



To: Subcommittee on Water, Oceans, and Wildlife Republican Members
From: Subcommittee on Water, Oceans, and Wildlife Republicans Staff; Kiel Weaver (Kiel.Weaver@mail.house.gov), Annick Miller (Annick.Miller@mail.house.gov) and Rob MacGregor (Rob.MacGregor@mail.house.gov)
Date: April 26, 2021
Subject: Oversight Hearing on “Wildlife Trafficking and the Growing Online Marketplace”

The Subcommittee on Water, Oceans, and Wildlife will hold an oversight hearing on “Wildlife Trafficking and the Growing Online Marketplace” on **Tuesday, April 27, 2021, at 3:00pm EDT** online via Cisco WebEx.

Member offices are requested to notify Annick Miller (Annick.Miller@mail.house.gov) no later than **Monday, April 26, at 12:00pm EDT**, if their Member intends to participate. Submissions for the hearing record must be submitted through the Committee’s electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (Everett.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The term “wildlife trafficking” is used for the illegal trade of both fauna and flora.
- Under the Lacey Act,¹ it is unlawful to import, export, sell, acquire, or purchase any fish, wildlife or plants that are taken, possessed, transported, or sold through interstate or foreign commerce in violation of any law, treaty, or regulation of the United States.
- Online marketplaces and social media are only one component of wildlife trafficking, it is unclear if wildlife trafficking online is the main form of trafficking.
- While combatting illegal online trafficking is one measure; anti-poaching efforts are another form of curbing the trade of illegal animal parts.
- While there is general opposition to illegal wildlife trafficking, some of the legislative solutions that will be discussed are not under the jurisdiction of the Natural Resources Committee.

¹ 16 U.S.C. 3371-3378; 18 U.S.C. 42-43

II. WITNESSES

- **Ms. Catherine E. Semcer**, Research Fellow, Property and Environment Research Center, Bozeman, Montana. [Republican Witness]. *Will testify that online illegal wildlife trafficking is a problem but that anti-poaching initiatives play a role as well.*
- **Mr. Stephen Guertin**, Deputy Director for Program Management and Policy, U.S. Fish & Wildlife Service, Washington, D.C. [Will likely testify on authorities under the Lacey Act and how the agency combats illegal wildlife trafficking.]
- **Ms. Gretchen Peters**, Executive Director, The Center on Illicit Networks and Transnational Organized Crime and Founder of Alliance to Counter Crime Online (ACCO), Washington, D.C. [Will likely testify on an ACCO report stating that illegal wildlife trade has increased on Facebook.]
- **Mr. Alexander von Bismarck**, Executive Director, Environmental Investigation Agency, Washington, D.C. [Will likely testify on their work on illegal wildlife trafficking and deforestation through illegal logging.]
- **Ms. Danielle Kessler**, Acting Director - United States, International Fund for Animal Welfare, Washington, D.C. [Will likely testify on the Coalition to End Wildlife Trafficking Online report and ongoing work.]

III. BACKGROUND

This hearing will focus on illegal wildlife trafficking online, particularly through social media sites. The Democratic majority staff has indicated that some of the purposes of this hearing are for educational reasons and to determine the need for more federal funding and added legal federal authorities within and outside the Natural Resources Committee's jurisdiction to combat such illegal practices. While some organizations have touted that progress is being made on this issue,² some witnesses will likely state otherwise. Facebook, which is a major focus of this hearing, declined to testify but provided a committee staff briefing prior to the hearing.

Natural Resources Committee Jurisdiction

The U.S. Fish and Wildlife Service (FWS or Service), through the Office of Law Enforcement (OLE), investigates wildlife crimes, enforces wildlife laws, regulates wildlife trade and works in partnership with international, state, and tribal counterparts to conserve wildlife resources.³

²<https://static1.squarespace.com/static/5b53e9789772ae59ffa267ee/t/5e5c32496b59fb4dac1baf55/1583100496539/Of+line+and+In+the+Wild+-+Coalition+2020+Progress+Report.pdf>

³ <https://www.fws.gov/le/pdf/2019-Office-of-Law-Enforcement-Annual-Report.pdf>

According to the Service, transnational criminal organizations are largely responsible for the growing illegal wildlife trade.⁴ As such, the Service has special agent attachés in areas that are considered high-risk for wildlife crimes.⁵ There are attachés posted at U.S. embassies in the following countries: Brazil, China, Gabon, Mexico, Peru, South Africa, Tanzania, Thailand, Germany, Kenya, United Kingdom and Vietnam.⁶

Combatting wildlife trafficking requires coordination with multiple federal agencies. In its most recent annual report, the Service provided several examples of work it has done with Departments of Justice, Treasury, and State to utilize their authorities to bring wildlife traffickers to justice.⁷ One example is Operation Manhattan Project (OMP), an undercover investigation focused on dismantling a multinational network selling rhino horns with an estimated value of approximately \$1.6 million USD.⁸ OMP utilized measures such as the Patriot Act (Public Law 107-56) and U.S. Treasury Department, Office of Foreign Assets Control to identify money-laundering schemes to include trade-based money laundering and administering economic sanctions on subjects and entities. In addition, the Service's International Affairs program works with non-federal partners to engage the public on wildlife trafficking issues through collaborations that have included in-flight videos and ad campaigns.⁹ For example, the Service worked with the U.S. Wildlife Trafficking Alliance and its members to release a digital toolkit to inform travelers of restrictions or prohibitions when bringing home souvenirs made from protracted animals or plants. The Fiscal Year 2021 appropriations for FWS' law enforcement was \$86.8 million, almost \$10 million above the Administration's request.¹⁰ The Service has 261 special agents and 140 wildlife inspectors in OLE.¹¹

Lacey Act

The Lacey Act was the first federal law protecting wildlife. The Act, as amended, prohibits the importation, exportation, transportation, sale, or purchase of fish, wildlife, or plants taken or possessed in violation of federal, state, tribal, or foreign laws.¹² In addition, it authorizes the Secretary of the Interior to list as "injurious" any wildlife deemed to be harmful "to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States."¹³ It also prohibits import of any live specimen of a listed species without a permit from the FWS,¹⁴ which will testify about its authorities under the Lacey Act and how it combats illegal wildlife trafficking.

⁴ Id.

⁵ <https://www.fws.gov/budget/2021/FY2021-FWS-Budget-Justification.pdf>

⁶ Id.

⁷ <https://www.fws.gov/le/pdf/2019-Office-of-Law-Enforcement-Annual-Report.pdf>

⁸ Id.

⁹ <https://www.fws.gov/international/about-us/>

¹⁰ <https://www.fws.gov/budget/2021/FY2021-FWS-Budget-Justification.pdf>

¹¹ <https://www.fws.gov/le/about-le.html>

¹² <https://www.fws.gov/le/pdf/Lacey.pdf>

¹³ 18 U.S.C. 42

¹⁴ Id.

Convention on International Trade in Endangered Species of Wild Fauna and Flora

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a multilateral treaty—to which the United States is a party—that regulates the international trade in animals and plants.¹⁵ The species covered by CITES are listed in three appendices:

- Appendix I includes species threatened with extinction, and trade is generally prohibited for commercial purposes.
- Appendix II contains species that are not necessarily threatened with extinction but require controlled trade to prevent population declines.
- Appendix III contains species that are listed because at least one country has requested assistance in regulating trade of that species.

Under the Endangered Species Act (ESA), the Service has been designated to carry out the provisions of CITES.¹⁶ Many species listed under the ESA are also listed under CITES since CITES listings focus on impact trade has on a species' survival. FWS will also testify on its role under CITES.

Recent Online Coalition Work and Other Efforts

In 2018, the Coalition to End Wildlife Trafficking Online (Coalition) was created through a partnership with tech companies to help achieve the goal of reducing wildlife trafficking online. In the United States, coalition members include Facebook, Microsoft, Google, Etsy, eBay and many others.¹⁷ According to the Coalition's 2020 Progress Report, over 3 million listings have been removed or blocked for violating wildlife trade policy.¹⁸ In its 2020 Progress Report, entitled "Offline and In the Wild," the Coalition recognized that "wildlife traffickers will continue to avoid detection on the internet to trade on illicit products, despite time-bound goals such as an 80% reduction by 2020. However, significant progress has been made towards transforming the open web from a once rampant route for traffickers into one with a higher barrier to entry and risk of being caught."¹⁹ Ms. Danielle Kessler will testify on behalf of the International Fund for Animal Welfare, which is a member of the Coalition.

The Alliance to Counter Crime Online (ACCO), founded by witness Gretchen Peters, recently released a report alleging that Facebook pages and groups promoting illegal wildlife trade have grown since the company pledged to halt such sales in 2018.²⁰ The report includes recommendations focused on implementing broader measures to combat cyber wildlife trafficking through changes to Section 230 of the Communications Decency Act (47 U.S.C. 230, CDA). Specifically, the changes sought would make tech companies

¹⁵ <https://cites.org/eng/disc/what.php>

¹⁶ P.L. 93-205, 87 Stat. 884. 16 U.S.C. §§1531-1544

¹⁷ A full list of coalition members is available here.

¹⁸ <https://www.endwildlifetraffickingonline.org/our-progress>

¹⁹ <https://static1.squarespace.com/static/5b53e9789772ae59ffa267ee/t/5e5c32496b59fb4dac1baf55/1583100496539/Offline+and+In+the+Wild+-+Coalition+2020+Progress+Report.pdf>, p. 14

²⁰ <https://www.counteringcrime.org/wildlife-sales-on-facebook>

legally responsible for crimes committee using their platforms. While Lacey Act violations are under the Committee's jurisdiction, the CDA is not. Any changes to the CDA would need to go through the Energy and Commerce Committee. Ms. Peters will likely address the ACCO report.

Illegal Logging

The British Broadcasting Corporation recently reported that parts of Brazil's Amazon rainforest are being illegally sold on Facebook.²¹ Under the Lacey Act, it is illegal to import plants and plant products that have been harvested or processed in violation of foreign and domestic laws. In addition, 73 tree species are listed as trade restricted under CITES. All imported timber or wood products are subject to these requirements and inspection by the FWS. Mr. von Bismarck may mention this issue.

²¹ <https://www.bbc.com/news/technology-56168844>