

The original documents are located in Box 26, folder “Predators (6)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE

WASHINGTON

May 21, 1976

file

MEMORANDUM FOR: DICK CHENEY

FROM: JIM CAVANAUGH *JC*

SUBJECT: Amended Executive Order on Coyotes

Attached is the material I received originally from Foster Chanock on the Coyote situation. Also attached is Jim Cannon's decision paper for the President in which the President selected Option 2.

At your request, I telephoned Senator Hansen three weeks ago and informed him of the President's decision. When I asked him if he would prefer to announce it, he indicated that the White House should announce it. He later told Bill Kendall that the only announcement he would have liked to make would be if the President had decided to rescind the Executive Order completely.

You should call your friend and tell him the President has decided to amend the Executive Order to allow the use of sodium cyanide in the M-44 devise.

Once you have done this, we will tell the Press Office to put out the amended Executive Order.





National Wool Growers Association

600 CRANDALL BUILDING
10 WEST STARS AVENUE
SALT LAKE CITY, UTAH 84101
(801) 363-4483

SUITE 336, SOUTHERN BUILDING
805 - 15th STREET, N. W.
WASHINGTON, D. C. 20005
(202) 638-6002



Send Reply to:

April 20, 1976

*Footer -
Can you answer for
Rosl's signature.
Apparently something
is going on this
FB*

PRESIDENT
~~RAY W. WILLOUGHBY~~ Floyd Marsh
505 W. 3rd N.
St. Anthony, Idaho 83445

EXECUTIVE SECRETARY
EDWIN E. MARSH
Washington D. C.

ASSISTANT SECRETARY
VERN F. NEWBOLD
Salt Lake City, Utah

VICE PRESIDENTS
FLOYD MYERS MARSH
Williams, California
EDWARD B. SMITH
Tegmar, Montana
DELOYD SATTERTHWAITE
Tuscarora, Nevada

HONORARY PRESIDENTS
R. C. RICH
Burley, Idaho
RAY W. WILLOUGHBY
San Angelo, Texas
J. H. BRECKENRIDGE
Twin Falls, Idaho
DON CLYDE
Haber City, Utah
HAROLD JOSENDAL
Casper, Wyoming
GEORGE K. HISLOP
Yakima, Washington
JAMES L. POWELL
Fl. McKavett, Texas
VERN VIVION
Rawlins, Wyoming

EXECUTIVE COMMITTEE
M. P. EPPIL
Litchfield Park, Arizona
KENNETH LANE
Clements, California
DEAN VISINTAINER
Craig, Colorado
PHILLIP SOULEN
Weiser, Idaho
LOLA K. YODER
Goshen, Indiana
KEN OTT
Malva, Kansas
RALPH DREYER
Circle, Montana
DELOYD SATTERTHWAITE
Tuscarora, Nevada
ROBERT NAYLOR
Roswell, New Mexico
RICHARD TURRELL
Oneonta, New York
ELWIN C. NEWCOMER
Bryan, Ohio
PAUL MUEGGE
Lamont, Oklahoma
PHIL FARRELL
Madras, Oregon
P. J. COOK
Belle Fourche, South Dakota
MORT MERTZ
Eldorado, Texas
VERN WILSON
Midway, Utah
J. M. HOGE
Tazewell, Virginia
LEE SOLUM
Ephrata, Washington
WILLIAM MCKERROW
Pewaukee, Wisconsin
JOHN P. BURKE
Casper, Wyoming

Mr. Richard Cheney
Chief of Staff
The White House
Washington, D. C. 20500

Dear Mr. Cheney:

Eighty days have passed since our discussion of coyote problems in your office along with Chris Joufflas, Floyd Marsh, and representatives of the Navajo Nation. One month has passed since Mr. Cannon and Mr. Humphrey called upon Senator McClure and others to advise that a presidential decision was imminent. Senator McClure's aide, Doug Smith, and I also spent an hour with Mr. Humphrey March 19. April 29 will represent the first anniversary of the meeting with President Ford and representatives of the International Association of State Game, Fish and Conservation Commissioners, the National Turkey Federation, the American National Cattlemen's Association, the Navajo Nation, and the National Wool Growers Association, along with a delegation of midwestern and western Congressmen and Senators.

During the year, word has come from White House personnel at least three times that effective presidential action was near. Once, of course, we got the famous toxic collar and a one year m-44 experiment (and as you told us, the President and his staff got "bagged").

All involved in the meeting with the President have about written off his ability to deal with this issue in more than reassuring words.

However, on the outside chance that the President's staff is still looking for an opportune moment, I wanted to be sure you had not overlooked the importance of sheep and cattle to the state of Texas. Livestock are the cornerstone of the state's

Continued

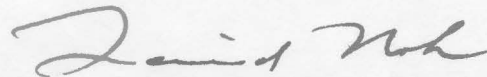
Mr. Richard Cheney
Page 2

April 20, 1976

economy. The Chairman of the American National Cattlemen's Association Predator Committee, who met last April 29 with the President, Jim Barron III, from Spur, and his father, who is currently serving as President of the Texas Cattle Feeders Association, are strong and active in the Texas Republican Party. Though not in our party, Governor Briscoe is a past President of the American Mohair Council.

This question clearly exemplifies excessive federal regulation and bureaucratic ineptness. It would help the President on May 1 if he can show an ability to act decisively and cause government to respond as he wishes. There are many in our ranks who feel a responsibility to quickly educate Mr. Reagan on the history of the predator issue.

Respectfully,



Laird Noh, Chairman
Predatory Animal Committee
National Wool Growers Assn.

*not enclosed
m. 4/23*

P.S. Enclosed is recent correspondence from EPA illustrating the games that are constantly played with our livelihood and the taxpayers' money thanks to the Presidential Executive Order.

cc: Senator Tower
Jim Barron III
Dr. Bud Turner, President
Texas Sheep & Goat Raisers Assn.

Enc.

LN:kn

The White House
Washington

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3 WND007 1227P EST APR 20 76

WAG060(1143)(2-015481E111)PD 04/20/76Z

4 ICS IPHRNCZ CSP

1976 APR 20 PM 1 48

5 2087345770 TDRN TWIN FALLS ID 65 04-20 0930A MST

6 PMS RICHARD CHENEY, CHIEF OF STAFF

7 WHITE HOUSE

8 WASHINGTON DC 205

9
10
11 APRIL 29 FIRST ANNIVERSARY OF FORD MEETING WITH WOOLGROWERS
12 CATTLEMEN POULTRY PRODUCERS FISH AND GAME DIRECTORS NAVAJOS ON
13 COYOTE PROBLEMS STILL NO CLEAR ACTION TEXAS LARGEST PRODUCER OF
14 SHEEP CATTLE AND ANGORA GOATS 20 PERCENT OF ALL U.S. SHEEP IN TEXAS
15 EXECUTIVE ORDERS IMPORTANT THERE INDECIVENESS ON THIS ISSUE WILL
16 HURT PRESIDENT MAY 1 LIVESTOCK URGING US TO ALERT REAGAN LETTER TO
17 FOLLOW

18 FLOYD HARSH, PRESIDENT

19 NATIONAL WOOLGROWERS ASSOCIATION

20 NNNN
21
22
23
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25
26



May 28, 1976

EXECUTIVE
NR2
FEG
RA
CM28
HE9
FG 298
FG 19
FG 20

Dear Mr. Administrator:

The enclosed copy of an Executive Order by the President, entitled "Amending Executive Order No. 11643 of February 8, 1972, Relating to Environmental Safeguards on Activities for Animal Damage Control on Federal Lands," is transmitted for the files of the Environmental Protection Agency.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Russell E. Train
Administrator
Environmental Protection Agency
Washington, D.C. 20024

Enclosure
jmr

Signed: 4/11/76



RECEIVED

JUN 1 1976

CENTRAL FILES

[Case File refiled in
WHCF by Ford Library
Staff, WHM 3/28/80

A
B
C
D
E


THE WHITE HOUSE

WASHINGTON

DECISION

April 8, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES M. CANNON 
SUBJECT: Predator Control

PURPOSE

You have been requested by Russ Train to amend Executive Order 11870 to allow limited use of sodium cyanide on public lands to control coyotes.

BACKGROUND

On September 16, 1975, the Administrator of EPA issued a decision allowing the use of sodium cyanide capsules in the M-44 device as a method to control coyote predation.

An original 1972 Executive Order (E.O. 11643) barring the use of toxicants on public lands was amended by you (E.O. 11870) to allow experimental use of sodium cyanide. This Order still is in effect and bars the use of the M-44 in regular control programs. Mr. Train requests that E.O. 11870 be amended to make the Executive Order consistent with the EPA decision (TAB A).

The issue has been hotly contested, with the sheepgrowers and their congressmen pressuring for complete recision of the Executive Order (TAB B - Senators Hansen and McClure). If the Executive Order is rescinded, the proponents in Congress feel that they can get even greater relaxation of chemical toxicant restrictions. You have met formally with this group on two occasions and they are aware of your interest in the issue.

Equally as strong in support of amendment as requested by Russ Train are those who feel that the public lands must be protected by Executive action for the benefits offered to all Americans, not just the few who are allowed the use of these lands for sheep and cattle grazing (TAB C - Russ Peterson letter to Cannon). They argue that the E.O. should be amended to allow the use of the M-44 device, but not to remove the safeguard that the Executive Order offers against the relaxation of prohibitions on other, and more unacceptable, chemical toxicants.

As presented, the suggested E.O. will allow the use of sodium cyanide in the M-44 device under the restrictions imposed by EPA. Eight of these restrictions are listed in the proposed Executive Order, which means that even if the restrictions on sodium cyanide registration were relaxed by EPA, the E.O. would maintain these eight restrictions.

OPTIONS

1. Take no action, maintaining the ban on toxicants except for the one-year experimental use of sodium cyanide permitted in Executive Order 11870.

Approve _____

Arguments

Pro: This is a stronger environmental stand than recommended by EPA through its regulatory process, and would be supported by environmental groups.

Con: Offers no more help to sheepgrowers than your decision last summer to allow one-year experimental use of sodium cyanide.

2. Amend the Executive Order as requested by Mr. Train to allow the use of sodium cyanide in the M-44 device. (TAB D)

Approve _____

Arguments

- Pro: Has strong environmental support, and generally acceptable to other agencies. Would act as a deterrent against further pressures to relax Federal restrictions on chemical toxicants for use on public lands.
- Con: May not actually help sheepgrowers, since effectiveness of M-44 is disputed. Will not appease sheepgrowers who want to use other toxicants or who want the Executive Order rescinded. Imposes eight restrictions on the use of sodium cyanide which the regulatory process might delete in the future.

- 3. Rescind Executive Order 11643, as amended by Executive Order 11870. (TAB E)

Approve _____

Arguments

- Pro: Would remove the President from making continued decisions on toxicant usage by relying on EPA to administer the laws passed by Congress and EPA's own regulations.
- Con: Would not immediately help sheepgrowers since other toxicants are not now registered by EPA. Would be opposed strongly by environmental groups.

STAFF RECOMMENDATIONS

- James Lynn(Nichols) -Option No.2, would not oppose No.3
- Robert T. Hartmann -Option No.2
- Jack Marsh -Option No.2
- Philip Buchen(Chapman)Option No.2
- Max Friedersdorf -Option No.2
- Jim Cannon -Although some members of House and Senate would like you to completely rescind the Presidential Executive Order restricting the use of pesticides, Secretary Butz and Hyde Murray believe that many farmers and others in rural areas believe you should not hand the responsibility for pesticide control entirely to EPA.

On that basis, I support Option 2.

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER NO. 11643 OF FEBRUARY 8, 1972,
RELATING TO ENVIRONMENTAL SAFEGUARDS ON
ACTIVITIES FOR ANIMAL DAMAGE
CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States, and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the provisions of Section 1 of the Act of March 2, 1931 (46 Stat. 1468, 7 U.S.C. 426) and the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531 et. seq.), and in view of the findings (40 F.R. 44726-44739, September 29, 1975) of the Administrator of the Environmental Protection Agency that the use of sodium cyanide is permissible under conditions prescribed by the Agency, Executive Order No. 11643 of February 8, 1972, as amended by Executive Order No. 11870 of July 18, 1975, is further amended by adding the following subsection to Section 3:

"(d) Notwithstanding the provisions of subsection (a) of this Section, the head of an agency may authorize the operational use of sodium cyanide in Federal programs or on Federal lands, but only in accordance with regulations and on the terms and subject to all the restrictions which may now or hereafter be prescribed by the Environmental Protection Agency; provided that, such use of sodium cyanide is prohibited in (1) areas where endangered or threatened animal species might be adversely affected; (2) areas of the National Park System; (3) areas of the National Wildlife Refuge System; (4) areas of the National Wilderness Preservation System; (5) areas within national forests or other Federal lands specifically set aside for recreational use; (6) prairie dog towns; (7) National Monument areas; and (8) any areas where exposure to the public and family pets is probable."

GERALD R. FORD

THE WHITE HOUSE,
May 28, 1976

#

THE WHITE HOUSE
WASHINGTON

DECISION

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES M. CANNON *Jm*

SUBJECT: Predator Control

PURPOSE

You have been requested by Russ Train to amend Executive Order 11870 to allow limited use of sodium cyanide on public lands to control coyotes.

BACKGROUND

On September 16, 1975, the Administrator of EPA issued a decision allowing the use of sodium cyanide capsules in the M-44 device as a method to control coyote predation.

An original 1972 Executive Order (E.O. 11643) barring the use of toxicants on public lands was amended by you (E.O. 11870) to allow experimental use of sodium cyanide. This Order still is in effect and bars the use of the M-44 in regular control programs. Mr. Train requests that E.O. 11870 be amended to make the Executive Order consistent with the EPA decision (TAB A).

The issue has been hotly contested, with the sheepgrowers and their congressmen pressuring for complete rescission of the Executive Order (TAB B - Senators Hansen and McClure). If the Executive Order is rescinded, the proponents in Congress feel that they can get even greater relaxation of chemical toxicant restrictions. You have met formally with this group on two occasions and they are aware of your interest in the issue.



Equally as strong in support of amendment as requested by Russ Train are those who feel that the public lands must be protected by Executive action for the benefits offered to all Americans, not just the few who are allowed the use of these lands for sheep and cattle grazing (TAB C - Russ Peterson letter to Cannon). They argue that the E.O. should be amended to allow the use of the M-44 device, but not to remove the safeguard that the Executive Order offers against the relaxation of prohibitions on other, and more unacceptable, chemical toxicants.

As presented, the suggested E.O. will allow the use of sodium cyanide in the M-44 device under the restrictions imposed by EPA. Eight of these restrictions are listed in the proposed Executive Order, which means that even if the restrictions on sodium cyanide registration were relaxed by EPA, the E.O. would maintain these eight restrictions.

OPTIONS

1. Take no action, maintaining the ban on toxicants except for the one-year experimental use of sodium cyanide permitted in Executive Order 11870.

Approve _____

Arguments

Pro: This is a stronger environmental stand than recommended by EPA through its regulatory process, and would be supported by environmental groups.

Con: Offers no more help to sheepgrowers than your decision last summer to allow one-year experimental use of sodium cyanide.

2. Amend the Executive Order as requested by Mr. Train to allow the use of sodium cyanide in the M-44 device. (TAB D)

Approve _____

Arguments

- Pro: Has strong environmental support, and generally acceptable to other agencies. Would act as a deterrent against further pressures to relax Federal restrictions on chemical toxicants for use on public lands.
- Con: May not actually help sheepgrowers, since effectiveness of M-44 is disputed. Will not appease sheepgrowers who want to use other toxicants or who want the Executive Order rescinded. Imposes eight restrictions on the use of sodium cyanide which the regulatory process might delete in the future.

3. Rescind Executive Order 11643, as amended by Executive Order 11870. (TAB E)

Approve _____

Arguments

- Pro: Would remove the President from making continued decisions on toxicant usage by relying on EPA to administer the laws passed by Congress and EPA's own regulations.
- Con: Would not immediately help sheepgrowers since other toxicants are not now registered by EPA. Would be opposed strongly by environmental groups.

STAFF RECOMMENDATIONS

James Lynn (Nichols) -Option No.2, would not oppose No.3
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Jack Marsh -Option No.2
Philip Buchen (Chapman) Option No.2
Max Friedersdorf -Option No.2
Jim Cannon -Although some members of House and Senate would like you to completely rescind the Presidential Executive Order restricting the use of pesticides, Secretary Butz and Hyde Murray believe that many farmers and others in rural areas believe you should not hand the responsibility for pesticide control entirely to EPA.

On that basis, I support Option 2.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 30, 1975

OFFICE OF THE
ADMINISTRATOR

Dear Mr. President:

On July 11, 1975, I issued a Notice calling a hearing to determine whether a 1972 EPA Order should be modified to permit sodium cyanide to be used in the M-44 device to control wild canid predators which prey on livestock, principally sheep. The 1972 Order cancelled and suspended all Federal registrations of sodium cyanide, strychnine, and sodium fluoroacetate (1080) for predator control. It was issued on March 9, 1972, immediately following Executive Order 11643 of February 8, 1972, which banned the use of chemical toxicants on Federal lands except in emergencies.

In the July 11 Notice I noted that if the 1972 EPA Order were modified to permit the use of sodium cyanide, general or operational use on Federal lands and by Federal agencies still would be prohibited under the Executive Order except in certain emergencies. I also stated in the Notice that if the 1972 EPA Order were modified, I would recommend to you that the 1972 Executive Order be modified accordingly.

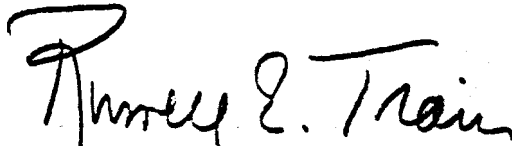
In the interim, on July 18, 1975, Executive Order 11643 was modified by Executive Order 11870 to permit use of sodium cyanide on an experimental basis for one year in accordance with the applicable law. Pursuant to Executive Order 11870, an EPA experimental use permit was issued to the Department of the Interior on September 2, 1975, to allow experimentation with the sodium cyanide toxic collar device to control sheep predation by coyotes. The amended Executive Order continues the prohibition of the prior Executive Order on general or operational use of sodium cyanide by Federal agencies and on Federal lands.

On Tuesday, September 16, 1975, I issued a Decision and Order modifying the 1972 EPA Order to permit the registration of sodium cyanide capsules for use in the M-44 device. I would like to emphasize that in amending the 1972 EPA Order, registration of sodium cyanide for use in the M-44 device will be subject to 26 restrictions set forth in the attached Order. These restrictions were developed out of a concern for human safety and protection of non-predator species of animals. Risk of injury to operating personnel and the public generally (especially children) is a matter of grave concern to me, particularly in view of the very high and continually increasing levels of recreation use of virtually all of our public lands. These risks can only be minimized by use of sodium cyanide under properly controlled conditions. Similarly,

controlled use and care in placement of M-44 devices are necessary to ensure that the highest possible degree of selectivity is attained in taking target species of predatory animals, thereby reducing the risk to non-target species, especially endangered and threatened species. The 26 restrictions are designed to minimize such risks.

As a result of this recent EPA action, I recommend modification of Executive Order 11870 to permit the use of sodium cyanide in the M-44 device by Federal agencies and on Federal lands, but only on the terms and subject to the restrictions prescribed by the Environmental Protection Agency pursuant to the September 16, 1975 Revision and Order (40 F.R. 44725, September 29, 1975) and the applicable provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).

Respectfully,

A handwritten signature in black ink, appearing to read "Russell E. Train". The signature is written in a cursive, flowing style with a large initial "R".

Russell E. Train
Administrator

The President
The White House
Washington, D. C. 20500

2 Enclosures

B

United States Senate

WASHINGTON, D.C. 20510

November 10, 1975

George Humphreys
Domestic Counsel
The White House
Washington, D. C. 20500

Dear Mr. Humphreys:

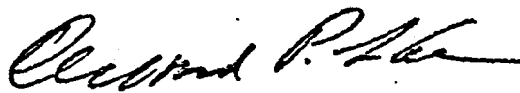
Enclosed is a statement of our position on the Executive Order in preparation for your decision paper.

We stand ready to work with you on revising the length, if our statement is longer in your paper than the one page you suggested.

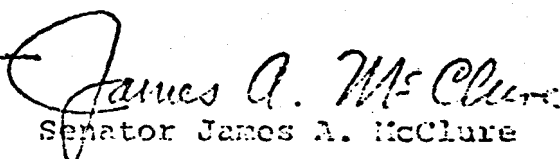
Thank you again for taking the time to meet with us and to give us this opportunity to express our position.

With kind regards,

Sincerely,



Senator Clifford P. Hansen



Senator James A. McClure

CPH:snc
Enclosure



The maintenance of the Executive Order ban against certain predacides is not consistent with rational regulation of pesticides. When the EO was issued, EPA did not have a law adequate to the flexible regulation of predator toxicants, and a ban may have been justified. Since 1972, two developments have made rescission of the Order desirable:

1. Predator populations have increased dramatically, and so have losses to predators. Hard data may never be available to settle this point once and for all. However, Tab A presents data which we find persuasive, and in any event, concern over increasing predator populations now extends well beyond cattle and sheepmen. Poultry losses are increasing; officials of State fish and game agencies, who are responsible for the wildlife populations within the States, are becoming concerned about damage to bird and other game populations; local chapters of such environmental groups as the Izaak Walton League are now revising their positions on predacides, in favor of wider use; certain American Indian tribes have indicated the adverse impact of the ban on their activities.

2. Congress has passed amendments to the pesticide law which permit the use of predacides under appropriate restrictions. Regulations just now going into effect provide for "restricted use" pesticides and "certified applicators," by means of which EPA can control the use of predacides, thus relieving the present pressures for extra-regulatory or illegal use. EPA can set the criteria for certification, in consultation

with other agencies, including the Departments of Interior and Agriculture, interested in the management of wild and domestic animals, and the public lands. Congress has clearly expressed its intention that pesticides, including predacides, be regulated under FIFRA, and not by Executive Order.

In view of these developments, and in light of the trend to simplification of regulation, the present, two-level regulation of predacides is unjustifiable. The present system does not provide the flexibility and speed of response needed to meet the legitimate needs of stockmen, wildlife specialists, and public health officials. The degree of control which EPA would retain over predacide use under FIFRA is sufficient to accomplish the broad policy goals of the Administration with respect to pesticide and animal damage control.

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In view of these developments, and in light of the trend to simplification of regulation, the present, two-level regulation of predacides is unjustifiable. The present system does not provide the flexibility and speed of response needed to meet the legitimate needs of stockmen, wildlife specialists, and public health officials. The degree of control which EPA would retain over predacide use under FIFRA is sufficient to accomplish the broad policy goals of the Administration with respect to pesticide and animal damage control.

C

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

Dear Jim:

By now, the amendment to the Executive Order on predator control should have nearly finished the clearance process, again raising the question of whether it is better to proceed with the amendment or to rescind that order entirely. The purpose of this note is to reiterate emphatically my position that it would be unwise in the extreme to rescind the order at this time.

The main thrust of the original Executive Order was to reaffirm the national policy that the public lands with the wildlife and other resources they contain are held in trust for the public as a whole; and that the use of poisons -- particularly long lasting, non-selective ones causing secondary effects -- was a gross abuse of that trust.

It is true that the Environmental Protection Agency has legislative authority to control poison use. However, if the President rescinds the order, his act will be perceived as a negation of the principle of the public trust in which public lands are held, and as Presidential endorsement of a return to the previous abuse of poisons.

This issue has become strongly symbolic to the public. I would emphasize that with the public lands and poison issues involved the "public" concerned is not only the traditional conservationists, but it includes a large segment of the rest of our citizens.

Sincerely,



Russell W. Peterson
Chairman

Mr. James A. Cannon
Assistant for Domestic Affairs
White House
Washington, D.C. 20500

D

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER NO. 11643 OF FEBRUARY 8,
1972, RELATING TO ENVIRONMENTAL SAFEGUARDS
ON ACTIVITIES FOR ANIMAL DAMAGE
CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States, and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the provisions of Section 1 of the Act of March 2, 1931 (46 Stat. 1468, 7 U.S.C. 426) and the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531 et. seq.), and in view of the findings (40 F.R. 44726-44739, September 29, 1975) of the Administrator of the Environmental Protection Agency that the use of sodium cyanide is permissible under conditions prescribed by the Agency, Executive Order No. 11643 of February 8, 1972, as amended by Executive Order No. 11870 of July 18, 1975, is further amended by adding the following subsection to Section 3:

"(d) Notwithstanding the provisions of subsection (a) of this Section, the head of an agency may authorize the operational use of sodium cyanide in Federal programs or on Federal lands, but only in accordance with regulations and on the terms and subject to all the restrictions which may now or hereafter be prescribed by the Environmental Protection Agency; provided that, such use of sodium cyanide is prohibited in (1) areas



where endangered or threatened animal species might be adversely affected; (2) areas of the National Park System; (3) areas of the National Wildlife Refuge System; (4) areas of the National Wilderness Preservation System; (5) areas within national forests or other Federal lands specifically set aside for recreational use; (6) prairie dog towns; (7) National Monument areas; and (8) any areas where exposure to the public and family pets is probable."

THW WHITE HOUSE

, 1976

EXECUTIVE ORDER

RELATING TO ENVIRONMENTAL SAFEGUARDS FOR ANIMAL
DAMAGE CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States, and in view of the actions taken by Congress in establishing a regulatory process by which the Environmental Protection Agency ensures that the use of toxicants is permitted only under conditions prescribed by that agency, and in order to provide for the uniform applicability of the conditions prescribed by that agency, in accordance with applicable law and regulations, Executive Order No. 11643 of February 8, 1972, as amended, is hereby rescinded.

THE WHITE HOUSE

, 1976

TUNNEY 2 Kennedy. (312) [Dec. 1976]
David Kennedy is father

Have a nephew -

GARY Kennedy, 30
Hillard, Oregon, PM

& sheep rancher

lot of mud of coyotes

Talked w/ Irth Cheney

Gary. Exec order - on I desk

to issue Nixon's exec

order to poison predator
but 50% lambda last year.
to coyotes and wild dogs.



THE WHITE HOUSE

WASHINGTON

December 16, 1976

MEMORANDUM TO: THE PRESIDENT

FROM: JAMES M. CANNON

SUBJECT: Recission of Executive Order
on Predator Control

There are continued requests that you completely rescind your Executive Order of May 28, 1976. This E. O. allowed the use of sodium cyanide in the M-44 device, but continued the ban on other toxicants that were contained in previous Orders, *strychnine* *

The actual effect of complete recission would be minimal. Other toxicants are currently controlled by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and by EPA's registration process. The act of recission would be more symbolic than substantive.

Attached for your review is a draft of an Executive Order that would rescind the existing Orders and amendments (TAB A).





THE WHITE HOUSE
WASHINGTON

DECISION

April 8, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES M. CANNON *Jm*

SUBJECT: Predator Control

PURPOSE

You have been requested by Russ Train to amend Executive Order 11870 to allow limited use of sodium cyanide on public lands to control coyotes.

BACKGROUND

On September 16, 1975, the Administrator of EPA issued a decision allowing the use of sodium cyanide capsules in the M-44 device as a method to control coyote predation.

An original 1972 Executive Order (E.O. 11643) barring the use of toxicants on public lands was amended by you (E.O. 11870) to allow experimental use of sodium cyanide. This Order still is in effect and bars the use of the M-44 in regular control programs. Mr. Train requests that E.O. 11870 be amended to make the Executive Order consistent with the EPA decision (TAB A).

The issue has been hotly contested, with the sheepgrowers and their congressmen pressuring for complete recision of the Executive Order (TAB B - Senators Hansen and McClure). If the Executive Order is rescinded, the proponents in Congress feel that they can get even greater relaxation of chemical toxicant restrictions. You have met formally with this group on two occasions and they are aware of your interest in the issue.

-2-

Equally as strong in support of amendment as requested by Russ Train are those who feel that the public lands must be protected by Executive action for the benefits offered to all Americans, not just the few who are allowed the use of these lands for sheep and cattle grazing (TAB C - Russ Peterson letter to Cannon). They argue that the E.O. should be amended to allow the use of the M-44 device, but not to remove the safeguard that the Executive Order offers against the relaxation of prohibitions on other, and more unacceptable, chemical toxicants.

As presented, the suggested E.O. will allow the use of sodium cyanide in the M-44 device under the restrictions imposed by EPA. Eight of these restrictions are listed in the proposed Executive Order, which means that even if the restrictions on sodium cyanide registration were relaxed by EPA, the E.O. would maintain these eight restrictions.

OPTIONS

1. Take no action, maintaining the ban on toxicants except for the one-year experimental use of sodium cyanide permitted in Executive Order 11870.

Approve _____

Arguments

Pro: This is a stronger environmental stand than recommended by EPA through its regulatory process, and would be supported by environmental groups.

Con: Offers no more help to sheepgrowers than your decision last summer to allow one-year experimental use of sodium cyanide.

2. Amend the Executive Order as requested by Mr. Train to allow the use of sodium cyanide in the M-44 device. (TAB D)

Approve _____

Arguments

- Pro: Has strong environmental support, and generally acceptable to other agencies. Would act as a deterrent against further pressures to relax Federal restrictions on chemical toxicants for use on public lands.
- Con: May not actually help sheepgrowers, since effectiveness of M-44 is disputed. Will not appease sheepgrowers who want to use other toxicants or who want the Executive Order rescinded. Imposes eight restrictions on the use of sodium cyanide which the regulatory process might delete in the future.

- 3. Rescind Executive Order 11643, as amended by Executive Order 11870. (TAB E)

Approve _____

Arguments

- Pro: Would remove the President from making continued decisions on toxicant usage by relying on EPA to administer the laws passed by Congress and EPA's own regulations.
- Con: Would not immediately help sheepgrowers since other toxicants are not now registered by EPA. Would be opposed strongly by environmental groups.

STAFF RECOMMENDATIONS

- James Lynn(Nichols) -Option No.2, would not oppose No.3
- Robert T. Hartmann -Option No.2
- Jack Marsh -Option No.2
- Philip Buchen(Chapman)Option No.2
- Max Friedersdorf -Option No.2
- Jim Cannon -Although some members of House and Senate would like you to completely rescind the Presidential Executive Order restricting the use of pesticides, Secretary Butz and Hyde Murray believe that many farmers and others in rural areas believe you should not hand the responsibility for pesticide control entirely to EPA.

On that basis, I support Option 2.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

December 16, 1976

Memorandum

To: George Humphreys, Associate Director
The Domestic Council

From: Assistant Secretary for Fish and Wildlife and Parks

Subject: Executive Order Banning Toxicant Use in Predator Control
and its Relationship to the Federal Environmental Pesticide
Control Act of 1972 (hereinafter cited as FIFRA, as amended)

The Executive Order (hereinafter referenced as EO, and including EO 11643 of 8 February 1972, EO 11870 of 18 July 1975, and EO 11917 of 28 May 1976) contains two major restrictions for Federal programs and Federal lands. It

- (1) prohibits the field use of any chemical toxicant to kill a predatory mammal or bird; and
- (2) prohibits the field use of any chemical toxicant with secondary poisoning effects to kill mammals, birds, or reptiles.

The prohibitions described above were relaxed to the extent that use of sodium cyanide in the M-44 is permissible. Policy contained in Section 1 of the EO reiterates the two major restrictions and speaks to a general public land management program to maintain environmental quality and protect non-target species from control programs.

Exceptions to the prohibitions are provided for protection of human life and safety, endangered or threatened species, and substantial irretrievable damage to nationally significant natural resources, all of which must occur in an "emergency" which cannot be dealt with by means other than use of chemical toxicants.

The EO is thus based on the general premise that it is wrong to kill predators and other species on Federal lands by use of chemical toxicants.



Until the EO, there was no method of preventing abuse and misuse of toxicants. Agency policy in this regard was cursory at best and received little supervisory control in the field. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) could only control registration and interstate shipment of pesticides, but not their use. The last point is of particular significance in that the safest of chemical toxicants, when improperly used, can pose great safety problems to human health and the environment. Conversely, the most lethal pesticides can be used with a high degree of safety when proper precautions are taken.

Underlying the protection of predators from chemical toxicants contained in the EO were other considerations which speak to recognition of the broad public interest represented by the public lands. Of paramount concern was the desire to have wildlife values given recognition in policy and management decisions equal that given traditional public land uses such as livestock, timber, mineral, and forage production. While predators represent only one segment of the wildlife community, they are nevertheless the most controversial and therefore the most visible. Their protection doubtlessly indirectly enhanced consideration of wildlife in general.

Subsequent to the first EO, the Federal Environmental Pesticide Control Act of 1972 was enacted on 21 October 1972. This far-reaching statute provided for strict control of every element of pesticide use, registration, manufacture, distribution, labeling, and disposal.

Because of the complexity of the regulations required to be promulgated under FIFRA, as amended, and the volume of products to be regulated, the act was to be implemented over a five-year period. The implementation was not always timely, but has been now largely completed. Administration of the act by EPA has steadily improved, and a number of important actions have been taken to ban or severely restrict the use of pesticides with high environmental risks.

Without fully citing the specific regulatory provisions promulgated under FIFRA, as amended, it can be stated that the act provides an excellent control mechanism for dealing with environmental problems, actual or potential, arising from pesticide use. Information required for pesticide registration (40 CFR 162) is thorough to the point of being exhaustive. Permits required for experimental use (40 CFR 172) are carefully screened and reviewed. Exemptions for emergency use by Federal or State agencies (40 CFR 166) are tightly controlled and have well-defined limitations. Special evaluations are required to determine hazards to fish and wildlife (40 CFR 162.82). Review of existing pesticide registrations can result in action being taken against the product, such as the process initiated

against registrations of strychnine, 1080, and 1081 compounds. In addition to the procedural mechanisms described above, EPA widely distributes public information concerning its proposed actions and provides for excellent public participation in decisionmaking through a hearing process that receives considerable attention.

The preceding background review of the EO and FIFRA, as amended, is essential in addressing the environmental implications of rescinding the EO. The most fundamental question at issue is the potential net loss to wildlife resources and environmental quality and integrity if the EO is rescinded. The most objective answer is that neither wildlife in particular nor the environment in general will be afforded less protection in the absence of the EO.

The EO has become a symbol of accomplishment and a bench mark of change. As such, its rescission will provoke a general outburst of indignation from the environmental community, perhaps to the point of accomplishing a change in the 1931 Animal Damage Control Act in the next session of Congress.

The EO was the first step, and a good one, toward a sane and rational predator management program. However, coyote killing for the sake of coyote killing continues, and will continue, to drain an unacceptably large portion of the resources of the Fish and Wildlife Service until new direction is provided by statutory mandate. If the EO is rescinded, the environmental community will immediately channel its attention toward legislation rather than make a great effort to obtain a new EO. The President may wish to direct attention to the need to revise the outdated 1931 Animal Damage Control Act when he considers rescinding the Executive Order.

A handwritten signature in black ink, appearing to read "Nathaniel P. Reed". The signature is fluid and cursive, with a large initial "N" and "P".

Nathaniel P. Reed

THE WHITE HOUSE
WASHINGTON

Jim -

Crabill at OMB agrees that this is a fair presentation.

Mitchell at OMB thinks that it would be ridiculous to rescind.

Synn's view is unknown.

This has not been formally stepped out, but Crabill and I agree that, should the President so choose, he could legally sign now.

George

THE WHITE HOUSE
WASHINGTON

December 17, 1976

File
*Envision
predator*

MEMORANDUM TO: THE PRESIDENT
FROM: JAMES M. CANNON
SUBJECT: Predator Control

On November 16, John Knebel asked you to 1) transfer responsibility for animal damage control from Interior to Agriculture, and 2) to rescind existing Executive Orders that restrict the use of predacides on public lands (attached letter - TAB A).

You decided not to direct the transfer but did ask to review the recission possibility.

Secretary Knebel points out the increasing hardships in the sheep and lamb industry:

- 8.5 per cent (950,000 animals) of all sheep and lambs in 15 western States are currently being killed by coyote predation as compared to 2-3 per cent (300,000 animals) - an average year before FIFRA and the original E. O., and 6 per cent in 1973 and 1974 (750,000 animals) - the two years immediately following the E. O.
- \$23 million annually in current sheep and lamb losses
- 47 million pounds of red meat removed from the tables of Americans and from the world market
- The experimental sheep flock at Purdue University in Indiana recently experienced losses from coyotes where no previous losses are recorded.



The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Environmental Pesticide Control Act of 1972 offer control measures now that were not in effect at the time of the original Executive Order. However, major activities that would be permitted on public lands by rescission include:

- Immediate use of strychnine for coyote control
- Increased use of sodium cyanide for coyote control
- Immediate use of 1080 for rodent control
- Future use of predacides that may be registered by EPA

While many argue that the use of strychnine and sodium cyanide will not have a significant effect, Agriculture believes that their use is important and necessary.

ARGUMENTS FOR RECISSION

- The Western ranchers are being severely hurt economically by the increase in animal deaths since the E. O.
- Proper measures already exist for control of predacides, thus the E. O. is an added regulatory burden.
- Increased coyote populations on the public lands are spilling over onto private lands where controlled use of strychnine and sodium cyanide are used. We should be consistent in control measures.

ARGUMENTS AGAINST RECISSION

- Public lands should be managed from a greater perspective than just for ranchers. Other wildlife and recreational values must be considered.
- The rescission will be viewed as symbolic and not substantive because the existing laws will not allow much increase in control measures.

RECOMMENDATION

I recommend your signing the Executive Order (attached at TAB B) rescinding E. O. 11643 and the amending orders.

*Ford: Ag. Dept. No. 01/10/74
Dues. 01/10/74*





DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

November 16, 1976

The President
The White House
Washington, DC 20500

Dear Mr. President:

Under the Act of March 2, 1931, the Secretary of Agriculture was authorized and directed to conduct investigations, experiments, and tests that he deemed necessary to determine, demonstrate, and promulgate the best method to control depredating animals on public and private lands to protect agricultural crops and for public health reasons.

Subsequently, these responsibilities were transferred to the U.S. Department of the Interior (USDI) in the Government reorganization of 1939. Those responsibilities have remained with USDI until today. Although control measures by USDI had been satisfactory until about 1965, subsequent USDI policy changes have not provided the necessary efforts for relief of losses in agricultural crops, public health problems, and wildlife in urban environments.

As a result of these USDI policy changes, the livestock industry continues to take annual losses in the millions of dollars. Economic Research Service (ERS) studies reveal that predators cause estimated annual sheep and lamb losses of approximately \$23 million to farmers and ranchers. This is approximately 8.5 percent of all sheep and lambs in 15 Western States, amounting to more than 950,000 lambs and stock sheep.

This effectively removes at least 47 million pounds of red meat from the tables of the American people and world market. It effectively restricts farmers and ranchers in the 15 Western States from expanding production, utilizing renewable resources at low energy costs, and from becoming efficient and more competitive.

Serious livestock losses from coyotes are now occurring in Iowa, where previously they were very low. The experimental sheep flock at Purdue University, West Lafayette, Indiana, recently experienced losses from coyotes, where previously none had been lost.

Furthermore, the USDI control program has not made adequate use of its research program in animal damage control. For example, USDI had used Executive Order 11643 as reason for not providing control on public lands and to restrict research on predacides. The present program is thereby restricted to the use of only one chemical when other products could be registered for use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. The USDI research program spends approxi-

mately \$3 million annually on animal damage control. It has yet to produce a mechanism or substance which will provide a safer and more effective method of control than those used successfully for the past 20 years.

The present USDI animal damage control program is inadequate to meet the needs of agricultural, public health, and urban wildlife problems. The U.S. Department of Agriculture (USDA) believes that a systematic, cooperative, agriculture, and livestock protection and wildlife management program is necessary to maintain high levels of agricultural production.

We recommend that the responsibilities for animal damage control under the Act of 1932 be returned to the Secretary of Agriculture. Concurrently, we recommend that Executive Order 11643, Environmental Safeguards on Activities for Animal Damage Control on Federal Lands, and Executive Orders 11870 and 11917, amending Executive Order 11643, be rescinded. FIFRA provides adequate protection for the use of predacides on Federal lands.

The USDA program will be operated in a manner consistent with agricultural crop protection needs. The animal damage control program administered by USDA will also be ecologically managed to operate in conjunction with wildlife management activities for depredating species of birds, rodents, and other animals. Systematic management activities will include national population surveys, population and habitat manipulation, mechanical and chemical control methods and devices. Research and methods development work will concentrate on developing new concepts and methodologies based on biological, environmental, and economically sound bases.

We feel that the transfer of the animal damage control program to USDA and the operation of this program, in conjunction with the protection of agricultural production, is consistent with our responsibilities to provide crops and protein to 215 million American people and people around the world.

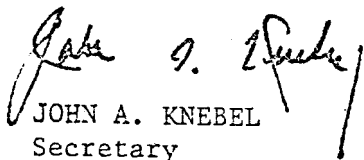
However, transfer of this program to USDA ~~without~~ rescission of the Executive Orders would be a useless gesture and would not provide effective means of implementation. The American public cannot afford to lose this red meat supply to predators. For this reason, USDA already has prepared a proposed supplemental budget request and work

The President

3

plan which can immediately be implemented upon signing of the Executive Order transferring to this Department the 691 positions and \$9.1 million in funds now set up in USDI for animal damage control.

Respectfully,


JOHN A. KNEBEL
Secretary

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B

EXECUTIVE ORDER

RELATING TO ENVIRONMENTAL SAFEGUARDS FOR
ANIMAL DAMAGE CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States, and in view of the actions taken by Congress in establishing a regulatory process by which the Environmental Protection Agency ensures that the use of toxicants is permitted only under conditions prescribed by that agency, and in order to provide for the uniform applicability of the conditions prescribed by that agency, in accordance with applicable law and regulations, Executive Order No. 11643 of February 8, 1972, as amended, is hereby rescinded.

THE WHITE HOUSE

, 1976

*Review file
predator*

THE WHITE HOUSE
WASHINGTON

December 20, 1976

MEMORANDUM TO: THE PRESIDENT
FROM: JAMES M. CANNON
SUBJECT: Predator Control

On November 16, John Knebel asked you to 1) transfer responsibility for animal damage control from Interior to Agriculture, and 2) to rescind existing Executive Orders that restrict the use of predacides on public lands (attached letter - TAB A).

You decided not to direct the transfer but did ask to review the recission possibility. Attached for your consideration is an order rescinding the previous E. O. and amendments (TAB B).

Secretary Knebel points out the increasing hardships in the sheep and lamb industry:

- 8.5 per cent (950,000 animals) of all sheep and lambs in 15 western States are currently being killed by coyote predation as compared to 2-3 per cent (300,000 animals) - an average year before FIFRA and the original E. O. and 6 per cent in 1973 and 1974 (750,000 animals) - the two years immediately following the E. O.
- \$23 million annually in current sheep and lamb losses
- 47 million pounds of red meat removed from the tables of Americans and from the world market
- The experimental sheep flock at Purdue University in Indiana recently experienced losses from coyotes where no previous losses are recorded.

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Environmental Pesticide Control Act of 1972 offer control measures now that were not in effect at the time of the original Executive Order. However, major activities that would be permitted on public lands by rescission include:

- Immediate use of strychnine for coyote control
- Increased use of sodium cyanide for coyote control
- Immediate use of 1080 for rodent control
- Future use of predacides that may be registered by EPA

The use of strychnine and 1080, even under controlled conditions, creates a strong possibility of secondary poisoning. Birds and other animals eating the target species can also be poisoned, and 1080 persists into tertiary poisoning and beyond.

Should you rescind the orders, it could be expected that the control of predacides on public lands would be reinstated by the new administration, either by a new executive order or by departmental regulations.

ARGUMENTS FOR RECISSION

- The Western ranchers are being severely hurt economically by the increase in animal deaths since the E. O.
- Proper measures already exist for control of predacides, thus the E. O. is an added regulatory burden.
- Increased coyote populations on the public lands are spilling over onto private lands where controlled use of strychnine and sodium cyanide are used. We should be consistent in control measures.

ARGUMENTS AGAINST RECISSION

- The secondary poisoning effects are such that non-target animals can be affected as much or more than coyotes.

- Public lands should be managed from a greater perspective than just for ranchers. Other wild-life and recreational values must be considered.
- The rescission will be viewed as symbolic and not substantive because the existing laws will not allow much increase in control measures.
- Strong editorial opposition is expected, along with a major outcry from environmental and conservation groups.



United States
Environmental Protection Agency
Washington, D.C. 20460

December 20, 1976

376 000 01 011 57 The Administrator

MEMORANDUM FOR: Mr. James Cannon
Assistant to the President
for Domestic Affairs

SUBJECT: Executive Order Banning Toxicants

Since conversations with you and Jim Mitchell have confirmed that the Acting Secretary of Agriculture as well as outside interest groups are again pressing for revocation of the Executive Order banning the use of chemical poisons on the public lands, I feel that I should record my strong opposition to the move. Most of these views I have already conveyed in our telephone conversation.

The primary argument in favor of revocation appears to be that revocation of the Executive Order will not reduce in any significant way the protection of wildlife resources on the public lands on the grounds that all the protection provided by the Executive Order is provided by FIFRA. (This is essentially the conclusion stated in Nat Reed's memorandum to George Humphreys of December 16, 1976.) Along the same line, it is suggested that revocation will have no legal or programmatic effect.

It is true that EPA's cancellation of the registration of 1080, 1081, and strychnine will continue to ban the use of these poisons on the public lands, as well as elsewhere, irrespective of the Executive Order. One is forced to wonder, therefore, just why the states Federal land management agencies, and the livestock interests are so hell-bent to have the Executive Order revoked!

It strikes me that one very practical difference that would come about lies in the enforcement area. In enforcing the provisions of FIFRA, EPA places heavy reliance on the capabilities of the states. EPA has never been given any but the most modest resources for pesticide enforcement activities. As a result, we have an average of about

one inspector per state for enforcement work. Obviously, this gives EPA no practical capability for monitoring or other surveillance activities in the field. For this reason, as I have said, we are heavily dependent upon the cooperation of the states. Given the attitudes in a number of western states on the predator issue, I have little confidence that we would have the necessary state support. Under present circumstances, the President by Executive Order has given a strong, clear policy directive to the Federal agencies responsible for management of the public lands. Those agencies control grazing and other rights on the public lands and have management personnel in the field. Once the Executive Order were revoked, there would be no management commitment on the part of the Federal land agencies against the use of chemical poisons and, given their apparent sympathy for their use, I would be less than sanguine about the extent of enforcement help that EPA could expect. Indeed, the very fact of an overt Presidential action to revoke the Executive Order could only be read as declaring that policy governing the use of poisons on the public lands is no longer a matter of Presidential concern. However phrased, you can be sure that the signal conveyed by such a Presidential action would come through "loud and clear" to the land management agencies.

Thus, contrary to what others appear to argue, I believe that revocation of the Executive Order would have practical programmatic effects -- all of them negative insofar as wildlife protection is concerned.

I have noted the suggestion that repeal of the Executive Order would have the potentially desirable effect of leading to revision of the outdated Animal Damage Control Act of 1931. Assuming that such revision is desirable -- and I have no expertise on the matter -- it would seem to make sense to keep the Executive Order firmly in place until an acceptable statutory revision is accomplished.

The original promulgation of the Executive Order was widely perceived as an act of leadership on the part of the Federal government in the exercise of its stewardship of the public domain. It has always seemed to me that the Federal government has a duty as trustee for the nation of the public lands and that it has an obligation to so manage the lands entrusted to it as to provide an example of excellence to other land managers. For somewhat similar reasons, it has seemed vital that the Federal government establish rules governing strip mining on the public lands even in the absence

of any generally-applicable Federal statute. Whatever the legal and technical effect of revocation of the Executive Order, it will be interpreted as a reversal of its earlier leadership in protecting wildlife from chemical poisons.

If, as the proponents of the action argue, the revocation of the Executive Order has no legal or programmatic significance, I would ask, "Then why do it?" Of course, as I have indicated, I think revocation would have practical programmatic effects -- all negative for wildlife and the environment.

Finally, I urge that the President not take in the closing days of his Administration an action which will be widely interpreted at worst as giving his approval to the use of poisons against wildlife on the public lands or at best as washing his hands of the matter -- particularly when absolutely no offsetting benefits in the public interest have been demonstrated or even claimed.


Russell E. Train

cc: Secretary Knebel (Agriculture)
Mr. James Mitchell (OMB)
Mr. Nathaniel Reed (Interior)
Dr. Lee Talbot (CEQ)



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

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JTB

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON

Issue

Whether the Executive Order prohibiting Federal use of poisons to control coyotes should be rescinded.

Background

Coyotes kill sheep. (See attached photographs.)

The sheep that are jeopardized are either on

- o private land (ranches), or
- o Federal lands, usually pursuant to grazing permits.¹

In 1931, the Federal Government assumed responsibility for controlling damage done by animals to crops or livestock.² This function is not related primarily to Federal lands -- indeed most control measures are taken on private lands after the owner calls for Federal help. Over the years the following types of animals have been subject to control: rodents, foxes, bears, bobcats, wild dogs, skunks and coyotes.

Approximately 183 Federal employees utilize the following methods to control coyote population, principally on private lands

- o trapping
- o shooting

¹ There is little evidence that coyotes living on Federal lands run onto private land, kill sheep and run back to the sanctuary of Federal lands.

² Initially the Department of Agriculture had responsibility; this function was transferred to the Department of Interior in 1939 along with the other functions of the Biological Survey which became the Fish and Wildlife Service.

- o denning (killing the young in the den) and,
- o poisoning

Until 1972 the chief poison substances were "strychnine" and sodium monofluoracetate, known as "1080". These poisons were placed in bait carcasses. Both are relatively stable through changes in weather -- indeed to the point of remaining toxic in the carcass of the poisoned coyote.

Also used was a device called a "coyote getter" which involves a .38 caliber gun which shot a poison capsule into the coyote's mouth when a trigger was stepped on.

On February 8, 1972, President Nixon issued an Executive Order which banned the use of

- o all toxic chemicals to kill predatory animals; and
- o all toxic chemicals used for killing other non-predatory animals if the chemicals had a secondary effect, i.e., the carcass of the poisoned animal would itself poison another animal if eaten

both with respect to

- o Federal lands, and
- o the Federal animal damage control program described above.

The only exceptions concern emergency measures on Federal lands and the use of sodium cyanide, described below, as approved by the Environmental Protection Agency (EPA).

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) became law ~~either~~ months after the Executive Order was issued. That Act requires registration of poisons. It permits EPA to ban poisons or to limit their use to a particular manner of application or to certain types of pests. EPA's registration procedures, unlike the outright ban of the Executive Order, require the agency to weigh the benefits of the use of the poison in controlling animal populations against the environmental costs of doing so.

Currently, neither strychnine^N or 1080^{LS} are registered (the registrations having been cancelled) for predators such as coyotes; they are registered for use against rodents.



Sodium cyanide -- a poison without secondary effects -- is registered for use against coyotes provided it is used in a M-44 device which, unlike the earlier .38 caliber shell version, is spring-loaded to shoot a pellet into the coyote's mouth. Sodium cyanide was also used experimentally in a "toxic collar" pursuant to your change to the Executive Order in July 1975. The coyotes learned to avoid it.

Currently, approximately 15,000 to 20,000 M-44 devices are employed by Interior. Interior believes the device is effective but has no data to prove it. The sheep ranchers believe the device is ineffective, but neither they nor Agriculture have any supporting data -- nor indeed does either have data to show the amount of sheep loss due to coyotes.³

The Legal Effect of Rescinding the Executive Order

Rescission of the Executive Order would have the following results

- o no effect on the use of 1080 because it is not registered for use against predatory animals and still could not be used against coyotes,
- o no effect on the use of strychnine for the same reason, and
- o no effect on sodium cyanide because it is registered and now being used

With the Executive Order ban lifted, 1080 and strychnine could be used, ostensibly for rodent control, on the public lands. (It is currently used on private lands.) To the extent these poisons persist in the dead rodents -- and, under certain conditions, they do -- coyotes would also die since their main food is rodents. However, EPA has already begun proceedings to cancel the registrations of these poisons as to rodent control.

Instead of the outright ban of the Executive Order, newly developed chemicals would be accorded the EPA benefit/cost process.

Interior would be relieved of the duty under the Executive Order to act against private citizens -- such as grazing permittees -- who place poisons on public lands. The Department has not done so.

³ Agriculture has indicated annual sheep losses run to 47 million pounds. We believe these data are highly suspect. They were obtained by surveying sheep ranchers as to what losses they incur from coyotes. Often a sheep rancher would find sheep missing and would assume that the loss was due to coyotes.



Attitudes

The sheep ranchers

- o think 1080, and to a lesser extent strychnine, are the answer
- o think sodium cyanide and the M-44 device are almost as big a joke as the toxic collar⁴
- o blame the industry problems on President Nixon's hated Executive Order
- o are not really aware of FIFRA and the cancellation of registration for 1080 and strychnine use against coyotes
- o would be delighted with the rescission of the Executive Order -- even if there is no change in the poisons that can be used
- o consider Train and EPA as separate from your Administration.

The environmentalists

- o view the Executive Order as a symbolic landmark
- o would accordingly deem rescission a giant step backward -- even though the practical effect is nil
- o would rally to a public statement by Train which would indicate that
 - he (Train) would not have rescinded the Order
 - there would be no practical effect of the rescission, emphasizing that 1080 and strychnine registration would probably be withdrawn for rodent use as well
 - Interior was being relieved of its duty under the Executive Order to prevent others from using poison on public lands -- even acknowledging that Interior has never exercised this duty.

⁴ Coyotes learned to avoid sheep with the collar; Interior believes this is due to the odor, not reading the EPA label.



How Can the Problem be Solved?

First, we need information indicating what the problem actually is. How serious? Where? Are current methods effective?

That means more research.

And if existing techniques are not effective, that means even more research.

At the same time, increased effort on other non-poison methods of control (which you have already increased once) would be well received by the sheep ranchers and would be accepted by some environmentalists.⁵

Further research would appeal to the environmentalists. For that reason -- and others -- it is not viewed by the sheep ranchers as an answer.

Organizationally, there is an argument for moving both the research and control operations to Agriculture. The interest to be protected is primarily agricultural, while Interior's interest is to protect living animals. This possibility requires further study.

What are the Options for Styling a Rescission of the Executive Order?

1. Simply rescind the Executive Order -- and have no statement of explanation
 - the sheep ranchers will applaud -- at least initially -- until they find out that FIFRA stands in their way -- but even then may blame Train and EPA and not you
 - the environmentalists will object vigorously.
2. Rescind the Executive Order and urge legislation to reverse the EPA decisions under FIFRA to allow some temporary, emergency use of 1080 and strychnine

⁵ Interestingly, environmentalists seem to divide into two camps on this issue; one group recognizes that coyote populations need to be controlled by killing them -- but do not want to use methods that endanger humans or wildlife; the second group does not believe that coyote population should be interfered with at all.

- the sheep ranchers will be elated -- even though the legislation will go nowhere
 - the environmentalists will be livid.
3. Rescind the Executive Order -- with a statement indicating that it is no longer necessary because of enactment of FIFRA, which, instead of an outright ban, provides for a more logical benefit/cost procedure
- while this educates the sheep ranchers that FIFRA is a problem, it also points out that FIFRA is better with respect to newly developed poisons than the outright ban of the Executive Order
 - the environmentalists will object, as mentioned under 1 above.

Recommendations

Secretary Knebel argues that the existing Executive Order serve no purpose and rescission will open the way for Congressional consideration of relief. At a minimum it will take you out of the poison review business and leave that job to EPA. He points out that such action will be extremely well received by the industry even though FIFRA would continue to constitute an obstacle.

Administrator Train argues that it is not appropriate for you to infuriate the environmentalists on your way out of office, especially since there is no practical effect of the rescission. Train also points out that rescission of the Executive Order would relieve Interior of its duty to prevent the use of poisons on public lands.

Jim Lynn and Jim Cannon advise against rescission and recommend more resources for research and for non-poison control methods. Transfer of the function from Interior to Agriculture, if appropriate after further study, should be proposed.



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

Cannon Chron
[Jan. 1977]

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON *J.M. Cannon*

SUBJECT: Transfer of the Animal Damage Control Program from Interior to Agriculture



ISSUE

Secretary Knebel proposes that the responsibility for administering the predator control program (primarily coyote killing in sheepraising areas) be transferred from Interior to Agriculture. (Legislation is required.)

BACKGROUND

A 1931 Act (7 U.S.C. 426) authorized the Secretary of Agriculture to conduct a program to control wildlife which is "injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, and birds, and for the protection of stock and other domestic animals." This program, which includes coyote control, was transferred to the Interior Department by Reorganization Plan No. 2 of 1939 in order to create what became the Fish and Wildlife Service of the Interior Department.

The Fish and Wildlife Service administers the program, providing technical and operational assistance to anyone requesting aid in controlling predatory wildlife. It also does research. In addition, it conducts direct operations to control mice in farm silos, blackbirds which are a threat to health or a nuisance and migratory bird depredations on crops.¹ It will do other tasks upon request, such as helping people capture owls trapped in attics or eliminating moles undermining driveways or streets.

¹ The migratory bird portion of the animal damage control program (estimated at \$4 million in 1978) is not proposed for transfer.

Approximately 183 Federal employees utilize the following methods to control coyote populations, principally on private lands

- o trapping
- o shooting
- o denning (killing the young in the den) and,
- o poisoning.²

Total cost of the coyote program is projected at \$6.8 million in 1978.

ATTITUDES

Farmers and ranchers feel that the animal damage program would be more avidly pursued by the Agriculture Department since that Department is concerned with agricultural production and the welfare of the farmer, while the Interior Department is more likely to be concerned with minimizing environmental hazards from the program and with preserving wildlife resources.

Environmentalists would prefer to see the program remain at Interior because the Fish and Wildlife Service can be expected to be more sensitive to human safety and other wildlife in selecting control techniques.

² Until 1972 the chief poison substances were "strychnine" and sodium monofluoracetate, known as "1080". These poisons were placed in bait carcasses. Both are relatively stable through changes in weather -- indeed to the point of remaining toxic in the carcass of the poisoned coyote. Also used was a device called a "coyote getter" which involves a .38 caliber gun which shot a poison capsule into the coyote's mouth when a trigger was stepped on.

All these techniques are now banned for use against coyotes -- both under President Nixon's 1972 Executive order and by the Environmental Protection Agency (EPA) under the Federal Pesticide, Fungicide and Rodenticide Act (FIFRA).

The only poisoning technique currently permitted and in use is the M-44 device, a spring-loaded gun which shoots a sodium cyanide pellet into the coyote's mouth when it tugs at a bait. (See earlier memorandum of December 21, 1976, at Tab A for greater detail on poisoning regulation.)

OPTIONSOption 1:

Propose legislation to transfer the portion (69%) of the animal damage control program concerned primarily with farm predators to the Agriculture Department, leaving migratory bird control in Interior which has other responsibilities regarding migratory birds (draft legislation is attached at Tab B.)

Option 2:

Take no action on this issue and leave the program in the Interior Department.

ADVANTAGES OF THE TRANSFER

- o Puts program which is of benefit chiefly to agricultural interests -- both crops and livestock -- in the Agriculture Department which protects these interests in administering other farm programs. The Agriculture Department already conducts research on predator control and conducts insect and animal control programs.
- o Would divest Interior of program which it does not wish to retain and which is contrary to its conservationist policies and image.
- o Program would likely receive resources more nearly commensurate with benefits.
- o Makes Agriculture Department subject to environmentalist pressures on this program, possibly resulting in research into alternative techniques of predator control other than shooting or poisons.
- o Provides the industry with more affective advocate -- Agriculture Department -- in EPA proceedings under FIFRA.

DISADVANTAGES OF THE TRANSFER

- o Agriculture Department's clientele may insist that the economic interests of growers should be protected at the expense of environmental concerns. This may result in renewed pressure to abolish the executive orders controlling toxicant use on the public lands, even though no additional poisoning techniques would be permitted. (See Tab A)

- o If program expands, using present control techniques, the chances for accidental harm increase, with the possible death of humans and non-target wildlife.
- o May expand Federal role in predator control, halting current Interior policy of returning control of resident wildlife damage to States, which legally own most wildlife, including coyotes.
- o No conclusive evidence exists proving that coyotes are a major agricultural problem.
- o In addition to its research and operational program to control depredations of migratory birds, including blackbirds, the Fish and Wildlife Service will also be required under the Fish and Wildlife Coordination Act of 1956 to monitor the effects of the Agriculture Department's activities on other wildlife -- especially endangered species. This could result in pressure for additional funds for research.

RECOMMENDATIONS

Secretary Knebel recommends the transfer. He is also examining the possibility of reprogramming additional Agriculture research funds for coyote control.

Secretary Kleppe does not object to the transfer.

As a matter of substance, although a close call, Jim Lynn believes that the animal damage function is better located in the Agriculture Department. However, particularly inasmuch as the proposal is so late that it cannot be reflected in the budget documents, the proposal will be viewed simply as a political gesture.

Since you cannot effect the transfer by Executive Order, James Cannon believes that you will receive little or no credit for merely sending up legislation -- and you will be severely criticized by the environmentalist groups.

DECISION

Option 1:

Propose legislation to transfer the portion (69%) of the animal damage control program concerned primarily with farm predators to the Agriculture Department, leaving migratory bird control in Interior.

Option 2:

Take no action on this issue.

5
Do you wish

to send the legislation to the Congress
yourself?

the Secretaries of Agriculture and Interior to
send the legislation to the Congress?





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

DEC 21 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON

Issue

Whether the Executive Order prohibiting Federal use of poisons to control coyotes should be rescinded.

Background

Coyotes kill sheep. (See attached photographs.)

The sheep that are jeopardized are either on

- o private land (ranches), or
- o Federal lands, usually pursuant to grazing permits.¹

In 1931, the Federal Government assumed responsibility for controlling damage done by animals to crops or livestock.² This function is not related primarily to Federal lands -- indeed most control measures are taken on private lands after the owner calls for Federal help. Over the years the following types of animals have been subject to control: rodents, foxes, bears, bobcats, wild dogs, skunks and coyotes.

Approximately 183 Federal employees utilize the following methods to control coyote population, principally on private lands

- o trapping
- o shooting

¹ There is little evidence that coyotes living on Federal lands run onto private land, kill sheep and run back to the sanctuary of Federal lands.

² Initially the Department of Agriculture had responsibility; this function was transferred to the Department of Interior in 1939 along with the other functions of the Biological Survey which became the Fish and Wildlife Service.



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OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

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² Initially the Department of Agriculture had responsibility; this function was transferred to the Department of Interior in 1939 along with the other functions of the Biological Survey which became the Fish and Wildlife Service.

- o denning (killing the young in the den) and,
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Until 1972 the chief poison substances were "strychnine" and sodium monofluoracetate, known as "1080". These poisons were placed in bait carcasses. Both are relatively stable through changes in weather -- indeed to the point of remaining toxic in the carcass of the poisoned coyote.

Also used was a device called a "coyote getter" which involves a .38 caliber gun which shot a poison capsule into the coyote's mouth when a trigger was stepped on.

On February 8, 1972, President Nixon issued an Executive Order which banned the use of

- o all toxic chemicals to kill predatory animals; and
- o all toxic chemicals used for killing other non-predatory animals if the chemicals had a secondary effect, i.e., the carcass of the poisoned animal would itself poison another animal if eaten

both with respect to

- o Federal lands, and
- o the Federal animal damage control program described above.

The only exceptions concern emergency measures on Federal lands and the use of sodium cyanide, described below, as approved by the Environmental Protection Agency (EPA).

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) became law eight months after the Executive Order was issued. That Act requires registration of poisons. It permits EPA to ban poisons or to limit their use to a particular manner of application or to certain types of pests. EPA's registration procedures, unlike the outright ban of the Executive Order, require the agency to weigh the benefits of the use of the poison in controlling animal populations against the environmental costs of doing so.

Currently, neither strychnine or 1080 is registered (the registrations having been cancelled) for predators such as coyotes; they are registered for use against rodents.

Sodium cyanide -- a poison without secondary effects -- is registered for use against coyotes provided it is used in a M-44 device which, unlike the earlier .38 caliber shell version, is spring-loaded to shoot a pellet into the coyote's mouth. Sodium cyanide was also used experimentally in a "toxic collar" pursuant to your change to the Executive Order in July 1975. The coyotes learned to avoid it.

Currently, approximately 15,000 to 20,000 M-44 devices are employed by Interior. Interior believes the device is effective but has no data to prove it. The sheep ranchers believe the device is ineffective, but neither they nor Agriculture have any supporting data -- nor indeed does either have data to show the amount of sheep loss due to coyotes.³

The Legal Effect of Rescinding the Executive Order

Rescission of the Executive Order would have the following results

- o no effect on the use of 1080 because it is not registered for use against predatory animals and still could not be used against coyotes,
- o no effect on the use of strychnine for the same reason, and
- o no effect on sodium cyanide because it is registered and now being used

With the Executive Order ban lifted, 1080 and strychnine could be used, but for rodent control, on the public lands. (It is currently used on private lands only.) To the extent these poisons persist in the dead rodents -- and, under certain conditions, they do -- coyotes would also die since their main food is rodents. However, EPA has already begun proceedings to cancel the registrations of these poisons as to rodent control.

Instead of the outright ban of the Executive Order, newly developed chemicals would be accorded the EPA benefit/cost process.

Interior would be relieved of the duty under the Executive Order to act against private citizens -- such as grazing permittees -- who place poisons on public lands. The Department has not done so.

³ Agriculture has indicated annual sheep losses run to 47 million pounds. We believe these data are highly suspect. They were obtained by surveying sheep ranchers as to what losses they incur from coyotes. Often a sheep rancher would find sheep missing and would assume that the loss was due to coyotes.

Attitudes

The sheep ranchers

- o think 1080, and to a lesser extent strychnine, are the answer
- o think sodium cyanide and the M-44 device are almost as big a joke as the toxic collar⁴
- o blame the industry problems on President Nixon's hated Executive Order
- o are not really aware of FIFRA and the cancellation of registration for 1080 and strychnine use against coyotes
- o would be delighted with the rescission of the Executive Order -- even if there is no change in the poisons that can be used
- o consider Train and EPA as separate from your Administration.

The environmentalists

- o view the Executive Order as a symbolic landmark
- o would accordingly deem rescission a giant step backward -- even though the practical effect is nil
- o would rally to a public statement by Train which would indicate that

- he (Train) would not have rescinded the Order
- there would be no practical effect of the rescission, emphasizing that 1080 and strychnine registration would probably be withdrawn for rodent use as well
- Interior was being relieved of its duty under the Executive Order to prevent others from using poison on public lands -- even acknowledging that Interior has never exercised this duty.

⁴ Coyotes learned to avoid sheep with the collar; Interior believes this is due to the odor, not reading the EPA label.

How Can the Problem be Solved?

First, we need information indicating what the problem actually is. How serious? Where? Are current methods effective?

That means more research.

And if existing techniques are not effective, that means even more research.

At the same time, increased effort on other non-poison methods of control (which you have already increased once) would be well received by the sheep ranchers and would be accepted by some environmentalists.⁵

Further research would appeal to the environmentalists. For that reason -- and others -- it is not viewed by the sheep ranchers as an answer.

Organizationally, there is an argument for moving both the research and control operations to Agriculture. The interest to be protected is primarily agricultural, while Interior's interest is to protect living animals. This possibility requires further study.

What are the Options for Styling a Rescission of the Executive Order?

1. Simply rescind the Executive Order -- and have no statement of explanation
 - the sheep ranchers will applaud -- at least initially -- until they find out that FIFRA stands in their way -- but even then may blame Train and EPA and not you
 - the environmentalists will object vigorously.
2. Rescind the Executive Order and urge legislation to reverse the EPA decisions under FIFRA to allow some temporary, emergency use of 1080 and strychnine

⁵ Interestingly, environmentalists seem to divide into two camps on this issue; one group recognizes that coyote populations need to be controlled by killing them -- but do not want to use methods that endanger humans or wildlife; the second group does not believe that coyote population should be interfered with at all.

- the sheep ranchers will be elated -- even though the legislation will go nowhere
 - the environmentalists will be livid.
3. Rescind the Executive Order -- with a statement indicating that it is no longer necessary because of enactment of FIFRA, which, instead of an outright ban, provides for a more logical benefit/cost procedure
- while this educates the sheep ranchers that FIFRA is a problem, it also points out that FIFRA is better with respect to newly developed poisons than the outright ban of the Executive Order
 - the environmentalists will object, as mentioned under 1 above.

Recommendations

Secretary Knebel argues that the existing Executive Order serve no purpose and rescission will open the way for Congressional consideration of relief. At a minimum it will take you out of the poison review business and leave that job to EPA. He points out that such action will be extremely well received by the industry even though FIFRA would continue to constitute an obstacle.

Administrator Train argues that it is not appropriate for you to infuriate the environmentalists on your way out of office, especially since there is no practical effect of the rescission. Train also points out that rescission of the Executive Order would relieve Interior of its duty to prevent the use of poisons on public lands.

Jim Lynn and Jim Cannon advise against rescission and recommend more resources for research and for non-poison control methods. Transfer of the function from Interior to Agriculture, should be proposed.



A BILL

To transfer certain functions from the Secretary of the Interior to the Secretary of Agriculture.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, there are hereby transferred from the Secretary of the Interior to the Secretary of Agriculture those functions vested in the Secretary of Agriculture by the Act of March 2, 1931 (46 Stat. 1468-1469; 7 U.S.C. 426-426b) which were transferred to the Secretary of the Interior pursuant to Section 4(f) of Reorganization Plan No. II of 1939 (53 Stat. 1433), except to the extent that such functions relate to research concerning, and the control of, migratory bird depredations.

Sec. 2 (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Agriculture by this Act as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Agriculture.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this Section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

-Sec.* 3. Section 1 of this Act shall take effect ninety days from the date of enactment.



THE WHITE HOUSE

WASHINGTON

January 13, 1977

MEMORANDUM TO: JAMES L. MITCHELL

FROM: JAMES M. CANNON *J. Cannon*

SUBJECT: Transfer of Animal Damage Control
Program From Interior to Agriculture

I have reviewed your draft memorandum to the President.

The presentation is fair and balanced, in my opinion.

My recommendation to the President is to take no action on this issue. Since any transfer would require legislation, I believe for the President to propose legislation on this issue at this time would be unproductive and possibly embarrassing.



file

THE WHITE HOUSE

WASHINGTON

January 12, 1977 11 6 07

*George -
Thank
very
much*

MEMORANDUM TO: JIM CANNON
FROM: GEORGE W. HUMPHREYS
SUBJECT: Transfer of Animal Damage
Control Program

Jim

In my opinion, the President will accomplish nothing positive by proposing this legislation.

He will, however, needlessly expose himself to attack from outraged editorialists and public interest groups. This issue is not so pressing that he should appear to be favoring a few ranchers without documented evidence of serious depredation.

Attached is a suggested memo to Mitchell in case you agree with my recommendation.

If you do not agree, I believe the Mitchell memo is an accurate presentation of the issue.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

January 12, 1977

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TO MESSRS:

JAMES LYNN
JAMES CANNON ✓
GEORGE HUMPHREYS
PAUL O'NEILL

FROM: JAMES L. MITCHELL

Attached is a draft memorandum urgently requested by the White House. Would appreciate any comments this afternoon as it has been promised to the President this evening.

Thank you.

*Humphreys
called you
on this*





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON

SUBJECT: Transfer of the Animal Damage Control
Program from Interior to Agriculture

ISSUE

Secretary Knebel proposes that the responsibility for administering the predator control program (primarily coyote killing in sheepraising areas) be transferred from Interior to Agriculture. (Legislation is required.)

Background

A 1931 Act (7 U.S.C. 426) authorized the Secretary of Agriculture to conduct a program to control wildlife which is "injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, and birds, and for the protection of stock and other domestic animals." This program, which includes coyote control, was transferred to the Interior Department by Reorganization Plan No. 2 of 1939 in order to create what became the Fish and Wildlife Service of the Interior Department.

The Fish and Wildlife Service administers the program, providing technical and operational assistance to anyone requesting aid in controlling predatory wildlife. It also does research. In addition, it conducts direct operations to control mice in farm silos, blackbirds which are a threat to health or a nuisance and migratory bird deprecations on crops.¹ It will do other tasks upon request, such as helping people capture owls trapped in attics or eliminating moles undermining driveways or streets.

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Total cost of the coyote program is projected at \$6.8 million in 1978.

ATTITUDES

Farmers and ranchers feel that the animal damage program would be more avidly pursued by the Agriculture Department since that Department is concerned with agricultural production and the welfare of the farmer, while the Interior Department is more likely to be concerned with minimizing environmental hazards from the program and with preserving wildlife resources.

Environmentalists would prefer to see the program remain at Interior because the Fish and Wildlife Service can be expected to be more sensitive to human safety and other wildlife in selecting control techniques.

² Until 1972 the chief poison substances were "strychnine" and sodium monofluoracetate, known as "1080". These poisons were placed in bait carcasses. Both are relatively stable through changes in weather -- indeed to the point of remaining toxic in the carcass of the poisoned coyote. Also used was a device called a "coyote getter" which involves a .38 caliber gun which shot a poison capsule into the coyote's mouth when a trigger was stepped on.

All these techniques are now banned for use against coyotes -- both under President Nixon's 1972 Executive order and by the Environmental Protection Agency (EPA) under the Federal Pesticide, Fungicide and Rodenticide Act (FIFRA).

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OPTIONSOption 1:

Propose legislation to transfer the portion (69%) of the animal damage control program concerned primarily with farm predators to the Agriculture Department, leaving migratory bird control in Interior which has other responsibilities regarding migratory birds (draft legislation is attached at Tab B.)

Option 2:

Take no action on this issue and leave the program in the Interior Department.

ADVANTAGES OF THE TRANSFER

- o Puts program which is of benefit chiefly to agricultural interests -- both crops and livestock -- in the Agriculture Department which protects these interests in administering other farm programs. The Agriculture Department already conducts research on predator control and conducts insect and animal control programs.
- o Would divest Interior of program which it does not wish to retain and which is contrary to its conservationist policies and image.
- o Program would likely receive resources more nearly commensurate with benefits.
- o Makes Agriculture Department subject to environmentalist pressures on this program, possibly resulting in research into alternative techniques of predator control other than shooting or poisons.
- o Provides the industry with more affective advocate -- Agriculture Department -- in EPA proceedings under FIFRA.

DISADVANTAGES OF THE TRANSFER

- o Agriculture Department's clientele may insist that the economic interests of growers should be protected at the expense of environmental concerns. This may result in renewed pressure to abolish the executive orders controlling toxicant use on the public lands, even though no additional poisoning techniques would be permitted. (See Tab A)

- o If program expands, using present control techniques, the chances for accidental harm increase, with the possible death of humans and non-target wildlife.
- o May expand Federal role in predator control, halting current Interior policy of returning control of resident wildlife damage to States, which legally own most wildlife, including coyotes.
- o No conclusive evidence exists proving that coyotes are a major agricultural problem.
- o In addition to its research and operational program to control depredations of migratory birds, including blackbirds, the Fish and Wildlife Service will also be required under the Fish and Wildlife Coordination Act of 1956 to monitor the effects of the Agriculture Department's activities on other wildlife -- especially endangered species. This could result in pressure for additional funds for research.

RECOMMENDATIONS

Secretary Knebel recommends the transfer. He is also examining the possibility of reprogramming additional Agriculture research funds for coyote control.

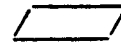
Secretary Kleppe does not object to the transfer.

Jim Lynn and Jim Cannon recommend the transfer. Both have previously recommended against rescission of the Executive orders.

DECISION

Option 1:

Propose legislation to transfer the portion (69%) of the animal damage control program concerned primarily with farm predators to the Agriculture Department, leaving migratory bird control in Interior.



Option 2:

Take no action on this issue.



Do you wish

o to send the legislation to the Congress
yourself?

o the Secretaries of Agriculture and Interior to
send the legislation to the Congress?



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

DEC 21 1976

A

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON

Issue

Whether the Executive Order prohibiting Federal use of poisons to control coyotes should be rescinded.

Background

Coyotes kill sheep. (See attached photographs.)

The sheep that are jeopardized are either on

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- 1 There is little evidence that coyotes living on Federal lands run onto private land, kill sheep and run back to the sanctuary of Federal lands.
- 2 Initially the Department of Agriculture had responsibility; this function was transferred to the Department of Interior in 1939 along with the other functions of the Biological Survey which became the Fish and Wildlife Service.

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And if existing techniques are not effective, that means even more research.

At the same time, increased effort on other non-poison methods of control (which you have already increased once) would be well received by the sheep ranchers and would be accepted by some environmentalists.⁵

Further research would appeal to the environmentalists. For that reason -- and others -- it is not viewed by the sheep ranchers as an answer.

Organizationally, there is an argument for moving both the research and control operations to Agriculture. The interest to be protected is primarily agricultural, while Interior's interest is to protect living animals. This possibility requires further study.

What are the Options for Styling a Rescission of the Executive Order?

1. Simply rescind the Executive Order -- and have no statement of explanation
 - the sheep ranchers will applaud -- at least initially -- until they find out that FIFRA stands in their way -- but even then may blame Train and EPA and not you
 - the environmentalists will object vigorously.
2. Rescind the Executive Order and urge legislation to reverse the EPA decisions under FIFRA to allow some temporary, emergency use of 1080 and strychnine

⁵ Interestingly, environmentalists seem to divide into two camps on this issue; one group recognizes that coyote populations need to be controlled by killing them -- but do not want to use methods that endanger humans or wildlife; the second group does not believe that coyote population should be interfered with at all.

- the sheep ranchers will be elated -- even though the legislation will go nowhere
 - the environmentalists will be livid.
3. Rescind the Executive Order -- with a statement indicating that it is no longer necessary because of enactment of FIFRA, which, instead of an outright ban, provides for a more logical benefit/cost procedure
- while this educates the sheep ranchers that FIFRA is a problem, it also points out that FIFRA is better with respect to newly developed poisons than the outright ban of the Executive Order
 - the environmentalists will object, as mentioned under 1 above.

Recommendations

Secretary Knebel argues that the existing Executive Order serve no purpose and rescission will open the way for Congressional consideration of relief. At a minimum it will take you out of the poison review business and leave that job to EPA. He points out that such action will be extremely well received by the industry even though FIFRA would continue to constitute an obstacle.

Administrator Train argues that it is not appropriate for you to infuriate the environmentalists on your way out of office, especially since there is no practical effect of the rescission. Train also points out that rescission of the Executive Order would relieve Interior of its duty to prevent the use of poisons on public lands.

Jim Lynn and Jim Cannon advise against rescission and recommend more resources for research and for non-poison control methods. Transfer of the function from Interior to Agriculture, should be proposed.

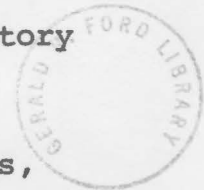
A BILL

To transfer certain functions from the Secretary of the Interior to the Secretary of Agriculture.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, there are hereby transferred from the Secretary of the Interior to the Secretary of Agriculture those functions vested in the Secretary of Agriculture by the Act of March 2, 1931 (46 Stat. 1468-1469; 7 U.S.C. 426-426b) which were transferred to the Secretary of the Interior pursuant to Section 4(f) of Reorganization Plan No. II of 1939 (53 Stat. 1433), except to the extent that such functions relate to research concerning, and the control of, migratory bird depredations.

Sec. 2 (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Agriculture by this Act as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Agriculture.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this Section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.



B

Sec. 3. Section 1 of this Act shall take effect ninety days from the date of enactment.