead alternatives. In fact, in a letter on the 2022 Hunt/Fish Rule, the Association of Fish and Wildlife Agencies recommend a non-regulatory approach to this issue. Since you indicated that you are working with AFWA on a solution, should we assume that the solution going forward will involve a thoughtful non-regulatory approach?

Response: The Service has a history of encouraging voluntary use of non-lead ammunition and tackle on Service lands and waters through our hunter and angler education programs. These programs provide scientific information about the harm that lead can cause to wildlife and demonstrate the performance of non-lead ammunition. Despite years of efforts to encourage voluntary adoption of non-lead options, we believe that adoption of non-lead ammo and tackle on the National Wildlife Refuge System remains low.

The Service is facilitating an open, transparent, and inclusive process to inform future policy decisions on the use of lead ammunition and tackle on the National Wildlife Refuge System. We seek to understand diverse partner and stakeholder perspectives on this issue, including perspectives on the use and efficacy of non-regulatory approaches. While we do not have an

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

anticipated outcome for this process, we are seeking to understand a variety of viewpoints before moving forward with any policy decision, including any application of regulations where necessary to ensure compatibility with refuge purposes.

Question 6: You had mentioned the HWCC will be engaged on a solution to the lead ammunition and fishing tackle issue. Can you please provide the names, affiliations and credentials of the ammunition and fishing tackle industry representatives represented on the Council that will be directly involved in discussing this issue?

Response: The list of Hunting and Wildlife Conservation Council (HWCC) members is available here: <https://www.fws.gov/program/hwcc/hunting-and-wildlife-conservation-council-members>. The HWCC appointed four members to a Wildlife Health subcommittee and the Service is engaging with this subcommittee on the topic of lead ammunition. Those members are: Land Tawney, Backcountry Hunters and Anglers (Subcommittee Chair); Joel Webster, Theodore Roosevelt Conservation Partnership; Brad Brooks, The Wilderness Society; and Simon Roosevelt, Unaffiliated.

Questions from Senator Sullivan:

Question 1: Zoos and aquariums across the nation, such as the Alaska SeaLife Center (ASLC) located in Seward, have not been receiving timely animal care permits from the FWS. The ASLC is Alaska’s only marine mammal stranding network facility and is responsible for a larger area than any other member of the national network. These permits are essential for the management and care of their animals – to highlight the issue, here is an example: a permit to transfer rehabilitated walruses to more permanent homes has been outstanding for more than four years with no update. ASLC is a member of the Association of Zoos and Aquariums (AZA) – AZA has indicated that animal care permit delays are endemic to the FWS permits office nationally in recent years. There has been high turnover in the permits office (6 acting directors in the last 2 years) and lack of in-office presence, which makes it difficult to get calls returned or emails answered. And, as the FWS launched an e-permits system in January 2021, applicants have no visibility of active permits that pre-date the system, and there are no key Points of Contact given in the online system to reach out to about permit delays. These difficulties for even routine permits are negatively affecting the operations of many zoos and aquaria. Recently, I led a bipartisan letter to Asst. Secretary Estenoz signed by six Senators that highlighted this issue and proposed remedies.

Can you commit to permit office processing reform, to ensure smooth facility operations and protect the welfare of animals under the care of zoos and aquariums?

Response: The Service is committed to continually improving delivery and timing of our permit processing responsibilities and ensuring the public’s trust. We value our relationship with zoos and aquariums and strive to process their applications in a timely and efficient manner, as we do for all permit applications we receive.

The effective and efficient processing of permit applications is an important part of the mission of the Service. The Service’s International Affairs program issues more than 30,000 permits per year under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Endangered Species Act, and other laws designed for the protection of at-risk species. In addition to protecting species at risk of over-exploitation, our permits facilitate more than \$675 million in legal wildlife trade annually. In reviewing permit applications, we use the best available biological information to make findings aligned with the requirements of the statutes and regulations that we are entrusted with implementing.

In 2020, we launched a centralized, electronic system for permits called ePermits. Since then, we have been steadfastly improving the system and increasing its capacity. Continued development of ePermits is planned through 2028. Additionally, we are preparing a proposed rule to streamline our permitting regulations and ensure application fees better reflect our costs for processing applications, as most application fees have not been changed since 2005. Any fee changes would reflect rising operational costs, complexity of evaluating some application types, and the need for improved technology to better streamline the process and reduce burdens on the permitted communities. Further, we are working with a third party to conduct a review of the

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

permit program to identify additional efficiencies and resources needed. The review will systematically evaluate our permitting processes, organizational structure, and staffing levels with the aim to maximize our ability to deliver positive conservation outcomes. Additionally, we thank you and your congressional colleagues for the recent \$1.2 million in FY23 appropriated funds to help address the International Affairs permitting backlog. With these funds, we have hired new staff to work on permitting.

Question 2: In Southeast Alaska, we have a growing problem of sea otters impacting our world-class fisheries. Populations are thriving, but they are decimating our rich shellfish and finfish fisheries – estimates show 21,500 otters can eat nearly 127 million pounds of shellfish annually. Commercial harvest in these fisheries is just 5% of the otter’s consumption in the range. Their overpopulation is profoundly impacting the local economy, and proper federal, state, and local management is necessary to address these concerns. I understand that the Fish and Wildlife Service is working on a report to Congress with a “complete survey and stock assessment report” for southeast sea otters.

a. Do you have a timeline for when the Fish and Wildlife Service will finish that report?

Response: The Service is preparing its report to Congress in response to the appropriations language directive on southeast Alaska sea otters and will transmit that report as soon as it is complete.

Though that report to Congress is still in development, in July 2023 the Service released a technical report documenting the latest findings from the 2022 Southeast Alaska Sea Otter Survey. In that report, the Service calculated the first updated abundance estimates for the Southeast stock of northern sea otters in 10 years: 22,359 sea otters. Based on these results, the population size of the Southeast stock is still increasing and is below the estimated carrying capacity for the region of 48,083 sea otters. The Service looks forward to working alongside stakeholders to continue seeking ways to address conflicts consistent with the Marine Mammal Protection Act.

b. Can you commit to engaging on this issue and working with me on establishing meaningful active management of sea otters?

Response: Yes, the Service is committed to working with your office and other stakeholders to explore ways to mitigate sea otter and fisheries conflicts through collaborative efforts, while complying with the Marine Mammal Protection Act. In 2019, the Service and partners convened a Southeast Sea Otter Stakeholder Meeting as an inclusive forum for stakeholders to make their voices heard on this issue, review the latest in sea otter science, and develop recommendations to address resource conflicts. That meeting resulted in a report of recommendations that the Service and partners have been acting to implement, including the completion of the 2022 aerial survey.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

Since that 2019 meeting, the Service continues to regularly convene partners—Tribes, Alaska Department of Fish and Game, commercial shellfisheries, NGOs, and others—through the Southeast Sea Otter Stakeholder Working Group. That group provides a forum for sharing concerns and identifying next steps. We would welcome your office’s engagement in that group.

Question 3: Hunting and fishing are very important to Alaska, both to our way of life and the economy – there are over a dozen national wildlife refuges in my state. But I’m concerned that actions like restricting traditional ammunition and fishing tackle, as was done in the FWS’ 2022-2023 Station-Specific Hunting and Fishing Final Rule, will make it harder for the public to enjoy these opportunities.

a. Should we expect that any future expansions of hunting and fishing in any wildlife refuges will come with the caveat that lead tackle and ammunition will be restricted, therefore making it harder for people to participate in these activities?

Response: The Service is required to evaluate all activities on the National Wildlife Refuge System, including hunting and fishing, for compatibility with our responsibility to protect and conserve wildlife. When the science is clear that a particular use, such as the use of lead ammunition or tackle, will materially interfere with or detract from our ability to achieve refuge purposes, the Service is required to find that use incompatible. The Service considers the socioeconomic impacts of how we manage our hunting and fishing programs before making changes. This includes considering the impacts of any requirements to use non-lead ammunition or tackle on hunters and anglers.

The Service is conducting a transparent process to evaluate the future of lead use on the National Wildlife Refuge System and seek input from partners and stakeholders. As we work through this process, we are taking a precautionary approach by not expanding the use of lead on the National Wildlife Refuge System. While we do not have an anticipated timeframe or outcome for this process, we want to ensure that the process, while deliberate, takes no more time than necessary.

b. Since this decision doesn’t appear to be supported by any science specific to these areas, are we to expect this to result in more non-scientific management decisions elsewhere by the FWS?

Response: The Service evaluates all available scientific information from peer-reviewed studies that we are aware of when we make management decisions to meet the mission of the National Wildlife Refuge System. In support of our 2022-2023 Final Station-Specific Hunting and Sport-Fishing Rule, we relied on the best available science, which included over 90 scientific sources cited in our Cumulative Impacts Report: <https://www.regulations.gov/document/FWS-HQ-NWRS-2022-0055-16123>.

Questions for the Record
Senate Energy and Public Works Committee
Oversight Hearing on FWS FY24 Budget
May 16, 2023

The standard is “best available” science because, as with many threats to wildlife, there are limitations on the possibilities for scientific study of lead impacts to wildlife. Extensive field data collection would not be an efficient or effective use of station resources and may not be feasible for some species, so the best available science will still need to employ widely accepted scientific tools like sample populations, statistical analysis, and extrapolation. Interpreted through the professional expertise of Service personnel, the best available scientific studies provide evidence of lead impacts that is applicable to wildlife anywhere, including in any state or territory of the United States. The Service determined through scientific analyses in our National Environmental Policy Act analyses, refuge plans, and compatibility determinations that lead ammunition and tackle have negative impacts on species at each refuge where we made the decision to require non-lead ammunition and tackle.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 30 2023

The Honorable Harriet M. Hageman
Chair, Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chair Hageman:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted to the Department's witness, Carmen Cantor, Assistant Secretary for Insular and International Affairs, following her October 19, 2023, appearance before your Subcommittee on the Discussion Draft of the *Compact of Free Association Amendments Act of 2023*.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Teresa Leger Fernandez
Ranking Member

Questions from Chairman Westerman

1. **Question: How will the Department of the Interior work to improve coordination with the Department of State and the Department of Defense while making sure that the Department of the Interior's internal processes are not negatively impacted?**

Response: The Department of the Interior (Department) has already begun efforts toward this goal by initiating an annual meeting across our interagency partners that have equities in the Freely Associated States (FAS). Department and Office of Insular Affairs leadership will be convening a meeting in Honolulu this month that will set the tone for this increased coordination over the next financial term of the Compacts. We will also continue to participate in Compact of Free Association Article 3 Joint Committee Meetings with each of the FAS nations that are hosted by Department of Defense and each respective FAS nation on an annual basis. Moreover, as the former U.S. Ambassador to the Federated States of Micronesia, I am uniquely situated to understand the need for and importance of coordinating our operations in the FAS and for promoting our great work in these islands to the benefit of our preferred partner relationship. Further, the draft bill mandates the convening of an Interagency Group akin to the interagency group with the Governors of the Insular territories.

2. **Leadup: This legislation would require the Secretary of the Interior to submit to Congress a report that includes a compilation of the COFA agreements within 180 days of enactment.**

Question: Can you commit to making sure that these reports are delivered to Congress in a timely manner and to the appropriate Congressional committees as Assistant Secretary?

Response: We always do our best to meet timelines mandated by Congress and will continue to do so.

3. Leadup: Outward migration is a major problem for the FAS as many FAS citizens choose to move to the U.S. in search of better opportunities. This has negatively impacted the economies and workforce of these countries.

Question: How do the COFA agreements help to address this issue?

Response: The extent to which, and in what ways, outmigration impacts the economies of the FAS is difficult to quantify with certainty, particularly in recent years with the COVID-19 pandemic and in the island economies of the FAS that inherently have a narrower set of industries to buffer against economic shocks.

However, we know that the FAS economies are susceptible to economic volatility from both external global factors that impact business activity and tourism and internal drivers (*e.g.*, outmigration, the start and completion of large infrastructure projects, etc.). These economies are also dependent on U.S. assistance to meet basic needs and services. Specifically, as of 2019 assistance from the combination of U.S. grants and Compact Trust Fund disbursements made up between 26 percent and 35 percent of total FAS government expenditures.

To address some of these issues, the COFA agreements assist long run support and livelihood of the FAS economies. They provide continued access to annual grants assistance at levels at or greater than the current levels. This helps avoid a fiscal “cliff” that could significantly impact the ability of the FAS governments to provide basic services. The new agreements also continue several key Federal programs to ensure access to critical areas of the economy (*e.g.*, aviation, postal services, etc.). Finally, they incorporate distribution policies out of the Compact Trust Funds that balance current and long run needs. Specifically, the policies make funds available for current and special needs unique to each economy, in a way that is predictable for purposes of the budget (*i.e.*, minimizing annual volatility), while also supporting a long run opportunity for the funds to grow to a level where they can serve as a more reliable source of funding to the FAS economies in perpetuity.

- 4. Leadup: This legislation would extend eligibility to U.S. federal programs and services to Palau. Palau would get access to the same programs and services provided to the FSM and the RMI.**

Question: Why do you believe this is necessary?

Response: Palau’s access to the same level of programs and services provided to the FSM and the RMI will enable Palau to bolster programs within its health and education systems that will contribute to the social and economic advancement of the people of Palau.

Follow-up: Would you say this reflects the growing strength of U.S.-Palau relations?

Response: Yes. Palau’s ability to access federal programs and services reflects the special relationship between the United States and Palau. The unique mix of an international agreement such as the Compact of Free Association and ensuring Palau’s continued access to federal domestic programs and services validates to Palau that they are indeed part of the U.S. family—an “extension of the homeland,” as they have often repeated referencing remarks from our own military officials speaking of Palau.

- 5. Leadup: Under Section 10 (c) of the Compacts of Free Association Amendments Act of 2023, there would be a total of eleven million dollars going to judicial training during the Compact period.**

Question: Can you please articulate the importance of judicial training in the FAS?

Response: The foundation of the judiciary system within each FAS nation is firmly rooted in U.S. law, and this program strengthens rule of law by providing capacity building and training for FAS judges on U.S. legal and policy issues and procedures. With this funding, judges in each FAS will be able to continue to attend training programs in the Pacific to learn about procedures, court technologies, and how to resolve cases fairly and efficiently. They will also learn about new legislation, case law, and social issues that impact the cases heard in their courts.

Follow-Up: Can you provide some specific examples of how investing in Judicial Training helps strengthen FAS resiliency to PRC coercion and maligned activity?

Response: A judiciary that is recognized by the FAS population as professional, competent, fair, equitable, and efficient is a bulwark for their democracies and systems of government. Investing in the training of court leaders guided by principles of rule of law, transparency, and a judiciary independent from executive power will allow them, in turn, to impart justice and train court staff, strengthening FAS resiliency to PRC coercion, corruption, and malign activity. Lawyer training to ensure a pool of qualified candidates to fill future judicial vacancies also strengthens FAS resiliency. An empowered, independent judiciary builds resilience against bribery and corruption that can often come from outside the FAS.

6. Leadup: This legislation would require the Secretary of the Interior to send to Congress reports conducted by the various joint economic committees, joint trust fund committees, and the Economic Advisory Group.

Question: Can you commit to making sure that these reports are delivered to Congress in a timely manner and to the appropriate Congressional committees as Assistant Secretary?

Response: Yes, we will transmit reports to Congress in a timely manner once officially received from the FAS.

7. **Leadup: This discussion draft would require U.S. members of the FSM's and RMI's joint economic committees and the joint trust fund committees to have a strong background in finance and accounting. It also places five-year term limits on the U.S. members. There are similar provisions for U.S. members of Palau's Economic Advisory Group.**

Question: How will this improve U.S. government oversight on the implementation of the Compacts and help the FAS improve their economic growth and resiliency?

Response: The proposed background qualification requirements would not improve U.S. government oversight on implementation. We have technical experts on our respective staffs at the Department of the Interior and the Department of State who specialize in these areas of implementation. They advise the U.S. members of the Joint Economic Management and Trust Fund Committees, who in turn are policy principals responsible for making final decisions and for managing the relationship between the U.S. Government and the FAS governments. These requirements will limit the pool of U.S. Government principals available to sit on these bodies across from high-level officials from the FAS governments and may make it difficult to fill these seats in practice.