

Hearing Memo

March 17, 2015

To: Natural Resource Committee Members

From: Subcommittee on Federal Lands Majority Staff and the Subcommittee on Water, Power and Oceans Majority Staff, x 6-7736 and 5-8331

Hearing: Oversight hearing titled “*Examining the Spending Priorities and Missions of the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration in the President’s FY 2016 Budget Proposal*”

Hearing Overview

On **March 19, 2015 at 9:30 A.M. EST in room 1334 of the Longworth House Office Building**, the Subcommittees on Federal Lands and Water, Power, & Oceans will hold a joint hearing to review the National Oceanic and Atmospheric Administration (NOAA) and U.S. Fish and Wildlife Service (FWS) spending priorities in the President's Fiscal Year (FY) 2016 budget request.

The FWS is responsible for implementing the Endangered Species Act (ESA) and overseeing the National Wildlife Refuge System, the National Fish Hatchery System, the Federal Duck Stamp program, and distribution of funds to states’ fish and wildlife agencies. FWS manages 562 national wildlife refuges and 73 national fish hatcheries.¹ The President’s FY 2016 budget request for FWS is \$2.97 billion, a three percent increase (\$84 million) over the FY 2015 enacted level. The budget request also provides for an increase of 288 Full Time Equivalent (FTEs) and 8,977 total FTEs for FY 2016.²

NOAA, also responsible for implementing the ESA, is comprised of six line offices that oversee parts of the oceans and atmosphere – ranging in jurisdiction from weather observation to management of our nation’s fisheries. The President’s FY 2016 budget request for NOAA is \$6.18 billion, an 8.3 percent increase (\$511 million) over the FY 2015 enacted level,³ and supports 12,919 FTEs. This includes \$2.37 billion for the National Environmental Satellite Data and Information Service, \$1.09 billion for the National Weather Service, \$990 million for the National Marine Fisheries Service, \$677 million for Program Support, \$574 million for the National Ocean Service, and \$507 million for Oceanic and Atmospheric Research.⁴ The

¹ [Page EX-3, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

² [Page EX-5, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

³ [Page 67, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015.](#)

⁴ [Pages 63-64, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015.](#)

Subcommittees will focus on the rationale behind the budget priorities for FWS and NOAA as outlined in the President's request in this hearing.

Invited Witnesses

Daniel M. Ashe
Director, U.S. Fish and Wildlife Service

Dr. Kathryn D. Sullivan
Administrator, National Oceanic and Atmospheric Administration

Main Messages

- With our national debt currently exceeding *\$18 trillion*, the Obama Administration's budget for the Department of the Interior, which includes \$2.9 billion for the FWS, continues a disappointing trend of increased federal spending. This lack of fiscal awareness is further illustrated by the \$6.18 billion requested for NOAA, an increase of 8.3 percent over FY 2015 funding.
- Despite substantial appropriated funds for recovery efforts in previous years, FWS has not prioritized species de-listing, downlisting, or recovery actions and seems intent on listing more and more species under the ESA.
- The FWS' budget request seeks millions of taxpayer dollars to add new lands to the federal estate, despite significant maintenance backlogs on National Wildlife Refuge System (NWRS) lands.
- The Administration continues to push for hundreds of millions of dollars for mandatory funding of FWS programs and land acquisition through the Land and Water Conservation Fund (LWCF).
- Many suggest that additional funds from Congress will help solve many of the problems with the administration and implementation of the ESA. The agency's ESA budget, however, is already well funded; FWS must rethink how it spends allocated resources in order to resolve the entrenched problems of ESA implementation.
- The Administration's proposal for NOAA generally focuses too much on satellites, atmospheric and regulatory programs, while generally failing to produce adequate data and science important to the sustainability of 469 fish stocks that support both commercial and recreational fisheries in the U.S. Fishery surveys and other basic fisheries research, in addition to stock assessments, continue to be lower priorities in the Administration's budget request.

- This budget illustrates NOAA's disappointing trend in internal growth, including \$380 million for a new satellite, \$150 million for a new survey vessel, and a \$4.3 million increase for "Corporate Services." In the past two years alone, NOAA has grown its overall federal workforce by nearly 1,000 FTEs.

Budget Highlights

U.S. Fish & Wildlife Service

- **Land Acquisition** - Requests \$164.8 million for land acquisition, composed of \$58.5 million in discretionary funding and \$106.3 million in mandatory funding.⁵ The funds would be used for 34 proposed land acquisition projects totaling approximately 108,000 acres.⁶
- **Landscape Conservation Cooperatives (LCCs)** -Requests \$69.7 million for landscape level science and conservation initiatives, including Landscape Conservation Cooperatives (LCCs), an increase of \$12.2 million above the 2015 enacted level.⁷ A portion of these funds will be used for 50 studies focused on climate change.⁸

Cooperative Endangered Species Conservation Fund - Requests \$100 million for the Cooperative Endangered Species Conservation Fund, of which \$50 million in new permanent funding would be derived from the LWCF and require 6 new FTEs.⁹

- **Ecological Services** - Requests \$258 million for ecological services, an increase of \$32.3 million compared with the 2015 enacted level, and includes a \$4 million program to support sagebrush steppe ecosystems and greater sage-grouse habitat.¹⁰
- **Law Enforcement** - Requests \$75.4 million for law enforcement, an increase of \$8 million from the FY 2015 enacted level, including \$8 million to combat wildlife trafficking, expand wildlife forensics capability, and investigate and prosecute criminal activity under the Lacey Act and other laws.¹¹
- **National Wildlife Refuge System** - Requests \$508.2 million for the operation and maintenance of the NWRS, an increase of \$34 million above the FY 2015 enacted level.¹²
- **Science Support** - Requests \$31.7 million for science support, an 86 percent increase (\$14.7 million) above the FY 2015 enacted level.¹³
- **National Fish Hatchery System** – Requests \$53.4 million for operation of the National Fish Hatchery System, an increase of \$558,000 above the FY 2015 level. FWS also requests a \$1 million increase for “fish passage improvements.”¹⁴

⁵ [Page LA-3, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

⁶ [Page LA-12, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

⁷ [Page BH-64, Fiscal Year 2016 Bureau Highlights – Fish and Wildlife Service, February 2015.](#)

⁸ [Interior Department Announces Funding for Climate Change Studies. Press Release. Department of Interior. December, 18, 2014.](#)

⁹ [Page CESC-2, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

¹⁰ [Page ES-1 and ES-17, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

¹¹ [Page LE-1 and LE-2, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

¹² [Page BH-64, Fiscal Year 2016 Bureau Highlights – Fish and Wildlife Service, February 2015.](#)

¹³ [Page BH-66, Fiscal Year 2016 Bureau Highlights – Fish and Wildlife Service, February 2015.](#)

¹⁴ [Page BG-3, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

National Oceanic and Atmospheric Administration

- **Infrastructure Investment** – Requests \$380 million and 6 new FTEs to initiate the new “Polar Follow On” satellite system to replace the current generation of NOAA satellites.¹⁵ The request also includes \$150 million and 4 new FTEs for construction of an Ocean Survey Vessel to support “long term” positioning of the NOAA fleet.¹⁶
- **Protected Resources Science and Management (previously “Protected Species Research and Management”)** – Requests \$214 million for activities mandated by the ESA and MMPA, an increase of \$29.6 million over the FY 2015 enacted level. The request also includes an increase of 26 FTEs to support “consultation and permit capacity” under the ESA and MMPA.¹⁷
- **Coastal Resiliency** – Requests \$50 million to expand the Regional Coastal Resilience Grant program, an increase of \$45 million over the FY 2015 enacted level.¹⁸
- **Integrated Ocean Acidification** – Requests a \$21.4 million increase in funding, from \$8.5 million in FY 2015 to \$30 million proposed for FY 2016. The request also includes four new FTEs.¹⁹
- **Catch Shares** – Requests \$27.5 million for the development and implementation of new catch share fishery management programs, an increase of \$2.2 million over FY 2015.²⁰

Key Concerns

Land Acquisition: The President’s budget requests over \$160 million²¹ for the FWS to acquire approximately 108,000 acres of land.²² While the NWRS is currently facing a facing a deferred maintenance backlog of \$1.3 billion,²³ FWS has requested only \$139 million for refuge maintenance.²⁴ FWS has also proposed to eliminate the discretionary portion the National Wildlife Refuge Fund, which provides revenue sharing payments to counties with NWRS lands.²⁵ If Congress agrees to this request, the maintenance backlog would likely remain in the billions of dollars and communities would not be compensated for lost tax revenues due to federal land procurement.

¹⁵ [Page 85, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015.](#)

¹⁶ [Page 86, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015.](#)

¹⁷ [Page 73, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015.](#)

¹⁸ [Page NOS-53, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

¹⁹ [Page OAR-132, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

²⁰ [Page NMFS-70, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

²¹ [Page LA-3, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

²² [Page LA-12, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

²³ [Page NWR-31, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

²⁴ [Page NWR-1, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

²⁵ [Page RF-2, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

ESA Mega-Settlement Agreement: The FY 2016 budget request for listing actions is \$23 million and 131 FTE.²⁶ FWS will use a portion of this budget for listing activities stemming from the 2011 FWS settlement agreements with the Center for Biological Diversity and WildEarth Guardians, which require FWS to make final ESA listing determinations for over 250 candidate, and hundreds of other petitioned species, over a period of six years. FWS has completed 167 listing determinations since 2011, will complete 54 determinations in FY 2015, and plans to complete another 31 determinations in FY 2016.²⁷ Further, as of December 2014, FWS has a backlog of 609 90-day and 12-month ESA petitions since the 2011 settlement agreements.²⁸

The settlements have led to potential listings and habitat designations of hundreds of aquatic species in the Midwest and Southeastern United States, including the Rabbitsfoot Mussel (listed as threatened) and the Neosho Mucket (listed as endangered).²⁹ In September 2011, FWS announced that it was reviewing the status of 374 aquatic species that “may warrant” listing under ESA.³⁰

De-listing and Downlisting Actions: In FY 2015, \$107 million was provided to the FWS for conservation and restoration activities³¹, which covers de-listing and downlisting actions. While this Administration has de-listed 12 species that were determined to be recovered since 2009,³² there are still approximately 60 species that have been identified for de-listing or downlisting based upon recent five-year reviews.³³

Wildlife Trafficking: The President’s budget requests \$75.4 million for law enforcement including \$8 million to combat wildlife trafficking, expand wildlife forensics capability, and investigate and prosecute criminal activity.³⁴ FWS will use a portion of these funds to carry out its 2014 regulations that curtail the trade of elephant ivory, rhinoceros horn, and parts and products of other species listed under the ESA. While efforts to restrict the illegal trade of ivory are commendable, the FWS’ regulations could adversely affect many American industries and anyone who legally owns or collects products made with ivory, including firearms, musical instruments, and antiques.

Proposed Critical Habitat Rules: FWS is currently promulgating new rules under the ESA related to the future designation of critical habitat.³⁵ While it does not appear that FWS has requested funds for the proposed rules in its FY 2016 budget request, the proposals provide the agency with broad new discretion and authority to designate critical habitat in areas where a species has never lived.

²⁶ [Page ES-6, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

²⁷ *Id.*

²⁸ *Id.*

²⁹ [Press Release, Center for Biological Diversity, Two Midwest and Southeast Mussels for Endangered Species Act Protections With 2,000 Protected River Miles, October 2012.](#)

³⁰ [Press Release, Fish and Wildlife Service, U.S. Fish and Wildlife Service finds 374 Aquatic-dependent Species May Warrant Endangered Species Act Protection, September 2011.](#)

³¹ [Page ES-16, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

³² [U.S. Fish & Wildlife Service De-listing Report](#), Accessed on March 2, 2015.

³³ [Page ES-22, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

³⁴ [Page LE-1 and LE-2, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.](#)

³⁵ [79 FR 27066](#)

While NOAA's budget also does not specifically request funds for the proposed rules, the agency is continuously working on broad critical habitat designations and expansions. In December 2014, NOAA proposed designating critical habitat for the Arctic Ringed Seal³⁶ that ranges from the Northern Bering Sea to the Beaufort Sea, encompassing roughly 350,000 square miles of ocean.³⁷ In February 2015, NOAA proposed a significant expansion of the North Atlantic Right Whale critical habitat by nearly 30,000 square miles, to include "feeding areas" in the Gulf of Maine and Georges Bank and a broad section of "calving grounds" from North Carolina to Florida.³⁸

Greater Sage-Grouse (GrSG): The budget request includes a \$4 million program to support sagebrush steppe ecosystems and GrSG habitat that requires 20 new FTEs.³⁹ Despite strong signals from Congress, including language that prevents FWS from writing or issuing final rules for the species in FY 2015, FWS has indicated that it will make a listing determination by September 30, 2015. Later this year, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) will complete land use plan amendments for the GrSG, which will be a key factor in the FWS' listing determination, but could stifle multiple-use activities on federal lands across the species' range. In an October 2014 memorandum to BLM and USFS, FWS Director Dan Ashe recommended imposing the most stringent protections on millions of acres in six Western states.⁴⁰

Northern Long-Eared Bat (NLEB): FWS will announce its final listing determination for the species in April, 2015. A listing would focus FWS' efforts on habitat protection, rather than addressing the spread of White Nose Syndrome (WNS), which is the primary reason for NLEB population decline. The President's budget request includes only \$2.5 million for FWS to address WNS in FY 2016.⁴¹ On March 4, 14 Members of Congress sent a letter to FWS requesting information supporting any final listing determination for the species.⁴²

Gray Wolf: Two recent Federal Court decisions have forced the FWS to reinstate ESA protections for the species in Wyoming and the Western Great Lakes region, including all of Wisconsin, Minnesota, and Michigan and portions of North Dakota and South Dakota, Iowa, Illinois, and Indiana. The species' population has grown substantially across its range and is now considered to be recovered. The species, therefore, does not merit protection under the ESA. FWS previously proposed to de-list the species in most of the continental U.S., but has not followed through on that proposal.

NOAA's Corporate Services: Corporate Services is the administrative arm of NOAA, managing employees, business processes, and financial resources. In its FY 2016 Budget Justification,

³⁶ [79 FR 73010](#).

³⁷ [CBS News, Federal Government Proposes Habitat Protection for Arctic Ringed Seal, December 2014](#).

³⁸ [Press Release, National Marine Fisheries Service, NOAA Proposes to Expand Critical Habitat for Endangered North Atlantic Right Whales, February 2015](#).

³⁹ [Page ES-1 and ES-17, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015](#).

⁴⁰ [Greater Sage-Grouse: Additional Recommendations to Refine Land Use Allocations in Highly Important Landscapes. FWS memorandum to BLM and USFS, October 27, 2014](#).

⁴¹ [Page BH-66, Fiscal Year 2016 Bureau Highlights – Fish and Wildlife Service, February 2015](#).

⁴² [Letter from 14 Members of Congress to FWS Director Dan Ashe regarding ESA listing determination for the Northern Long-Eared Bat, March 4, 2015](#).

NOAA defines one of its four overarching budgetary goals as “achieving organizational excellence.” Within NOAA’s FY 2016 budget request is an increase of \$4.3 million in NOAA’s Corporate Services.⁴³ Though NOAA has increased its FTEs by nearly 1,000 in the past two years,⁴⁴ NOAA states that “Corporate Services have faced significant challenges in performing critical oversight, guidance, and advisory services.”⁴⁵ According to NOAA, this increase in funding would be used to “support acquisition efforts” and to “mitigate risk of non-compliance with regulatory statutes” by fortifying workforce management.

Marine Mammals, Sea Turtles and Other Species: NOAA’s budget requests an increase of \$13 million and 26 new FTEs to increase consultation and permitting capacity mandated under the ESA and MMPA. This includes \$3.2 million to support requirements, such as critical habitat designations and recovery plans, for 20 different coral species that were listed in September 2014 as threatened under the ESA.⁴⁶

Ecosystem-based management: The FY 2016 budget request includes increases in a number of accounts that are aimed at “coastal resilience,” and shows a fundamental shift in NOAA to “ecosystem-based” management of our coastal and ocean resources. Regional Coastal Resilience Grants see a significant increase to \$50 million, up from just \$5 million in FY 2015.⁴⁷ The budget also provides \$47 million in funding for Ecosystem-based Solutions for Coastal Resilience,⁴⁸ and \$5 million for Ecosystem-based Solutions for Fisheries Management.⁴⁹ NOAA’s National Ocean Service and National Marine Fisheries Service will use these funds on a cross-disciplinary program implementing “ecosystem-based solutions” to protect inshore habitat, fish and protected species.

This budget works toward the use of an “ecosystem-based management approach to the stewardship of living marine resources for the benefit of the Nation.”⁵⁰ Through Executive Order 13547, which establishes President Obama’s National Ocean Policy, Coastal and Marine Spatial Planning is defined as a “comprehensive, adaptive, integrated, ecosystem-based” process.⁵¹ President Obama’s National Ocean Policy Implementation Plan⁵² further builds on this approach, urging agencies to use ecosystem-based approaches to protect, conserve and restore coastal and ocean habitats.

Sanctuaries and Marine Protected Areas: The budget includes \$48.3 million and 186 FTEs for sanctuaries operations. The National Ocean Service manages one Marine National Monument and 13 marine sanctuaries, covering a total of 172,000 square miles⁵³ of ocean. The National

⁴³ [Page ix, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁴⁴ [Page 66, Fiscal Year 2016 Budget in Brief – Department of Commerce, February 2015](#)

⁴⁵ [Page xii, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁴⁶ [Page NMFS-12, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁴⁷ [Page NOS-53, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁴⁸ [Page NOS-38, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁴⁹ [Page NMFS-49, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁵⁰ [Page NMFS-28, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

⁵¹ [Press Release, White House, Executive Order 13547 – Stewardship of the Ocean, Our Coasts, and the Great Lakes, July 2010.](#)

⁵² [Page 15, National Ocean Council, National Ocean Policy Implementation Plan, April 2013.](#)

⁵³ [Page NOS-32, Fiscal Year 2016 Budget Justification – National Oceanic and Atmospheric Administration, February 2015.](#)

Ocean Service also manages 1,600 Marine Protected Areas (MPA) in U.S. waters and the Great Lakes, which NOAA estimates encompasses roughly 41 percent of the U.S.'s oceans.⁵⁴

In September 2014, President Obama, citing his authority under the Antiquities Act, made a Presidential Proclamation⁵⁵ to expand the Pacific Remote Islands Marine National Monument from 87,000 square miles to nearly 782,000 square miles.⁵⁶

⁵⁴ <http://oceanservice.noaa.gov/ecosystems/mpa/>

⁵⁵ [Press Release, The White House, *Presidential Proclamation – Pacific Remote Islands Marine National Monument Expansion*, September 2014.](#)

⁵⁶ [The Washington Post: *Obama Proposes Vast Expansion of Pacific Ocean Sanctuaries for Marine Life*, June 2014.](#)