

WILDLIFE RESOURCE POLICY COMMITTEE

Chair: Amanda Wuestefeld (Indiana Division of Fish and Wildlife) Vice-Chair: Pete Hildreth (Iowa Department of Natural Resources)

Monday, September 19th, 2022* 10:00 AM- 12:00 PM (CDT) Fort Worth Ballroom 1 & 2

112th Association of Fish and Wildlife Agencies Conference
Omni Fort Worth Hotel

Committee Charge

To discuss and develop recommendations on Association positions related to federal laws, regulations and policies concerning habitat conservation, wildlife resources and related funding for such programs as well as wildlife management practices including those concerned with problem or nuisance wildlife, and emerging issues (e.g., commercial trade). The committee also stays abreast of threatened and endangered species wildlife issues, state legislation pertaining to wildlife management and wildlife diversity funding initiatives.

Agenda

10:00 AM Welcome and Introductions

Chair Amanda Wuestefeld opened the meeting and attendees introduced themselves. 35 individuals attended in person while another 26 attended on-line.

10: 10 AM Review Agenda & Approve Minutes from the previous meeting (Pete Hildreth, IA)

The minutes from the previous meeting were approved.

10:15 AM USDA-APHIS Wildlife Services Report- (Janet Bucknall, Deputy Administrator)

- Deputy Administrator Janet Bucknall gave an update from USDA-APHIS Wildlife Services on several important initiatives and programs including:
- Feral Swine Damage Management is a major part (30%) of the overall WS budget
 - o For more on this program see: <u>Feral Swine Damage Management Program</u>
- Highly pathogenic avian influenza (HPAI) A(H5N1)
 - o This virus occurs mainly in birds and has been detected in both wild and domestic populations. Surveillance for the virus has been ongoing for 16 years in all flyways. It has been detected in all 4 flyways in North America. Was also detected in commercial domestic flocks and an indemnity of \$300 million has been paid out. It has been detected in over 45 states, 86 wild bird species, 9 species of mammals and surveillance continues because early detection is critical. Increased surveillance is being conducted in Alaska (only 1 detection in ∼1,800 samples). APHIS-WS wishes to thank state agencies and hunters for their partnerships in collecting samples.
- Chronic Wasting Disease

CWD Task Force- CWD Task Force representatives include individuals from US FWS, USGS, and the USDA. Each state will have the option to select up to two individuals that represent the relevant wildlife and/or agriculture agencies overseeing the surveillance and management of CWD. In addition, the CWD Task Force will include two representatives from tribal organizations and five representatives from non-governmental organizations. The CWD Task Force is responsible for highlighting resource requirements needed to effectively address CWD, updating identified best management practices, and detailing the latest CWD research. The National Wildlife Research Center received \$4 million and is working through various universities on early detection and how to prevent the spread of CWD.

• American Rescue Plan

USDA received \$300 million to address One Health and future pandemics. Dr. Tom
DeLiberto is instrumental in this effort. The focus is on detecting SARS-CoV-2 in wildlife
and building capacity for potential future pandemics.

Livestock Protection

O USDA has been conducting predator management for 100 years, but methods have changed greatly over time. Most efforts are conducted in cooperation with state and federal agency partners. In FY22 USDA assisted some 9,000 producers and conducted 182 workshops. Control focus on many species including black vultures, golden eagles, wolves. There is now a USDA Wolf Group which provides indemnities in cooperation with various partners. The Wolf Group may expand to include FWS and BLM members. Nonlethal initiatives are being explored for various conflict species and projects are being conducted in 13 states at this time. Nonlethal techniques include physical barriers, flaggery, etc.

National Rabies Program

 This program is conducted in the Eastern US to prevent the spread of the raccoon strain of rabies virus westward and is coordinated with many partners. Other activities are conducted along the Texas/Mexico border to prevent canine rabies from Mexico from entering the US. Surveillance continues for vampire bats but vampire bats have not been detected in the US.

10:45 AM Human/Wildlife Conflicts Working Group Report (Brian Wakeling, MT FWP)

The Human-Wildlife Conflict Working Group (HWCWG) will meet on Tuesday, September 20, 2022, using a hybrid format. Our agenda includes:

- National survey on how agencies manage and fund wildlife conflicts (Lou Cornicelli, Terry Messmer, Bryant White)
 - First brought up by WAFWA with an interest in how other agencies fund conflicts with wildlife. Subsequently, this topic was discussed with member agencies in the other three regional associations, and strong support for a formal survey was expressed.
 - HWCWG developed a proposal to seek funding through a multi-state grant to develop and conduct a survey of all 50 states. Due to the funding source, Canadian provinces could not be included in this survey.
 - HWCWG was informed at the meeting that the grant was recommended for funding.
 Southwick, Berryman Institute, and HWCWG will begin work on drafting the survey and preparing to initiate the survey in 2023.

- Report on progress toward the development of a peer-reviewed publication on human-wildlife conflicts with coyotes in urban areas (B. Wakeling).
 - This project has suffered from logistical challenges resulting from the pandemic. Progress is back on track and a first draft has been circulated to the Wildlife Resources Policy Committee (WRP) and HWCWG. Asking for any comments or edits be shared with Brian Wakeling (brian.wakeling@mt.gov) or Bryant White (bwhite@fishwildife.org) by January 1, 2023.
 - Edits will be addressed and sent back to WRP and HWCWG prior to meeting in March 2023. We will be seeking approval from WRP at that meeting. As a reminder, so long as the report is not prescriptive in nature, AFWA has delegated approval of the report to WRP. If aspects of the report are prescriptive, they may be changed so that it is not prescriptive, or it may be forwarded for Executive approval if necessary.
 - On approval, the report will be submitted to the Human Wildlife Interactions Monograph series for publication.
- USDA-APHIS-Wildlife Services provided an update on actions and activities as they shared with WRP (Janet Bucknall).
- Berryman Institute provided an update on publication of the WAFWA update to Managing Cougars in North America. While originally scheduled for publication in September, it is expected to be published this winter and available by March. There were also updates on *Human Wildlife Interactions* journal and several conferences including on free-roaming equids and wild pigs (Terry Messmer).
- HWCWG was provided with an update on the implementation of BearWise through AFWA (Dan Gibbs-John Lord).
 - Some confusion was recently noted due to similar but not identical programs that are being used in grizzly bear country. The Interagency Grizzly Bear Committee (IGBC) has been working to certify products that are grizzly bear resistant, which is actually included in some USFS regulations for camping and recreating in some areas. Efforts to gain a similar resistance rating for black bears may confuse recreational users if bear resistant containers differ for black and grizzly bears. It is possible that black bears may be able to access some container that a grizzly cannot or vice versa.
 - There is merit in a single brand (BearWise vs BearSmart or others), but it is important that a single brand is appropriately representative. Similarly, a single brand could incorporate some economies of scale.
 - In the short term, there may be some value in establishing some coordination meetings between BearWise and IGBC to ensure that there is a common understanding, relationships are fostered, and needs are expressed.
- Wildlife Management Institute provided a brief overview of activities with which they are currently involved (Chris Smith).
- Development of an AFWA document on "humane dispatch of wildlife by agency personnel" (Colin Gillin, Tom DeLiberto). This project has similarly been delayed due to logistical challenges presented by the pandemic.
 - Tom presented an outline of the intended project and provided a visual presentation describing the scope. Progress is expected to improve on this project, recognizing that there may be prescriptive aspects of this report. This is being led by the Fish and Wildlife Health Committee.
- USGS National Climate Adaptation Science Center: Impacts of Climate Change to Wildlife Conflicts (Kate Malpeli).

• Finally, the Sixth International Human Bear Conflict Workshop is scheduled for October 16–22, 2022 at Lake Tahoe, Nevada. The theme is Pathways to Progress: Connecting People, Conserving Bears. Information may be found at https://humanbearconflicts.org/.

11:00 AM Recovering America's Wildlife Act (AFWA staff, TBD)

There is some significant movement on the Senate side, starting with a strategy meeting taking place with our Senate champs Sens. Heinrich and Blunt this past Wednesday. Present in that meeting in addition to the two Senators, were Sen. Tillis (R-NC), Sara Parker Pauley (MO), Dan Eichinger (MI), Ron Regan (AFWA), Collin O'Mara (NWF), Jeff Crane (CSF), as well as other conservation and industry partner CEOs and leaders. Discussion centered around next steps for advancing the bill in the Senate.

The only vehicle that would likely get RAWA through the Senate prior to the midterms elections is the Continuing Resolution (CR), that must pass before the end of the month to keep the government running. Discussion about the potential inclusion of RAWA in the CR are occurring, but that can be a difficult road. To make a run at the CR or any other vehicle that is identified, the message to Senators and Senate leaderships at this time is simple... you need their help to get this bi-partisan legislation across the finish line this fall either as a stand-alone bill or as part of a larger package. If not attached to the CR, it is likely the bill will not see action until after the midterms.

Other good news on the payfor side, we heard from Sen. Heinrich's office this week that they are finalizing legislative language for the proposed payfor, to be shared with key members of Congress early next week. Support for the payfor is growing.

Hopefully folks saw the exciting new polling results that we can thank Responsive Management for that demonstrate strong bipartisan public support (70+%) for the Recovering America's Wildlife Act. AFWA issued a <u>press release</u> on Thursday to raise awareness about the new polling and to generate some buzz that will hopefully translate into congressional support for the bill. Please feel free to utilize that survey to demonstrate broad public support as you see fit and share on social media or communications channels. If you'd like to use the campaign hashtag #RecoverWildlife and/or tag the Alliance @OurNatureUSA that is always appreciated.

Implementation/RAWA-readiness

The first Executive Leadership Team (ELT) occurred on September 7th. The formation and convening of the first ELT showed a strong commitment from the USFWS to the shared goal of implementation of the Recovering America's Wildlife Act and appreciate all the participants in that first meeting. President Wasley appointed directors representing that nation's diverse landscapes to serve on the ELT. The next meeting will be held virtually in October.

A revised state apportionment table was sent from WSFR and has been circulated to state directors, staff and partners. It reflects the latest adjustments to the T & E species list to include the NMFS marine species and interpretations of statute from the House passed version of the bill. In Mid-August AFWA received a final draft of the apportionment spreadsheet calculations, and subsequently shared that spreadsheet with a handful of states that volunteered to review it for accuracy and ease of use. That feedback was very valuable and has been captured in some tweaks to the tables and explanations of the formulas used. That new table can be found here.

Also, the Service's Plant SGCN and Minor Revision advisory document incorporated many of our *The Voice of Fish and Wildlife Agencies*

comments, and the comments from a subset of States that reviewed the guidance. After a review of the current, approved SWAPs, the Wildlife and Sport Fish Restoration Program (WSFR) <u>determined that 18 recipients would qualify</u> for the 5% plant supplemental funding. This <u>guidance</u> is to help the remaining 38 entities determine how best to proceed to become eligible for the additional 5% plant supplement. A link to that guidance is provided here.

11:15 AM Other Policy Issues of Concern/State Wildlife Action Plans/RETURN (AFWA Staff, TBD)

S4111 Chronic Wasting Disease (CWD) Research and Management Act – Your Help

Needed!

After overwhelmingly passing the full House in December (393-33), the bill, which would authorize up to \$26.25M annually for state wildlife agencies to manage CWD, has not received a Committee hearing in the Senate. We continue to encourage those states with members on the Senate Agriculture Committee to engage their Senators to request a hearing and markup of this important CWD funding authorization bill. As of the Annual meeting the Senate companion to HR 5608 has 18 bipartisan cosponsors (9R-9D).

AFWA Cautions Against Movement of HR7398, Prohibit Wildlife Killing Contests Act of 2022

On June 16, the House Natural Resources Subcommittee on Water, Oceans, and Wildlife held a hearing on the bill, which would, with specific exceptions, prohibit predator hunting contests on federal land. AFWA submitted a statement for inclusion in the record strongly cautioning against its approach to wildlife management, which is not grounded in science and would be an alarming reversal of precedent for state authority. While we acknowledge the ethical concerns the bill is trying to address, we continue to advocate for these decisions to be made at the state level. To read our statement, please click here.

HR 8167 STREAM Act Passes House, Awaits Senate Action

On July 29, the AFWA-supported <u>STREAM Act (HR 8167)</u> passed the full House, 391-9. Its Senate companion (S 3957) has yet to go through Committee in the Senate, but with Chairman Manchin and Ranking Member Capito on board as cosponsors, we've been told it is teed up for inclusion the next time Department of the Interior (DOI) bills are considered. The Act would amend the *Infrastructure Investment and Jobs Act* to make certain activities eligible for grants from the Abandoned Mine Reclamation Fund, restoring the ability for states to place funds in set-aside accounts.

H.R.8167 Repeal Excise Taxes Relating to Firearms (RETURN Act) Stalls

On July 13, AFWA released a <u>statement in opposition</u> to this bill that, if enacted, would effectively cripple the Pittman-Robertson Act. In addition to AFWA's statement in opposition, a number of other national conservation organizations voiced their concern and opposition to the bill. As a result, multiple cosponsors removed themselves from the bill and many others expressed opposition once the impact of the bill was clarified. We appreciate all the outreach that occurred to help make sure this bill does not advance and will carry zero momentum into the next legislation session. While the bill will not move in the 117th Congress, the conservation community will need to be vigilant and make sure similar bills are quickly addressed and defeated.

S 2561 "Cottonwood Fix" Advances, Path Uncertain

On July 21, the Senate Energy and Natural Resources Committee <u>held a markup</u> on a series of public land bills including S.2561, known as the "cottonwood fix". Since the Ninth Circuit Court issued the 2015

Cottonwood Environmental Law Center v. United States Forest Service (Cottonwood) decision, the U.S, Forest Service and Bureau of Land Management have been required to reinitiate consultation with the USFWS and NOAA on Land Management and Forest Management Plans at the programmatic level when new Endangered Species Act (ESA) information came to light. AFWA joined 38 other conservation organizations supporting the legislative fix that would help expedite habitat and forestry practices on national forests and BLM lands specifically in the west (Sign-on Letter). The substitute amendment for the bill passed 16-4, and was adopted by a voice vote. The path forward for the "fix" is complicated and unclear at this time given a lack of support for the proposed resolution by the majority leadership in Senate Environment and Public Works and House Natural Resources Committees.

ADMINISTRATIVE UPDATES

USDA-APHIS Reverses Bird Importation Ban

Following the United States Department of Agriculture (USDA) Animal Plant Health Inspection Service's (APHIS) sudden notice restricting importation of hunter-harvested birds from Canada, on September 12, USDA-APHIS removed the restrictions and issued much more pragmatic guidance that is consistent with how many hunters normally process and transport their harvested birds. In summary, US hunters can now bring unprocessed hunter-harvested wild game bird carcasses, originating from or transiting through Canada, into the United States provided viscera, head, neck, feet, skin, and one wing have been removed. Feathers must be removed, with the exception of one wing — as required by USFWS for species identification. The Association greatly appreciates the efforts of Ducks Unlimited leadership and staff to provide both practical and scientific information to USDA-APHIS veterinarians. We also wish to thank state directors and other partners that contacted senior USDA officials and/or congressional delegations to bring about the satisfactory resolution of this matter. Ron Regan was actively engaged, alongside our partners, with advocacy at the senior agency and political level over the past few weeks and especially during the Labor Day weekend. Finally, we wish to thank our partners at the Canadian Embassy and the Canadian Wildlife Service for their efforts to inform USDA-APHIS on key topics.

DOI Build America, Buy America Waiver Approved

On July 13, 2022, OMB's Made in America office approved the DOI's request for a General Applicability Waiver suspending the Buy America preference for a six-month period. The Buy America, Build America Act (BABA) was included in the BIL, and requires that after May 14, 2022, none of the funds under a Federal award may be obligated for an infrastructure project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. In late June, we were notified that these Build America requirements for Federal financial assistance included Wildlife and Sport Fish Restoration (WSFR) grant funds, which would be applied to shooting range construction among other activities.. A copy of the approved waiver is available for the public on the Approved Waivers section of the Department's Buy America web page. DOI's waiver is in effect July 13, 2022-January 12, 2023. During this period, recipients carrying out infrastructure projects under a Service award may use non-domestic iron, steel, manufactured products, and construction materials for infrastructure projects. WSFR grant recipients should consider submitting waiver requests if situations or circumstances exist that prevent a state or partner from implementing the goals of BABA. A waiver request would be the mechanism to identify if there are insurmountable hardships to complying with the Buy American requirement that are now in the law. If there are such hardships in acquiring materials or equipment supporting infrastructure, then there are waivers that can be sought from the DOI.

Requesters would need to provide the facts, analysis, explanation, and argument for why the provisions of BABA should be waived for infrastructure financed with USFWS grants. A waiver request would need to be data rich and provide the expert analysis. According to the Service - no requests for additional

waivers have been submitted to date. Waivers should be submitted prior to the end of the current waiver, period. If a number of states are anticipating the need for waivers, coordination of these efforts through the Regional Associations or AFWA may be beneficial.

USFWS Rescinds 2020 DCH Rule

On July 21, 2022 USFWS issued <u>a final rule</u> rescinding the 2020 rule that issued regulations for designating critical habitat, effective August 22. AFWA submitted comments to the proposed rule supporting elements of the rollback, including with respect to "best"/"credible" dichotomy established in the 2020 rule, alongside consideration of exclusion based on "community impacts" and "development projects" that were anticipated. In addition, to the extent that the 2020 rule's requirement to exclude lands from designation (if benefits of exclusion outweigh benefits of inclusion) reduced the Service's ability to cooperate with States in making designations, the AFWA agreed that the requirement interfered with ESA conservation goals.

USFWS Issues Mitigation ANPR

On July 27, 2022 USFWS issued an <u>Advanced Notice of Proposed Rulemaking</u> soliciting comments for the development of a proposed rule establishing objectives, measurable performance standards, and criteria for use, consistent with the Endangered Species Act, for species conservation banking. This ANPR has been long expected, and AFWA submitted high level recommendations in a letter to Asst. Sec Estenoz and Dir. Williams last year (<u>Letter Here</u>). We will be engaging with the relevant AFWA committees to discuss whether a more in-depth response is warranted and encourage states to submit individual comments prior to the September 26 deadline.

AFWA Responds to Old-Growth and Mature Forests RFI

AFWA, via the Forestry Working Group, developed comments to USFS and BLM in response to the Request for Information (RFI) on Federal Old-growth and Mature Forests (click here). AFWA's comments respond directly to the specific topics requested, as well as additional important considerations as the Agencies consider utilizing the results of an Old-growth and Mature Forest inventory.

USFWS Solicits Public Input to Improve Access to Federal Lands

On August 1, the Service opened the nomination period for land to be included in the priority list of public lands where public access for fishing, hunting, and other outdoor recreation could be improved. The list will be finalized by September 30, 2022 and updated biennially thereafter for 10 years. Nominated lands: Must be managed by the Service, be at least 640 contiguous acres, must have significantly restricted access or no public access, must be open under federal or state law to hunting, fishing or use of the land for other public recreational purposes, and should have potential for public access and the likelihood of changing the current lack of public access or restriction to public access.

AFWA Comments on ESA 10J, CWA 401, NWRS Hunt/Fish Rule

On August 8, AFWA submitted comments in response to:

- U.S. Fish & Wildlife Service's proposal to expand the use of 10(j) experimental population introductions outside of a species' historical range under the Endangered Species Act (see here);
- Environmental Protection Agency's proposal to restore and clarify states' authority to manage timing and information requirements and scope of review for water quality certifications under section 401 of the Clean Water Act (see here); and
- 3. U.S. Fish & Wildlife Service's proposed 2022-2023 hunt/fish rule, which provided for expanded hunting and angling opportunities within the National Wildlife Refuge System but also included proposed and planned restrictions on use of lead ammunition and tackle (see here).

Final 2022 USFWS Hunt/Fish Rule

On September 15, the Fish and Wildlife Service published the final 2022-23 hunt fish station rule. While the measure provides new hunting and fishing opportunities for game species at 18 national wildlife refuges on approximately 38,000 acres nationwide, it also retains the proposed lead ammunition and fishing tackle restrictions that the Association, and members of the conservation community largely disapproved of. The Federal Register Notice for this action is available at Federal Register: 2022-2023 Station-Specific Hunting and Sport Fishing Regulations

The Service in this rule outlined its intent to require non-lead ammunition and tackle by fall 2026 at Blackwater, Chincoteague, Eastern Neck, Erie, Great Thicket, Patuxent Research Refuge, Rachel Carson and Wallops Island National Wildlife Refuges. These refuges have begun to analyze phasing out lead ammunition and tackle and plan to propose the regulatory requirement for using non-lead ammunition by fall 2026 in the 2023-2024 annual rule. The proposed provisions for Canaan Valley in WV were removed from the final rule. There were also a handful of other changes as the result of comments received.

Specific to the concerns that were raised over the prohibition of lead tackle and ammunition, the Service did not make changes and suggested in their response that ... "the best available science, analyzed as part of this rulemaking, demonstrates that lead ammunition and tackle have negative impacts on both human health and wildlife, and those impacts are more acute for some species."

New refuge opportunities include opening for the first time: turkey hunting at Turnbull National Wildlife Refuge in Washington; upland game and big game hunting at San Diego National Wildlife Refuge in California; and migratory game bird, upland game and big game hunting at Great Thicket National Wildlife Refuge in Maine and New York.

A complete list of all refuges opening or expanding opportunities is available in the final rule. View an <u>online list.</u>

2023 Farm Bill

Discussions are picking up around the 2023 Farm Bill due for reauthorization next September. The Association is involved with partners and congressional staff on bill language and identifying bipartisan sponsorship and support for marker bills involving the Conservation Reserve Program (CRP) and the Voluntary Public Access Habitat Incentive Program (VPA-HIP). Both sides of the House are preparing to ramp up farm bill discussions in the next few months. While much is still up in the air until after the November mid-terms, more specific hearings are starting to take place including the most recent on regenerative agriculture. The AFWA working groups have been reviewing the Farm Bill platform last approved at the 2022 North American Meeting. The current platform contributes to partner discussions building broad support from the wildlife community on important issues. Conversations are expected to pick up quickly after the midterms, so look forward to more frequent updates this winter.

11:30 AM America the Beautiful Challenge update (Deb Rocque, USFWS)

Intended to streamline grant funding opportunities for new conservation and restoration projects around the U.S., the America the Beautiful Challenge consolidates funding from multiple federal agencies and the private sector to enable applicants to conceive and develop large-scale projects that address shared funder priorities and span public and private lands.

The America the Beautiful Challenge is a public-private grant program for locally led ecosystem restoration projects that invest in watershed restoration, resilience, equitable access, workforce development, corridors and connectivity, and collaborative conservation, consistent with the Merica the Beautiful Initiative.

The America the Beautiful Challenge coordinates funding from multiple Federal agencies and private philanthropy into one competitive grant program. This streamlines the application process, enabling larger, more impactful cross-boundary projects, while making it easier for states, Tribes, territories, local groups, non-governmental organizations, and others to apply for multiple funds with one application. This one-stop-shop solicitation is the result of financial contributions from the U.S. Department of the Interior through the Fish and Wildlife Service, the U.S. Department of Agriculture through the Natural Resources Conservation Service and the Forest Service, the U.S. Department of Defense, and Native Americans in Philanthropy, as well as private philanthropy.

The America the Beautiful Challenge seeks to advance conservation and restoration projects that are consistent with the principles outlined in the <u>Conserving and Restoring America the Beautiful report</u> and that focus on at least one of the following core areas of need:

- Conserving and restoring rivers, coasts, wetlands, and watersheds
- Conserving and restoring forests, grasslands, and other important ecosystems that serve as carbon sinks
- Connecting and reconnecting wildlife corridors, large landscapes, watersheds, and seascapes
- Improving ecosystem and community resilience to coastal flooding, drought, and other climaterelated threats
- Expanding access to the outdoors, particularly in underserved communities

Applicants are encouraged to develop large landscape scale and/or cross jurisdictional projects that advance existing conservation plans or are informed by Indigenous Traditional Knowledge.

11:45 AM Review 2023 Work Plan (Bryant White, AFWA)

- Continue to provide a forum to communicate the work of USDA/APHIS/Wildlife Services to state fish and wildlife agencies
- Continue to assist agencies with the development of best practices to address human-wildlife conflict issues through the Human Wildlife Conflict Working Group
 - Review Human-Coyote Conflicts in Urban Areas
 - Approve at the March Meeting
- Remain informed and provide input into
 - Recovering America's Wildlife Act
 - State Wildlife Action Plans
 - America the Beautiful
 - Other (e.g., Return)

Other topics of discussion:

One Health: Can we get a report on One-Health at the next meeting?

Banning Coyote Killing Contests

There was a report produced by Indiana on public attitudes regarding these contests. We will discuss at the next meeting.

12:00 PM Adjourn