



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JAN 27 2020

The Honorable Jared Huffman
Chairman
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Huffman:

Enclosed are responses prepared by the U.S. Fish and Wildlife Service to questions submitted following the Subcommittee's September 24, 2019, legislative hearing on multiple bills pertaining to the Service.

Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

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

Enclosure

cc: The Honorable Tom McClintock
Ranking Member

Question from Chairman Huffman

1. **Mr. Guertin, during the hearing you made a commitment to comply with my request for a copy of agency communications with the Westlands Water District and other non-federal parties on the biological opinions that are currently being developed for the Central Valley Project. Will this requested information be provided by October 11, 2019, as I and Chairman Grijalva have requested?**

Response: I understand that a production of responsive documents was transmitted to the Committee on November 15, 2019 and that the Department is continuing to identify and process documents responsive to this request.

Questions from Rep. Nydia Velazquez

2. **Mr. Guertin, as you may know, in 2017 the U.S. Fish and Wildlife Service's career scientists completed a draft biological opinion regarding the impacts of three toxic pesticides (malathion, diazinon, chlorpyrifos) on endangered species, and that review was effectively killed by Secretary Bernhardt for political reasons.**

The scientists concluded that chlorpyrifos, a deadly pesticide that causes neurological developmental problems in children, is putting 1,399 species on a path to extinction. Can you please tell me what steps the Service is taking right now to implement on-the-ground conservation activities to protect any endangered species from chlorpyrifos?

Response: The U.S. Fish and Wildlife Service (Service) has no regulatory authority over the use of chlorpyrifos. Our focus with regard to addressing the potential effects of chlorpyrifos use on threatened and endangered species is to complete a section 7(a)(2) consultation with the EPA regarding the re-registration of that chemical and two other organophosphate pesticides. The Service has been working extensively with EPA, USDA, and the pesticide industry to obtain better information on actual usage of these chemicals to inform our consultation, and we are now preparing biological opinions that evaluate these chemicals based on the actual usage data that is available. While this has delayed the completion and release of the biological opinions, it will ultimately ensure that the final biological opinions are based on the best scientific and commercial data available, as required by the Endangered Species Act (ESA).

3. **Similarly, Mr. Guertin, the career scientists at the Service expressed alarm that many endangered plants could be wiped out by pesticides because even just a single exposure could kill the pollinators that these plants depend upon.**

Given the Service's decision in 2018 to reverse a ban on neonicotinoid insecticides on wildlife refuges and the Service's continued failure to complete - or even take any

meaningful action - to make progress on pesticide consultations, please tell me what specific conservation actions on-the-ground that the Service is taking right now to protect pollinators from pesticides?

Response: Each proposed use of a pesticide on lands and/or waters managed by the Service or use of a pesticide by a Service employee requires a pesticide use proposal, which is reviewed for non-target resource impacts (including pollinators). An ESA intra-Service section 7 consultation is completed for the site-specific use of a pesticide to analyze the potential impacts to federally-listed, proposed or candidate species or designated critical habitat. These proposed pesticide use reviews and analyses can result in implementation of best management practices specific to the site and its wildlife and habitat resources. Best management practices may include adjusting the timing of a pesticide application to periods of the day when pollinating insects are less active or application of a pesticide when plants are not in bloom.

Question from Rep. Gregorio Sablan

- 4. Mr. Guertin - Where is U.S. Fish and Wildlife's strategic management plan for the Marianas Trench Marine National Monument? On January 6, 2009, President George W. Bush issued Presidential Proclamation 8335 establishing the Marianas Trench National Monument, in recognition of the unique biological, ecological, geological and cultural heritage of the lands, waters, and submerged lands of the Mariana Ridge. The Monument proclamation ensured the protection of rare and scientifically significant marine resources including the biologically rich waters of the archipelago's northern islands, as well as the unique geological and volcanic phenomena of the Mariana Ridge. Before and after the proclamation signing, promises were made to the people of the Northern Marianas by federal officials that have not been kept.**

Secretarial Order 3284 issued on January 16, 2009 - just ten days after the Monument proclamation - granting authority to the Secretary of Interior to manage the monument was delegated to the U.S. Fish and Wildlife Service. Fish and Wildlife was directed to prepare management plans and promulgate implementing regulations in two years - by January 2011.

Over eight and a half years later there is still no management plan. Little to no federal resources have been expended to promote the Monument. There is no Visitors Center and no plans for one. There has been scant public education and outreach programs. As a result, scientific exploration and research, tourism and recreational activities have not been realized. My constituents have been asking the federal government to make good the promise of the Monument from day one.

What can you tell me about the status of the Strategic Management Plan that is supposed to be provided by the Fish and Wildlife Service? When will it be issued? What work has Fish and Wildlife done in preparations for completion, and what steps if any are still needed? Will we ever see a management plan?

Response: This summer, a number of steps were taken to address and resolve important outstanding issues between the Service and National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) regarding the draft Monument Management Plan and associated Environmental Assessment for the Marianas Trench Marine National Monument.

The Service and NOAA Fisheries are now coordinating with the Commonwealth of the Northern Mariana Islands before preparing a final draft Monument Management Plan for public review and comment. On September 3, 2019, the two agencies met with Lieutenant Governor Palacios and Chief of Staff Demapan for a briefing and open discussion on the draft Monument Management Plan.

Currently, the Service and NOAA Fisheries are awaiting comments from the Commonwealth government before putting the document out for public review. We will then work with partners for additional discussion and final review, and intend to publish a draft Monument Management Plan for public review and comment soon after. The Service will keep your staff updated as this process moves forward.

Questions from Rep. Jeff Van Drew

- 5. FWS does a lot of work with the National Fish Habitat Conservation Partnership. The National Fish Habitat Conservation Partnership is an established program that already has a list of success stories. How would this bill contribute to the current efforts?**

Response: At the national level, the Service implements the National Fish Habitat Partnership (NFHP) program by providing technical assistance and project oversight to eligible Fish Habitat Partnerships. The Service allocates congressionally appropriated funds for operations and through a competitive and results-driven process for partnership projects. Since its inception, the Service has provided executive representation on the NFHP Board and has provided staff support. At the regional and local levels, our staff administers financial assistance agreements, assists with required environmental compliance and permitting tasks, provides technical and engineering support, and coordinates the habitat conservation work of Fish Habitat Partnerships with other Service programs. The Service relies on a portion of the annual funding provided by Congress to support staff salaries that are essential to the sound execution of this program. Under the current model, the Service oversees implementation of the NFHP program and ensures that partnerships utilize available funding to meet fish habitat conservation goals.

H.R. 1747 seeks to vest the authority for administrative oversight and funding decisions of the NFHP program in the NFHP Board. This action would significantly impair the Service's ability to provide robust management, oversight, and accountability to the NFHP program. The bill would also reduce funds currently utilized by Service staff to administer this program by more than two-thirds. If this legislation were to become law, the Service would continue to engage with the program, as appropriate, and to the best of its ability. However, the altered funding and oversight model contemplated by H.R. 1747 would likely result in the Service reassigning field staff to other duties, which will curtail the Service's ability to continue as an effective member of this partnership, as it is currently administered.

6. Can you give some examples of how public-private partnerships have been successful under the North American Wetlands Conservation Act?

Response: The North American Wetlands Conservation Act (NAWCA) is the only federal grant program dedicated to the conservation of wetland habitats for migratory birds. Since 1989, funding has advanced the conservation of wetland habitats and their wildlife in all 50 U.S. states, Canada and Mexico while engaging more than 6,200 partners in nearly 3,000 projects. Examples of three projects that were recently approved by the Migratory Bird Conservation Commission include:

- Missouri River Valley Wetlands – Ducks Unlimited, Inc. will use \$1 million to acquire, restore and enhance 4,618 acres within major wetland and grassland complexes in the Missouri River Alluvial Plain in western Iowa and northwest Missouri, benefitting northern pintail, lesser scaup and many other species. Twenty-two partners will provide more than \$2,396,000 in match to achieve this project.
- Upper Snake River – The Teton Regional Land Trust will use \$1 million to protect and enhance 1,691 acres of migrating, breeding and wintering habitat in eastern Idaho. Twelve partners will provide more than \$2,391,000 in match. Species that will benefit include trumpeter swan, northern pintail and mallard.
- Border Prairie Wetlands VI – Pheasants Forever, Inc. and Ducks Unlimited, Inc. will use \$1 million to protect, restore, and enhance 1,655 acres of wetlands in Minnesota. Four partners will contribute more than \$3,582,000 in match to deliver this project. Species that will benefit include redhead, mallard, Northern pintail, canvasback, and ring-necked duck.

7. How much could coastal districts who rely heavily on healthy habitat to support fisheries and other wildlife for birdwatching, recreation, fishing, and tourism stand to lose economically should wetlands continue to be lost?

Response: Coastal habitats in the United States provide crucial habitat for fish and wildlife, as well as a wide array of social and economic benefits to their surrounding communities. With 90 percent of the nation's recreational harvest of fish and shellfish coming from coastal areas, and 85 percent of waterfowl and other migratory birds relying on coastal habitats, \$48.4 billion is generated in coastal habitats through the recreational fishing and migratory bird hunting industries.¹ Similarly, coastal habitats are a frequent tourism destination with Americans taking more than 900 million trips to coastal areas annually, providing \$44 billion in economic benefits through associated travel spending.

8. How do wetlands benefit hunters and fishermen?

Response: Wetlands provide important habitat for fish and important breeding, resting and wintering habitat that meets the needs of many migratory birds that are sought by hunters and others up and down the flyways on both public and private lands. NAWCA projects benefit hunters and anglers and others by providing public access, which may include one, some, or all of the following activities: hunting, fishing, trapping, wildlife observation, birdwatching, hiking/snowshoeing, canoeing/kayaking, tours, and educational activities. Other benefits provided by NAWCA wetlands include flood control, erosion control, and infrastructure protection. Additionally, wetland and associated upland conservation on NAWCA projects protect and improve surface water quality, filtering sediment and nutrients - enhancing fish populations, attenuating flood waters, and protecting surface drinking water supplies.

9. How will the \$18 million increase in annual appropriated funds further wetland conservation?

Response: NAWCA provides matching grants for wetlands conservation projects in the United States, Canada, and Mexico. NAWCA projects often include multiple tracts of land that are acquired, restored, and/or enhanced with grant funds, matching partner funds, or both. A NAWCA project must include non-Federal match that equals or exceeds the grant request (a 1:1 match). The project must have a clear connection between money spent and long-term, on-the-ground wetland benefits, and be cost effective. There is a great deal of interest by State, Federal, and local agencies, non-governmental organizations, and others in participating in the voluntary, non-regulatory NAWCA grant program. The program remains highly competitive with many worthy projects unfunded each year.

In addition to providing answers to the above questions, we respectfully request a follow-up to the commitments that you made to Committee members during the hearing. These include:

¹ U.S. Fish and Wildlife Service. 2016. National Survey of Fishing, Hunting, and Wildlife Associated Recreation.

- 10. In response to Mr. Huffman's concern over the delay in the Section 7 changes to the Endangered Species Act potentially affecting biological opinions, you committed to following up personally with the Department and to Mr. Huffman.**

Response: The revisions to the regulations implementing Section 7 of the ESA went into effect on October 28, 2019, following a 30-day extension to provide for additional time for Service and other Federal agency staff to assimilate and be trained on the effect of these revisions on their consultation activities. The revised regulations do not have retroactive effect, so any biological opinion issued before the effective date is not affected.

- 11. In response to Mr. Grijalva's requests for documentation regarding potential political appointee changes to the new Endangered Species Act regulatory rules, and providing biological opinions on pesticides, you committed to speaking with the Department about the importance of transparency in this process.**

Response: I have spoken with leadership in the Department of the Interior about the importance of transparency in the conduct of these ESA activities.

- 12. In response to Mr. Cox's question regarding the value of the rate of return per nutria trapped, you committed to providing for the record an estimate of the value of wetlands lost to nutria.**

Response: It can cost anywhere from \$1,000 to \$15,000 to restore an acre of wetland. Previous calculations in the early 2000's have shown that Maryland was losing \$3,744,401 per year in direct economic damages and \$168,709 in ecological services, and \$541,079 in social damages, due to nutria.

A more recent example is the Shorter's Wharf Tidal Marsh Restoration project at Blackwater National Wildlife Refuge. The project cost \$1.4 million for 40 acres, which includes design, survey, construction, and planting. This project equates to \$35,000 per acre, and that is with dramatic improvements in the science and technology of restoration.



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HAND CARRY

DATE: _____

TO:

The Honorable Jared Huffman
Chairman
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

1324 LHOB

FROM:

LEGISLATIVE COUNSEL
OFFICE OF CONGRESSIONAL AND LEGISLATIVE
AFFAIRS

SUBJECT:

Responses to Questions from 9-24-19
legislative hearing on multiple bills

DELIVERED TO:

Carl Lynn Grant

DATE & TIME RECEIVED:

1/31/20 2:45 pm