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THE WHITE HOUSE

WASHINGTON

January 15, 1977

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JAMES T. LYNN  
JAMES M. CANNON

FROM: JAMES E. CONNOR 

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

The President has reviewed your memorandum (undated) on the above subject and has approved the following:

- 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.
- Send the legislation to the Congress himself.

Please follow-up with the appropriate action.

cc: Dick Cheney



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 *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.<sup>1</sup> It will do other tasks upon request, such as helping people capture owls trapped in attics or eliminating moles undermining driveways or streets.

<sup>1</sup> 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.<sup>2</sup>

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.

<sup>2</sup> 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. HCS

##### 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

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.<sup>1</sup>

In 1931, the Federal Government assumed responsibility for controlling damage done by animals to crops or livestock.<sup>2</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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 monofluoroacetate, 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.<sup>3</sup>

#### 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.

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<sup>3</sup> 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 collar<sup>4</sup>
- 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.

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<sup>4</sup> 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.<sup>5</sup>

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

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<sup>5</sup> 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.