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Representative Jared Huffman, Chair
Subcommittee on Water, Oceans, and Wildlife
House Committee on Natural Resources
1332 Longworth House Office Building
Washington, DC 20515

Dear Chair Huffman:

I am writing in response to your letter of November 1, requesting that I answer questions following up on the oversight hearing held by the Subcommittee on Water, Oceans, and Wildlife on October 26.

I have attached my answers to the questions.

Please let me know if you need any further clarification or have additional questions.

Very truly yours,

A handwritten signature in black ink that reads 'John H. Knox'.

John H. Knox

Henry C. Lauerman Professor of Law
Wake Forest University

**Answers to Questions for the Record addressed to John Knox,
Professor of International Law at Wake Forest University**

Question from Rep. Jared Huffman, CA

1. When asked your opinion about WWF’s grievance mechanisms, you replied that they have been working on them for 6 years and you have yet to see any results. The Government Accountability Office (GAO) reported in October 2020 that WWF had told them they had received 50 complaints over the course of the previous year through these grievance mechanisms, and that they had responded by reporting allegations of human rights abuses to relevant authorities and meeting with community representatives. In light of this claim, could you please explain your response further? What more, in your opinion, needs to be done?

I should clarify the question and answer during the hearing to which this follow-up question refers. During the hearing, Representative Gosar asked me the following question:

“In Ms. Hemley’s testimony, WWF stated it is designing a grievance mechanism for the indigenous and local peoples in Salonga National Park. What is your reaction to this step by WWF?”

I replied:

“WWF has been saying that they’re designing this grievance mechanism for at least six years. I guess I’ll say, my reaction is that I’ll believe it when I see it.”

My answer was specific to Salonga National Park, in the Democratic Republic of the Congo (DRC), which WWF signed an agreement to co-manage six years ago, in 2015. I cannot confirm from the Panel report that it has stated its intent to establish a grievance mechanism from 2015 on, but it has done so from at least 2017. It only issued a call for tenders in 2020. To my knowledge, the mechanism has still not been established.

To be clear, I did not mean to suggest that WWF has not supported grievance mechanisms in other countries. The problem is that WWF has not done so consistently or effectively. In the following paragraphs, I will first describe the existing WWF approach to complaints, as described in the Panel report. Then, I will explain what, in my opinion, needs to be done going forward.

a. WWF complaint mechanisms.

In 2010, WWF committed to establish complaint mechanisms as part of its *Social Dimensions of Conservation and Natural Resource Management Framework*, a document that described how it planned to implement its social policies, including its human rights commitments.¹ In the November 2020 report, the Independent Review Panel found that “WWF International and the Network were very slow to give effect to the commitments” to establish grievance mechanisms, and that “the steps that have been taken have too often been largely inadequate to address complaints of human rights abuses, or *ad hoc* and too-long delayed.”²

For example, it was not until January 2016 that WWF International launched what it

¹ See Independent Review Panel, *Embedding Human Rights in Nature Conservation: from Intent to Action* (Nov. 2020), pp. 132, 137.

² *Id.* p. 139.

described as a global complaint mechanism, the Project Complaints Resolution Process (PCRP). This process was intended to be under the review and monitoring of a compliance officer in the office of the WWF Director General at WWF International. However, the Panel found that the PCRP had received no complaints at all as of the end of 2017, and concluded that “[a]s an overarching global complaint mechanism, the PCRP was a failure and never used as intended.”³

By the end of 2019, WWF had taken some steps, such as compiling logs of complaints received at local levels. But the Panel concluded that as of the time of its report in 2020, “WWF is still debating how best to deal with investigations of complaints involving rangers,” including whether to contract out such investigations to independent bodies, investigate them itself, or leave them to the government authorities.⁴ By the time the Panel finalized its report, the role of the new Ombudsperson Office was not yet clear. The Ombudsperson assumed that position in August 2021; to my knowledge, the role of the office in reviewing and responding to complaints is still unclear.

Because WWF did not have a uniform process for responding to and managing human rights complaints, either at the local level or the regional/international level, it left the responsibility for investigations to its program offices in different countries. The Panel found that WWF International did not establish a process or guidance as to how investigations should be carried out.⁵ Without clear guidance from WWF International or the WWF Network, individual offices addressed – or failed to address – complaints in a variety of ways.

For example, in the Republic of Congo, WWF has managed the ETIC program jointly with the government since 2005; it employs approximately 33 ecoguards. The Independent Review Panel found that there was no grievance mechanism for the ETIC program before October 2018. An investigation by the UN Development Program (UNDP) Social and Environmental Compliance Unit (SECU) reported that individuals stated that when they tried to complain to the ETIC main office, “their complaints were not taken seriously and . . . they received threats as a result.”⁶ In October 2018, the WWF office in the ROC created a new complaints procedure, under which two WWF community liaison officers visit local villages to ask if they have any complaints. Investigation of complaints is conducted by a team headed by one of the community liaison officers, which produces a report and recommendation as to whether there should be sanctions. In 2019, the mechanism logged 31 complaints concerning treatment by ecoguards, including 10 before 2017, six from 2017, eight from 2018, and six from 2019. Approximately 14 of the complaints alleged beatings or physical violence by ecoguards.⁷

The Panel report stated that while the mechanism has some positive aspects, including the regular visits to villages to receive complaints, its major shortcoming is that investigations are conducted by the WWF community liaison officers, who are not trained to conduct criminal investigations. Moreover, they are not independent of the ETIC program, which gives rise to potential conflicts of interest.⁸ The Panel noted generally that it is not appropriate for organizations to self-investigate complaints of human rights abuses made against them or in

³ Id.

⁴ Id. p. 140.

⁵ Id. p. 139.

⁶ Id. p. 101, citing UNDP SECU, *Final Investigation Report*, Case No. SECU0009 (June 4, 2020), paras. 9-11.

⁷ Independent Review Panel, *Embedding Human Rights in Nature Conservation: from Intent to Action* (Nov. 2020), p. 102.

⁸ Id. p. 108.

relation to their activities.⁹

In Cameroon, WWF opened its program office in 1990, but had no applicable complaint mechanism before December 2016, after which time WWF supported efforts by CEFAID, a Cameroon civil society organization, to establish a mechanism that would assist Baka on a wide range of issues. An assessment of the mechanism in 2019 found that communities around the national parks continued to have complaints about ecoguards but generally did not know about the existence of the complaint mechanism.¹⁰ The Cameroon National Human Rights Commission led a stakeholder meeting that identified other shortcomings in the mechanism, including that the CEFAID office was too far from the Baka communities; the mechanism was too closely associated with WWF; and it lacked long-term secure funding. Moreover, it covers only two of the three national parks in the region. The Panel report described steps that the stakeholders, including WWF, plan to take to respond to this assessment. The Panel stated that “Although it is too early to come to conclusions about the effectiveness of the revised mechanism, it is a good-faith, well-designed effort to provide the Baka and other marginalized communities with an avenue to bring forward and resolve their complaints, including those relating to ecoguards.”¹¹

However, the Panel report also stated that WWF International needed to provide its Cameroon office with better oversight, guidance, and support on how to deal with specific complaints of abuse brought to its attention. When complaints of ecoguard abuse were raised with WWF, it sometimes referred the complaints to the government ministry overseeing them but took no further steps to follow up to ensure that the referral resulted in effective investigation or disciplinary action. In one case in 2017, when a local WWF staffer investigated a complaint of ecoguard abuse himself, he was instructed by his superiors not to do so again.¹² WWF commissioned three independent reports in 2015, 2016, and 2017, all of which interviewed Baka men and women in villages around the parks and heard many allegations of abuses by ecoguards. WWF apparently referred none of those allegations to the authorities.¹³

The Panel noted that WWF deferred to the Cameroon forest ministry’s wish that any allegations of abuses by ecoguards not be brought to the attention of the judicial system. The Panel stated that since the ministry also “took the position that ecoguards could not be dismissed without a decision from the office of the President of Cameroon and that any disciplinary action against an ecoguard must be kept confidential, the effect of such deference was to leave action on such allegations completely up to [the ministry].” The Panel also noted that “referring an allegation to [the ministry] without any safeguards to protect alleged victims carried the risk of putting the alleged victims at additional risk from reprisals.”¹⁴

⁹ Id. p. 140.

¹⁰ Id. p. 58.

¹¹ Id. p. 64.

¹² Id. p. 57.

¹³ In 2016, Survival International filed a complaint concerning WWF’s operations in Cameroon before the National Contact Point of Switzerland for the OECD Guidelines for Multinational Enterprises. WWF stated to the Swiss National Contact Point that “WWF does also attempt to verify credible allegations of instances of abuse coming to its attention and has taken up instances of verified abuse with the Cameroonian authorities.” National Contact Point of Switzerland, *Initial Assessment: Specific Instance regarding the World Wide Fund for Nature International (WWF) submitted by Survival International Charitable Trust* (Dec. 20, 2016). This statement was misleading to the extent that it suggested that WWF took such actions with all of the allegations brought to its attention.

¹⁴ Independent Review Panel, *Embedding Human Rights in Nature Conservation: from Intent to Action* (Nov. 2020), p. 64.

In Nepal and India, like the DRC, WWF did not have effective complaint mechanisms in place.¹⁵ The Panel stated that the WWF office in Nepal “does not appear to have been aware of the majority of human rights abuses alleged to have been committed in and around Chitwan and Bardiya National Parks between 2006 and 2016. Where such information was known, WWF Nepal adopted the attitude that any allegation relating to the government or the armed forces was a matter for the government to address, and it does not appear to have referred concerns to WWF US.”¹⁶ The Panel stated that while WWF pointed to the PCRCP, it “does not appear to have been well advertised, accessible or promoted to local communities.”¹⁷ The Panel stated that “WWF would better align with its own social policies and commitments if it adopted an independent mechanism for reviewing and considering complaints made against the government, including protected area rangers and Army protection units, in respect of indigenous peoples’ rights and access to local resources.”¹⁸

By far the best example of a complaint mechanism reviewed in the Panel report is the Human Rights Centre in Bayanga, in the Central African Republic, which is run by a national civil society organization. It was created in 2015 as part of a WWF-funded civic empowerment project, and provides assistance to communities in the Dzangha-Sangha area on a wide range of matters, including but not limited to allegations of abuses by ecoguards. An independent evaluation in 2018 found that its human rights work functioned well and should be continued.¹⁹ With respect to disseminating the lessons from such a good practice throughout the network, the Panel stated that “There has been no consistent process within WWF to identify and build on successful models, or to replicate them elsewhere.”²⁰

b. Improving complaint mechanisms and responses to complaints

WWF needs to have a consistent, effective approach to complaint mechanisms throughout its network. It also needs to make clear to its government partners, as well as indigenous peoples, local communities, and other stakeholders, that it will not provide support for rangers or law enforcement unless complaints are properly addressed.

WWF should provide for complaint mechanisms at the level of individual countries and at the level of the Network. At both levels, complaint mechanisms should be accessible, transparent, and trustworthy, able to consider complaints fairly without interference from the individuals or entities against which the complaints are directed.

The Independent Panel included specific recommendations on complaint procedures:

(a) In all countries, WWF must have a procedure for receiving complaints concerning its staff and those of its partners. The procedure must protect complainants from reprisals. Complaint mechanisms should be easily accessible to local stakeholder communities. Information on how to bring complaints should be disseminated in ways that are appropriate to local conditions. This is especially important in countries where stakeholders may not have access to reliable judicial and administrative procedures.

¹⁵ It should be noted that WWF has had a far more active role in the DRC than in Nepal and India. In the DRC, WWF co-managed Salonga National Park; in Nepal and India, its role was limited to providing financial support.

¹⁶ Id. p. 117.

¹⁷ Id. p. 138.

¹⁸ Id. p. 121.

¹⁹ Id. pp. 93-94.

²⁰ Id. p. 139.

(b) Where possible, WWF should ensure that communities have access to an appropriate independent complaint mechanism administered by a local civil society organization, as in the CAR. Preferably, such mechanisms should be able to receive, mediate, resolve and refer complaints not only about rangers, but also about other sources of conflict and abuse. To be effective, these mechanisms must be accessible to the local population, staffed by competent experts, and have sustainable long-term financing. The independent mechanisms should also provide channels of communication to bring to WWF's attention complaints concerning either WWF staff, or the staff of partners to which WWF provides support, including rangers.

(c) Financing for complaint mechanisms, including those serviced by independent civil society organisations, should be sought routinely as part of the financing for WWF landscape and seascape programmes and built into regular project budgets . . .

(e) the Ombudsperson Office [should have] the authority to monitor the effectiveness of the country-level complaint mechanisms, to receive and investigate complaints that are not resolved by those mechanisms, and to provide redress or recommend other appropriate remedies.²¹

By itself, the establishment of complaint procedures is not enough. With respect to complaints against it or its partners, WWF must also follow through to make sure that the complaints are appropriately investigated and resolved. That means, among other things, that it must ensure that its partners have taken appropriate measures, including, where necessary, disciplinary action. WWF also has a responsibility to track complaints and their resolution in order to determine whether they are isolated incidents or indicative of a more systemic problem, and to regularly report on the complaints received and how they have been resolved.²²

The complaint procedures should be part of a comprehensive approach to human rights due diligence, which includes clear standards for ranger conduct no less stringent than international norms, such as the UN *Code of Conduct for Law Enforcement Officials*, regular training, and ongoing monitoring and reporting on compliance. As the Panel stated, "WWF should make clear that it cannot provide support for rangers without effective mechanisms in place to monitor their behavior, investigate allegations and provide appropriate disciplinary measures for confirmed violations."²³ As a result, if complaints (or other sources) indicate a systemic failure to comply with these standards, then WWF should withdraw its support.

²¹ Id. p. 156-157.

²² Id. p. 157.

²³ Id. p. 152.

Question from Rep. Jared Huffman, CA

2. If WWF conducting its own program monitoring and evaluation is not working or effective, what specific action should U.S. government agencies take to improve oversight? Which, if any, U.S. agencies lack authority or resources to conduct proper oversight, and how should that be addressed?

Before issuing grants for a WWF proposal, the U.S. agencies should, at a minimum, determine whether the proposal meets the following requirements:

- o WWF has assessed the potential human rights impacts of the project or initiative, and has put into place an action plan that effectively addresses those impacts. Specifically, the action plan should clearly identify appropriate actions to prevent and mitigate the potential negative impacts on human rights, set out the specific responsibilities of the WWF offices and their partners, and provide for sufficient funding and other resources to carry out those initiatives. The action plan should be reached on the basis of consultation with indigenous peoples and other potentially affected stakeholders.
- o The project or initiative to be funded must be in compliance with the rights of Indigenous Peoples and Local Communities (IPLCs). In particular, any restrictions on their access to their traditional lands, territories or resources should only be with their free, prior and informed consent. No funds should be provided to a protected area being created in violation of IPLC rights; with respect to already-established protected areas that deny the customary rights of IPLCs to the area, funds should only be provided if (1) the IPLCs have effective rights of access to the area or there is a credible plan to provide such rights within two years; and (2) the IPLCs have meaningful input into management of the area.
- o With respect to law enforcement, there are agreements between WWF and the appropriate government ministries in the country that are at least as stringent as international norms, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and there are effective systems of monitoring and enforcing those standards in place, including due diligence procedures for hiring, training and disciplining rangers.
- o There are complaint mechanisms in place that are accessible, transparent, and trustworthy, able to consider complaints fairly without interference from the individuals or entities against which the complaints are directed. Complaints should lead to appropriate investigation and resolution, including as necessary disciplinary action.
- o The key documents concerning WWF's involvement in the project, including its agreements with governments and park management plans, are provided to partners and stakeholders, including IPLCs, that are directly affected.
- o WWF has the necessary capacity to meet these requirements. That means, at a minimum, the WWF office overseeing the project should have a designated individual responsible for ensuring that WWF meets its due diligence and other requirements, and who has the necessary expertise and support to do so.

The U.S. government agencies should establish clear requirements for WWF on regular reporting on its compliance, but they should not rely on WWF's self-reporting on its compliance with U.S. standards or international human rights standards. Instead, the agencies should carry out regular site visits, hear from representatives of IPLCs and other stakeholders in the area, and conduct research to obtain relevant information from other sources, including other funders.

This means that the agencies must themselves have the expertise and capacity to monitor compliance with the relevant standards. Unfortunately, I do not have sufficient information to answer your question about which U.S. agencies lack authority or resources to conduct proper oversight, and how that should be addressed. However, I note that serious concerns have been raised about the capacity of the U.S. Fish and Wildlife Service (USFWS) in relation to its oversight of funding. For example, in 2018, the Office of the Inspector General at the U.S. Department of the Interior found a number of instances in which USFWS did not comply with federal regulations, USFWS policy, and the terms of financial assistance agreements in awarding and monitoring such agreements.²⁴

As you know, in September 2020, Deputy Secretary of the Interior Katharine MacGregor issued a memorandum that described a number of sources that substantiated many allegations of abuse by ecoguards in parks paid by WWF and working in protected areas supported by WWF. The memorandum described a number of policy concerns and issues, including that:

- o These allegations were brought to the attention of USFWS primarily through media reports, rather than from grant awardees or as a result of monitoring by the agency itself. "The Department's oversight and accountability controls have previously only been engaged when the applicable offices have been notified of an allegation; *there is no proactive monitoring.*" (Emphasis added.)
- o Allegations were handled internally by the awardees, and the results of investigations were not made available to the U.S. government "either at all or in a timely manner."
- o While organizations receiving CARPE funds are subject to *Leahy* vetting pursuant to 22 U.S.C. § 2378d, many of the organizations also receive funds that are directly appropriated to USFWS for purposes and locations similar to those of CARPE; because such funds are not provided under the Foreign Assistance Act, they are not necessarily subject to *Leahy* vetting. As Deputy Secretary MacGregor stated, this is "a gap in oversight that should be addressed."
- o USFWS conducts only "minimal site visits" and its officers "do not normally focus on individual grant oversight or investigations of alleged grantee personnel misconduct." Its officers have some expertise in financial and program audits, but they "do not have backgrounds or experience in criminal or civil investigations," that would allow them to assess any allegations of misconduct.
- o Many of the allegations concerned actions by "sub-recipients" of the grants, but "the Department's ability to conduct appropriate oversight over sub-recipients is contractually and regulatorily severely limited" so that it has to rely on the primary awardee to hold the sub-recipients accountable.

²⁴ Memorandum from Eric Alvarez, Acting Assistant Director, International Affairs, to Chris Stubbs, Director, Financial and Contract Audits (July 26, 2018).

Deputy Secretary MacGregor recommended a more thorough investigation and the addition of significant controls before awarding further funds. She stated that a number of specific changes were necessary, including that USFWS enter into an agreement with USAID under which USAID would administer the grant program, “including all monitoring and oversight,” while USFWS would participate in a technical consulting role. I do not know whether such an agreement is still being contemplated under the new administration.

I agree that it may make sense to have this program administered by USAID if USFWS does not have the capacity to undertake the necessary oversight and monitoring. However, before taking this step, I recommend that the Subcommittee on Water, Oceans, and Wildlife undertake further investigation to determine whether USAID does have such capacity. It is far from clear that State/USAID has done a better job than USFWS at overseeing international conservation grants in this area. As Deputy Secretary MacGregor’s memo noted, the October 2020 GAO report found that like USFWS, State and USAID were unaware of the allegations of human rights abuses until they were reported in the press, and that like USFWS, they had relied on WWF to conduct its own internal investigations. It would be truly unfortunate if, in the future, these grants were simply shifted from one agency to another without ensuring the necessary level of oversight and compliance by either.

One possibility would be for the Subcommittee to have another hearing, which would focus primarily on issues related to U.S. agency capacity to oversee and monitor international conservation funding, and to identify and address any other relevant issues in that regard. Such a hearing could provide a basis for specific legislation designed to ensure that all U.S. funding for international conservation is subject to the same requirements, and that all such funding is subject to appropriate and effective oversight.

In keeping with the question, I have focused my answer on WWF, but these points all apply more generally to all international conservation funding. The U.S. government should not depend solely on the self-monitoring and evaluation of any conservation organization receiving U.S. funding, any more than it should with respect to any other recipient of taxpayer dollars.