

**The original documents are located in Box 65, folder “10/17/76 HR15445 Whale Conservation and Protection Study Act” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library**

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APPROVED  
OCT 17 1976

810/17/76

THE WHITE HOUSE  
WASHINGTON  
October 16, 1976

ACTION

Last Day: October 18

*Statement  
issued 10/18/76*

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON *Handwritten signature*  
SUBJECT: H.R. 15445 - Whale Conservation and  
Protection Study Act

*Posted  
10/18/76*

Attached for your consideration is H.R. 15445, sponsored by Representative Leggett.

*Archives  
10/18/76*

The enrolled bill authorizes and directs the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, and to initiate negotiations for the purpose of developing bilateral agreements with Mexico and Canada for the protection and conservation of whales.

By January 1, 1980, the Secretary would be required to submit a report to the Congress on the study along with his recommendations, including suggested legislation.

To carry out the studies and negotiations, H.R. 15445 would authorize appropriations of \$1,000,000 for 1978 and 1979.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 15445 at Tab B.

That you approve the signing statement at Tab C which has been cleared by Doug Smith

Approve *JK* Disapprove \_\_\_\_\_

OCT 19 1976





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OCT 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15445 - Whale Conservation  
and Protection Study Act  
Sponsor - Rep. Leggett (D) California

Last Day for Action

October 18, 1976 - Monday

Purpose

Authorizes and directs the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, and to initiate negotiations for the purpose of developing bilateral agreements with Mexico and Canada for the protection and conservation of whales.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval (Informally)
Department of State	Approval
Council on Environmental Quality	Approval
National Science Foundation	Approval (Informally)
Marine Mammal Commission	No objection (Informally)
Department of the Interior	No objection (Informally)

Discussion

H.R. 15445 would direct the Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, to undertake comprehensive studies of all whales found in waters subject to the jurisdiction of the United States.

These studies would take into consideration:

- The conservation and protection of all such whales.
- The distribution, migration patterns, and population dynamics of these mammals.
- The effects on all such whales of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve and protect such mammals.

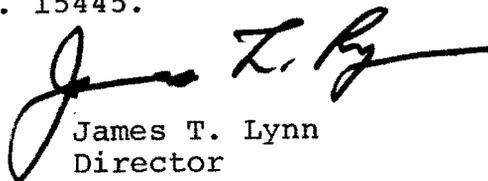
By January 1, 1980, the Secretary would be required to submit a report to the Congress on the study along with his recommendations, including suggested legislation. Other agencies would be required to cooperate with the Secretary in preparing the study and recommendations.

H.R. 15445 would also direct the Secretary of Commerce, through the Secretary of State, to initiate negotiations immediately for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of whales.

To carry out the studies and negotiations, H.R. 15445 would authorize appropriations of \$1,000,000 for 1978 and 1979.

Although Federally supported research efforts on whales are appropriate, statutory authority now exists, under the Endangered Species Act of 1973 and the Marine Mammal Protection Act of 1972, to insure the continued well-being of whales. In addition, designating whales for particular research emphasis might establish an undesirable precedent of singling out certain species for such investigation from among other endangered species. There is, however, considerable national concern over the preservation of whales, and the proposed funding level is relatively low and can probably be controlled

through the appropriation process. Accordingly, we recommend approval of H.R. 15445.



James T. Lynn  
Director

Enclosures

Note: A draft signing statement is attached for your consideration.





STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress the results of these studies by January 1, 1980. The bill also provides that the Secretary of State will initiate negotiations with Mexico and Canada to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the habits of whales, the vastness of the oceans and the mobility of these mammals make it very difficult to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation of whales and thus avoid their extinction.

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.

STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress ~~of~~ the results of these studies by January 1, 1980. *The bill also provides that* The Secretary, through the Secretary of State, will ~~also~~ initiate negotiations with Mexico and Canada ~~in order~~ to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the <sup>habits</sup> ecology of whales, the vastness of the oceans and the mobility of these mammals make it very difficult ~~to~~ to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation *of whale* and extinction ~~of whales~~. *thus avoid their*

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.

10/14/76 - 1:00 pm  
w

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 14

Time: noon

FOR ACTION: Doug Smith

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

H.R.15445-Whale Conservation and Protection Study Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

10/14 - copy sent for researching. nm

10/14 - Researched copy returned. nm



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

THE WHITE HOUSE  
WASHINGTON

10/14/76 - 1:00 pm  
n

ACTION MEMORANDUM

LOG NO.:

Date: October 14

Time: noon

FOR ACTION: Doug Smith

cc (for information):

MWB

377  
to R 40  
10/14 1:58  
6 AM

to DJS  
10/14 3:05  
6 AM

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

H.R.15445-Whale Conservation and Protection Study Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

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James M. Cannon  
K. R. For the President  
For the President

STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

*OMAS Budget info* This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress on the result of these studies by January 1, 1980. The Secretary, through the Secretary of State, will also initiate negotiations with Mexico and Canada in order to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the ecology of whales, the vastness of the oceans and the mobility of these mammals make it very difficult to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation and extinction of whales.

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 8

Date: October 11

Time: 1000pm

FOR ACTION: George Humphreys *GH* cc (for information): Jack Marsh  
NSC/S *OK* Ed Schmults  
Max Friederädorf *MF* Steve McConahey  
Bobbie Kilberg *BK*

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 1000am

SUBJECT: H.R.15445-Whale Conservation and Protection  
Study Act

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

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K. R. COLE, JR.  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 14

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FOR ACTION: Doug Smith

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: October 14

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SUBJECT:

H.R.15445-Whale Conservation and Protection Study Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

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For Your Comments

Draft Remarks

REMARKS:

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K. R. COLE, JR.  
For the President

STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress on the result of these studies by January 1, 1980. The Secretary, through the Secretary of State, will also initiate negotiations with Mexico and Canada in order to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the ecology of whales, the vastness of the oceans and the mobility of these mammals make it very difficult to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation and extinction of whales.

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.



DEPARTMENT OF STATE

Washington, D.C. 20520

**OCT 8 1976**

Dear Mr. Lynn:

With reference to Mr. James M. Frey's Enrolled Bill Request of October 7, 1976, I submit herewith the Department's comments on H.R. 15445, the "Whale Conservation and Protection Study Act."

The Department fully supports the objectives of this bill. We believe that the comprehensive program of study of all whales in waters subject to United States jurisdiction, as outlined in Section 3 of the bill, will be a most useful contribution to our knowledge of the whales and to our continuing efforts to protect and conserve them.

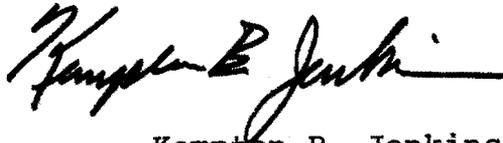
In our comments on other bills intended to promote conservation of whales and in our testimony on this subject before the appropriate Senate and House Committees, the Department has stressed the importance we attach to multilateral efforts with other nations through the International Whaling Commission (IWC) to achieve effective conservation of whales throughout the world. We believe that any negotiations with Canada and Mexico, referred to in Section 5 of this bill, should reinforce the efforts of our three nations within the IWC.

The Honorable  
James T. Lynn,  
Office of Management and Budget

For purposes of carrying out the Act, the bill authorizes the appropriation of a sum not to exceed \$1,000,000 for fiscal years 1978 and 1979.

We recommend that the President approve the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Kempton B. Jenkins". The signature is written in a cursive style with a long horizontal stroke at the end.

Kempton B. Jenkins  
Acting Assistant Secretary  
for Congressional Relations

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

October 8, 1976

MEMORANDUM FOR JAMES M. FREY  
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Ms. Ramsey

SUBJECT: Enrolled bill H.R. 15445

I am writing to answer your request for views and recommendations on the enrolled bill H.R. 15445, the Whale Conservation and Protection Act.

In its original form this bill applied only to the gray whale. Gray whale populations are currently thought to be at about 11,000 and have been holding steady for the last ten years. While there are potential threats to this species from habitat disruption in their breeding areas in Mexico, the threats are not as immediate as threats to certain other species.

At the suggestion, however, of the Marine Mammal Commission, NOAA, and CEQ, who stated the Administration's position, the House expanded the bill to include bowhead whales which are severely endangered. There may be fewer than 1,000 animals of this species left in the Arctic Ocean, and while they are protected by the International Whaling Commission and other countries bordering the Arctic Ocean, the U.S. still takes up to 50 animals through an aboriginal fishery by the Eskimos on the North Slope of Alaska. This puts the U.S. in a very difficult position in the International Whaling Commission. While we have been pushing for protection of all whale species and a moratorium on commercial whaling, we are conducting an aboriginal fishery on an endangered and fully protected whale. In order to evaluate the effect

of this fishery on the bowhead whale, a specific and direct effort is urgently needed. This bill will provide funding and set time limits for such a study. While it is thought that the majority of the funds will be spent for bowhead whale research, the bill does not prevent the money being spent on other whale research should it be warranted. The Council on Environmental Quality strongly supports the bill and recommends that the President sign the bill, as it is entirely consistent with prior Administration policy on whale conservation.

  
Gary Widman  
General Counsel

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 8

Date: October 11

Time: 1000pm

FOR ACTION: George Humphreys  
NSC/S  
Max Friedersdorf  
Bobbie Kilberg

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 1100am

SUBJECT:

H.R.15445-Whale Conservation and Protection  
Study Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*approved Kelly 10/12/76*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 8

Date: October 11

Time: 1000pm

FOR ACTION: George Humphreys  
NSC/S  
Max Friedersdorf  
Bobbie Kilberg

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 1100am

SUBJECT: H.R.15445-Whale Conservation and Protection  
Study Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Recommended  
Approval. [Signature]*

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THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 8

Date: October 11

Time: 1000pm

FOR ACTION: George Humphreys ✓ cc (for information): Jack Marsh  
 NSC/S Ed Schmults  
 Max Friedersdorf Steve McConahey  
 Bobbie Kilberg

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 1100am

SUBJECT: H.R.15445-Whale Conservation and Protection  
 Study Act

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

please return to judy johnston, ground floor west wing

*I recommend approval  
 sub*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please James M. Cannon

MEMORANDUM

NATIONAL SECURITY COUNCIL

5693

October 13, 1976

MEMORANDUM FOR: JAMES M. CANNON

FROM: Jeanne W. Davis *JWD*

SUBJECT: *JWD* H. R. 15445

The NSC Staff concurs with the proposed enrolled bill H. R. 15445-  
Whale Conservation and Protection Study Act.

STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress the results of these studies by January 1, 1980. The bill also provides that the Secretary of State will initiate negotiations with Mexico and Canada to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the habits of whales, the vastness of the oceans and the mobility of these mammals make it very difficult to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation of whales and thus avoid their extinction.

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.



## SAVING THE GRAY AND BOWHEAD WHALES

SEPTEMBER 16, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 15445]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 15445) to save the gray whale, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Save the Gray and Bowhead Whales Act".

SEC. 2. The Congress finds that—

(1) whales form a resource which is of esthetic and scientific value to mankind, and are a vital part of the marine ecosystem;

(2) whales have been overexploited by commercial whalers for many years, severely reducing several species, including the California gray whale and the bowhead whale;

(3) the California gray whale has been designated the official California State marine mammal;

(4) the California gray whale provides esthetic enjoyment to millions of Americans;

(5) energy development and other commercial activities along the west and Arctic coast of North America have caused significant concern as to their impact on the gray and bowhead whale;

(6) the California gray whale and the bowhead whale, protected by special treaty for several decades, may be again threatened by harassment and habitat destruction and;

(7) there is inadequate knowledge of the ecology, habitat requirements, and population dynamics of the California gray whale and the bowhead whale and factors which influence their healthy maintenance and development as species.

SEC. 3. The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, shall make comprehensive studies of the gray whale (*Eschrichtius robustus*) and the bowhead whale (*Balaena mysticetus*) taking into consideration, among other things, the distribution, migrations, and population dynamics of these mammals and the effects of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages on them, for the purpose of developing adequate and effec-

tive measures, including appropriate laws and regulations, to conserve such mammals. The Secretary of Commerce shall submit through the President, reports on the studies, together with such recommendations, including suggested legislation, that he deems appropriate, to the Congress no later than January 1, 1980.

Sec. 4. Until such time as the studies have been completed and the recommendations of the Secretary are implemented by appropriate legislation or regulation, all Federal agencies shall, to the fullest extent feasible, and in consultation with, and with the assistance of, the Secretary of Commerce, utilize their authorities in furtherance of the protection of the California gray whale and the bowhead whale to insure that actions authorized, funded, or carried out by them do not jeopardize their continued existence or result in the destruction or significant adverse modification of the habitat of such species.

Sec. 5. The Secretary of Commerce, through the Secretary of State, shall initiate negotiations immediately for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of the California gray whale and the bowhead whale.

Sec. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated the total sum of \$1,000,000 for fiscal year 1978 and 1979.

Amend the title so as to read:

A bill to save the gray and bowhead whales.

#### PURPOSE OF THIS LEGISLATION

H.R. 15445 requires the Secretary of Commerce, in consultation with the Marine Mammal Commission and the Coastal States, to undertake comprehensive 3-year studies of the gray whale and the bowhead whale and to report his findings and recommendations to the Congress. In addition, until such time as the reports' recommendations are implemented, all Federal agencies shall, to the fullest extent feasible, utilize their authorities in furtherance of the protection of the gray and bowhead whales.

#### LEGISLATIVE BACKGROUND

H.R. 15445 was introduced on September 2, 1976, by Mr. Leggett of California, and referred to the Merchant Marine and Fisheries Committee for consideration.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment held one day of hearings on September 10, and heard witnesses representing the Government, industry and environmental interests. Subsequently, the Subcommittee unanimously reported the bill as amended to the Full Committee.

On September 14, 1976, the Full Committee unanimously ordered the bill reported to the House.

#### BACKGROUND AND NEED FOR THE LEGISLATION

The California gray whale (known to the men of science as *Eschrichtius robustus*) is one of California's most valuable resources and is growing in popularity as it makes its annual migration of some 5,000 miles along the California coast from its summer range in the Arctic. Each year hundreds of thousands of spectators crowd to viewpoints or take boats to the whales' off-shore migration paths. The calving and mating grounds in the lagoons of Baja, California, have drawn ever-increasing numbers of scientists and spectators since the

completion of Baja, California's first transpeninsular highway. The State of California, in 1975, designated the California gray whale as the State Marine Mammal, thus further recognizing it as a valuable recreational and biological resource.

The gray whale will grow to lengths of 45 feet and not reach physical maturity for 30-40 years. It has virtually no economic value to the American Indians of the Pacific Northwest and the Alaskan Eskimos, who harvest one or two gray whales each year. However, the Siberian Eskimos still hunt gray whales in fairly substantial numbers taking approximately 165 each year. In this regard, it should be noted that the reproduction rate of gray whales is believed to be between 400 and 440 each year and about 250 die of natural causes annually. The taking of California gray whales on their breeding grounds began in 1846, and by the turn of the Century this stock was on the verge of extinction.

At one time, there were three distinct stocks of gray whales. The California gray whale, the only surviving stock (eastern Pacific), has been protected from commercial hunting since 1947 and has staged a dramatic recovery from near extinction to a healthy, stable population of about 11,000 (some believe this to be at or near the carrying capacity of the habitat). The Korean gray whale (western Pacific) was drastically overhunted, primarily by Japanese whalers, between 1899 and 1933; and this small stock is now considered extinct. The Atlantic gray whale, which is known only from subfossil remains, has been extinct for several centuries. Details of its decline are unknown, but there is circumstantial evidence of its being hunted until the late 1700s.

The bowhead whale (*Balaena mysticetus*), also known as the Greenland or Arctic right whale, is very rare and found in the Arctic waters of North America. In comparison with the other great whales, scientists know the least about the bowhead whale. A relic population of a thousand or less regularly migrates along the Arctic Coast of Alaska in spring and fall.

The bowhead whale has been hunted by Arctic Aborigines since historic times and formed the basis of an important industry for three centuries (1611-1913). Although fully protected by the International Whaling Commission since 1935, except for subsistence hunting by Arctic natives, this species has shown no significant recovery. Today, the Alaskan Eskimos hunt the bowhead out of the St. Lawrence Island, Wainright, Point Hope and Barrow and take, on the average, between 20 and 25 bowhead whales each year. Neither the rate of reproduction nor the rate of natural mortality are known for bowhead whales.

The possibility of habitat destruction for both species is a major reason for this legislation. Outer continental shelf development of our energy resources and other commercial activities near the breeding grounds of the gray whale and the habitat of the bowhead whale could threaten the future survival of these species. Due to the absence of basic biological information, procedures to mitigate potential harm have not been developed. The comprehensive study required by this bill should provide some answers to this and other questions.

## SECTION-BY-SECTION ANALYSIS

## SECTION 1. SHORT TITLE

Section 1 states that the short title of the bill is: "Save the Gray and Bowhead Whales Act".

## SECTION 2. FINDINGS

Section 2 states the Congressional findings that the gray and bowhead whales are valuable resources which provide esthetic and scientific value; that these species are threatened by new and continuing commercial and energy development which may destroy their habitat; and that inadequate knowledge exists about both species concerning factors which influence their healthy maintenance and development.

## SECTION 3. COMPREHENSIVE STUDIES

Section 3 requires the Secretary of Commerce, in consultation with the Marine Mammal Commission and the appropriate Coastal States, primarily California, Oregon, and Washington, to conduct comprehensive studies of the gray whale and the bowhead whale, taking into consideration, among other things, the distribution disruption of migration patterns, and other potential detriments. The Secretary must report his findings to the Congress by January 1, 1980, including in such reports his recommendations for legislative or other action to provide adequate and effective conservation measures for these mammals. The design of these studies should take into account research work and work that has either already been completed or in progress, and it is the intent of the Committee that whenever possible research efforts should be designed to benefit other marine mammals as well.

## SECTION 4. FEDERAL AUTHORITIES

Section 4 states that until such time as the studies have been completed and the Secretary's recommendations are implemented by appropriate legislation or regulations, all Federal agencies have a responsibility to utilize to the fullest extent feasible their authorities to mitigate potential harm to the habitat of the gray whale and the bowhead whale from actions authorized, funded or carried out by them. The Secretary of Commerce shall provide appropriate consultation and assistance to the other Federal agencies in meeting this responsibility. Moreover, it is expected that the Secretary will consult with the Marine Mammal Commission as appropriate.

## SECTION 5. BILATERAL AGREEMENTS

Section 5 directs the Secretary of Commerce, acting through the Secretary of State, to immediately initiate negotiations for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of the gray and bowhead whales.

## SECTION 6. AUTHORIZATION

Section 6 authorizes for appropriation an amount not to exceed a total of \$1,000,000 for fiscal years 1978 and 1979. This authorization allows the Secretary flexibility to request appropriations as needed during the two fiscal periods.

## COST OF LEGISLATION

The committee estimates that in the event this legislation is enacted into law, the cost to the Federal Government would be a total of \$1 million for the two fiscal years 1978 and 1979.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI, of the Rules of the House of Representatives, the committee estimates that the enactment of H.R. 15445 would have no significant inflationary impact on the prices and cost in the national economy.

## COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of Clause 2(1)(3) of Rule XI of the Rules of the House of Representatives:

(A) No oversight hearings have been held on the subject of this legislation other than the general oversight hearings which were held on the Marine Mammal Protection Act of 1972 and upon which no recommendations were made.

(B) Section 308(a) of the Congressional Budget Act of 1974 is not applicable. Therefore, no statement is furnished.

(C) The Committee on Government Operations has not sent a report to the Committee on Merchant Marine and Fisheries pursuant to Clause 2(b)(2) of Rule X.

(D) An estimate and comparison of costs has not been received by the Committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

## CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

## DEPARTMENTAL REPORT

H.R. 15445 was the subject of a report received from the Department of Commerce and follows herewith:

GENERAL COUNSEL OF THE  
DEPARTMENT OF COMMERCE,  
*Washington, D.C., September 16, 1976.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in response to your request for the Department of Commerce's views on H.R. 15445, a bill to save the gray whale.

Our comments are on the bill as reported by the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Committee on Merchant Marine and Fisheries on September 10, 1976. H.R. 15445, as reported, would provide for the conservation of the California gray whale and the bowhead whale. It would do so by requiring the Secretary of Commerce to conduct a comprehensive study of the gray and bowhead whales and by requiring all Federal agencies to: (a) utilize their authorities for the protection of these animals; (b) insure that their actions do not jeopardize the continued existence of these whales; and (c) insure that their actions do not result in the destruction or significant adverse modification of the habitat of these whales. For these purposes, H.R. 15445 would also authorize appropriations of \$1 million for fiscal years 1978 and 1979.

This Department is well aware of the many problems facing these magnificent creatures and is vitally concerned with the health of their populations. As you know, we have done much to provide for the protection of whales from imposing a ban on all U.S. commercial whaling in 1970, to advocating, in the International Whaling Commission, a 10-year moratorium on all commercial whaling and formulating new management procedures for protected stocks. Also, we have been continuing our conservation management and research efforts under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. While our research efforts on these two species dates over more than two decades, far more intensive and complete research on gray and bowhead whales needs to be done. This need is particularly evident with respect to the influences operating on the gray whale in its breeding areas and the effects of the Alaska native harvest on the bowhead whale populations.

While this agency supports the research and protection for gray and bowhead whales called for by H.R. 15445, we believe it could be appropriately accomplished under existing Federal law. Accordingly, we oppose enactment of H.R. 15445.

Sufficient statutory authority now exists under the Endangered Species Act of 1973 (the ESA) and the Marine Mammal Protection Act of 1972 (the MMPA) to provide whatever degree of additional protection is, or may become, necessary to insure the continued well-being of the gray and bowhead whales. In addition, designating, by statute, two species for extraordinary research and management protection would establish a precedent that is inconsistent with the concepts of conservation and protection established by the ESA and the MMPA.

Section 4 of H.R. 15445, if enacted, can be expected to cause considerable confusion for Federal agencies and the public since Federal agencies are already required by section 7 of the ESA to utilize their authorities on behalf of these endangered whales and to insure, through consultation, against jeopardy and destruction or modification of habitat. There is no apparent benefit to be gained by requiring a second similar consultation.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

J. T. SMITH,  
*General Counsel.*

## Office of the White House Press Secretary

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THE WHITE HOUSE

October 17, 1976

## STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 15445, the Whale Conservation and Protection Study Act.

This bill authorizes the Secretary of Commerce to conduct comprehensive studies of all whales found in waters subject to United States jurisdiction, and to report to Congress the results of these studies by January 1, 1980. The bill also provides that the Secretary of State will initiate negotiations with Mexico and Canada to develop appropriate bilateral agreements for the protection and conservation of whales.

Although much is known of the habits of whales, the vastness of the oceans and the mobility of these mammals make it very difficult to monitor adequately their many species. This legislation will allow the collection of scientific information that will permit us to determine the most appropriate means of preventing the exploitation of whales and thus avoid their extinction.

The United States has placed great emphasis on multi-lateral efforts with other nations through the International Whaling Commission to achieve effective conservation of whales throughout the world. The negotiations with Mexico and Canada directed by this bill will reinforce the efforts of our three nations within the Commission.

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