

The original documents are located in Box 47, folder “6/30/76 S3122 Appropriations Authorizations Endangered Species Act of 1973” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

APPROVED
JUN 30 1976

86/30/76

THE WHITE HOUSE
WASHINGTON
June 28, 1976

ACTION
Last Day: July 2

Posted
6/30
Jo. Arachino
6/30

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: S. 3122 - Appropriations authorizations, Endangered Species Act of 1973

Attached for your consideration is S. 3122, sponsored by Senator Moss.

The enrolled bill extends and increases the appropriations authorizations for the Department of the Interior and the Department of Commerce to carry out activities under the Endangered Species Act of 1973 during the transition quarter and fiscal years 1977 and 1978.

A detailed discussion of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 3122 at Tab B.



JUN 30 1976



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

JUN 25 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3122 - Appropriations
authorizations, Endangered Species Act of
1973
Sponsor - Sen. Moss (D) Utah

Last Day for Action

July ²7, 1976 - Wednesday

Purpose

To extend and increase the appropriations authorizations for the Department of the Interior and the Department of Commerce to carry out activities under the Endangered Species Act of 1973 during the transition quarter and fiscal years 1977 and 1978.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Commerce	Approval
Council on Environmental Quality	Approval(Informally)

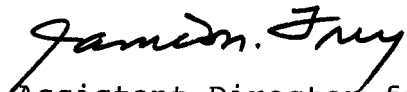
Discussion

Building on earlier legislation, the Endangered Species Act of 1973 strengthened the authority of the Secretaries of the Interior and Commerce to protect species of animals and plants threatened with extinction and provided that it would be illegal to transport species so designated in interstate or foreign commerce. In addition, the Act also authorizes the Secretary of the Interior to: (1) designate habitat which is critical for the survival of an endangered or threatened species; (2) provide assistance to other

nations for endangered species programs; and, (3) provide for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to which the United States is a signatory.

Appropriations to carry out endangered species activities are authorized by the Act for fiscal year 1976 at \$10 million for the Department of the Interior and \$2 million for the Department of Commerce, and the Administration submitted legislation to continue these authorizations in the same amount for fiscal years 1977 and 1978. S. 3122 provides combined authorizations of \$25 million and \$5 million for both fiscal years for the two departments respectively. Further, the two departments are respectively authorized \$1.8 million and \$500,000 for the transition quarter.

While the Congress has thus increased the authorizations sought by the Administration, this change of itself will not be treated as a basis for increasing the amount of appropriations to be recommended in the President's budgets for fiscal years 1977 and 1978.


Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 28

Time: 1000am

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 28

Time: 500pm

SUBJECT:

S. 3122 - appropriations authorizations, Endangered Species Act of 1973

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUN 23 1976

Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill S. 3122, "To extend the authorization for appropriations to carry out the Endangered Species Act of 1973."

We recommend that the President approve the enrolled bill.

S. 3122 would extend and increase the authorization for appropriations for the Department of the Interior and the Department of Commerce for administration of the Endangered Species Act of 1973.

The Administration recommended the extension of the present authorization of \$10 million for appropriations in FY 1977 and FY 1978 for this Department under section 15(A) of the Endangered Species Act. S. 3122 would provide for a total authorization of \$25 million for FY 1977 and FY 1978.

This Department defers to the Department of Commerce on the authorization provisions in subsection (2) of S. 3122.

Sincerely yours,

Acting Assistant Secretary of the Interior

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.



Save Energy and You Serve America!



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

JUN 23 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning S. 3122, an enrolled enactment

"To extend the authorization for appropriations to carry out the Endangered Species Act of 1973."

S. 3122 amends the Endangered Species Act of 1973 so as to extend the authorization for appropriations for the Department of the Interior (section 15 (A) of the Act) and the Department of Commerce (section 15 (B) of the Act) to carry out the provisions of the Act.

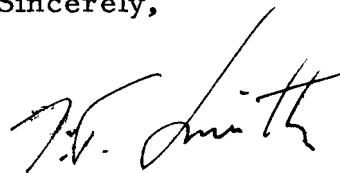
The current authorization for the Department of the Interior is \$10 million. S. 3122 provides authorizations of \$1.8 million for the fiscal transitional period and not to exceed a total of \$25 million for fiscal years 1977 and 1978. The current Department of Commerce authorization is \$2 million per year. S. 3122 provides authorizations of \$500,000 for the fiscal transitional period and not to exceed a total of \$5 million for fiscal years 1977 and 1978.

The Department of Commerce submitted draft legislation to the Congress which merely provided for an extension of the 15 (B) appropriation authorization at current levels for each of the fiscal years 1977 and 1978.

This Department recommends Presidential approval of S. 3122.

Enactment of this legislation would involve additional expenditures by this Department, the amount of which would depend upon the appropriations made to the Department pursuant to the authorizations outlined above.

Sincerely,


General Counsel



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 28

Time: 1000am

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 28

Time: 500pm

SUBJECT:

S. 3122 - appropriations authorizations, Endangered Species Act of 1973

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

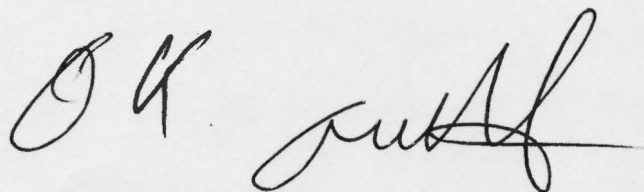
Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 28

Time: 1000am

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 28

Time: 500pm

SUBJECT:

S. 3122 - appropriations authorizations, Endangered Species Act of 1973

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 6/28/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

June 29, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: S. 3122 - Appropriations authorization, Endangered
Species Act of 1973

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

105
J. Conroy
6-25-76
6:00 p.m.



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

JUN 25 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3122 - Appropriations
authorizations, Endangered Species Act of
1973
Sponsor - Sen. Moss (D) Utah

Last Day for Action

July ² 1976 - Wednesday

Purpose

To extend and increase the appropriations authorizations for the Department of the Interior and the Department of Commerce to carry out activities under the Endangered Species Act of 1973 during the transition quarter and fiscal years 1977 and 1978.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Commerce	Approval
Council on Environmental Quality	Approval(Informally)

Discussion

Building on earlier legislation, the Endangered Species Act of 1973 strengthened the authority of the Secretaries of the Interior and Commerce to protect species of animals and plants threatened with extinction and provided that it would be illegal to transport species so designated in interstate or foreign commerce. In addition, the Act also authorizes the Secretary of the Interior to: (1) designate habitat which is critical for the survival of an endangered or threatened species; (2) provide assistance to other

ENDANGERED SPECIES ACT OF 1973
REAUTHORIZATION

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 3122

TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO
EXTEND AUTHORIZATIONS FOR APPROPRIATIONS



MAY 13, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

ENDANGERED SPECIES ACT OF 1973
REAUTHORIZATION

MAY 13, 1976.—Ordered to be printed

Mr. Moss, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 3122]

The Committee on Commerce, to which was referred the bill (S. 3122) to amend the Endangered Species Act of 1973 to extend authorizations for appropriations, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE AND SUMMARY

The purpose of S. 3122 is to extend and increase the authorization for appropriations for the Department of the Interior and the Department of Commerce for administration of the Endangered Species Act of 1973.

The bill increases the current Interior Department funding level from \$10 million per fiscal year to \$1.8 million for the fiscal transitional period and a combined total of \$25 million for the 2 fiscal years 1977 and 1978. The Commerce Department's current funding level of \$2 million per fiscal year is increased to \$500,000 for the fiscal transitional period and a combined total of \$5 million for the 2 fiscal years 1977 and 1978.

BACKGROUND AND NEED

The Endangered Species Act of 1973 strengthens its 1966 and 1969 predecessors to give the Secretary of Interior and the Secretary of

Commerce major new authority to protect species of plants and animals which are on the brink of extinction. Using the best scientific and commercial information available to him, the Secretary of the Interior, after consultation with the States, and when a marine mammal is under consideration, with the Secretary of Commerce, has the authority to determine when a species is either endangered (in imminent danger of extinction) or threatened (likely to be in danger of extinction in the near future) and to promulgate regulations for its protection. Once a species has been designated as endangered, the act makes it illegal to take, import, export, or engage in interstate or foreign commerce in that species or in its parts or products.

The act also provides the Secretary of the Interior with the authority to—

—designate habitat which is critical for the survival of an endangered or threatened species. Once critical habitat has been designated, no Federal agency may undertake projects which endanger the existence of these species, or result in the destruction of the habitat.

—provide financial assistance to the States for endangered species programs.

—provide assistance to other nations for endangered species programs.

—provide for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to which the United States is a signatory.

The ultimate goal of the Endangered Species Act is to maintain a diversity of species and to preserve in their natural ecosystems both endangered and threatened species. Wherever possible, the program seeks to restore such species to the point where it is once again a viable component of its ecosystem. Further it is the intent of the act to prevent other species from becoming endangered through restoration of habitat, research, and other scientific resource management activities.

With the exception of the State grant-in-aid program which is authorized by section 6 of the act and which expires on June 30, 1977, funding for administration of the act by the Departments of Interior and Commerce is authorized by section 15 (A) and (B) respectively. Under this section, there is authorized to be appropriated not to exceed \$4 million for fiscal year 1974, \$8 million for fiscal year 1975, and \$10 million for fiscal year 1976 for the Department of Interior to carry out its responsibilities under the act. An amount of \$2 million for fiscal year 1974, \$1.5 million for fiscal year 1975, and \$2 million for fiscal year 1976 is authorized for expenditure by the Department of Commerce. Inasmuch as the authorizations expire on June 30, 1976, it is essential that Congress extend funding under the act in order to continue this important conservation program.

On May 6, 1976, the Subcommittee on the Environment held a hearing on three bills to extend the authorization for the Endangered Species Act, including S. 2334, introduced by request of the Department of Commerce, which continues the current Commerce Department funding level through fiscal year 1978; S. 3122, introduced by request of the Department of the Interior which, as introduced, continues the Department of the Interior's current funding level through fiscal year 1978; and H.R. 8092, which combines both authorizations,

increases Interior's authorization to a total of \$25 million for fiscal years 1977 and 1978, and increases the Commerce Department's authorization to a total of \$5 million for fiscal years 1977 and 1978, and \$500,000 for the fiscal transitional period. At the hearing, representatives of the two Departments indicated that the funding levels contained in S. 2334 and S. 3122 would permit them to carry out adequately their endangered species programs for fiscal years 1977 and 1978.

Testimony received at the hearing indicated that implementation of the act has not occurred as rapidly as might be expected, due in part to a shortage of funding and personnel. For instance, although 10 species have been listed as endangered and 11 as threatened since passage of the act, the Department of Interior has information on another 20,000 species which they suspect may require protective listing. Before the species can be listed, however, the Department must carry out extensive investigations to determine their actual status. Furthermore, no plants have yet been listed as either endangered or threatened, although the Smithsonian Institute recommended the listing of some 3,000 species of flora in December of 1974. Approximately 200 species listed as endangered or threatened pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to which the United States is a signatory, have not yet been placed on the U.S. list. Finally, although the key to the survival of a species is the preservation of its habitat, only one critical habitat, that for the snail darter, has been designated under section 7 of the act. While the Departments of Commerce and Interior have indicated the desire to move ahead on all of these activities, to do so will require funding and personnel above currently authorized levels.

On May 11 the Senate Commerce Committee approved in executive session a substitute text for S. 3122 which combines the reauthorizations for the administration of the Endangered Species Act by the Interior Department and the Commerce Department. Interior Department funding is increased by a total of \$6.8 million over the administration's request, including \$1.8 million for the transitional period and a total increase of \$5 million for fiscal years 1977 and 1978. The authorization for the Commerce Department is increased by a total of \$1.5 million over the administration's request, including \$500,000 for the transitional period and a total increase of \$1 million for fiscal years 1977 and 1978. It is anticipated that the additional funds will be used by the Departments for scientific investigations and to implement more fully other provisions of the act. Finally, the bill combines two fiscal years' authorization into one amount in order to permit the Departments more flexibility in expenditure of these funds.

LEGISLATIVE HISTORY

S. 3122 was introduced by request of the Department of the Interior on March 10, 1976 and referred to the Subcommittee on the Environment on March 17, 1976. On May 6 the Subcommittee held a day of hearings on this legislation and two other bills, H.R. 8092 and S. 2334, which reauthorize the Endangered Species Act of 1973. On May 11, 1976 the Senate Committee on Commerce ordered reported S. 3122 with a substitute text.

SECTION-BY-SECTION ANALYSIS

The bill extends and increases the authorization for appropriations for the Department of the Interior and the Department of Commerce for administration of the Endangered Species Act of 1973. The current Interior Department authorization of \$10 million is increased to \$1.8 million for the transitional period and a combined total of \$25 million for fiscal years 1977 and 1978. The current Commerce Department authorization of \$2 million per year is increased to \$500,000 for the fiscal transitional period and a combined total of \$5 million for fiscal years 1977 and 1978.

ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1969, the Committee estimates that in the event this legislation is enacted into law, the additional cost to the Federal Government would be as follows: \$2.3 million for the fiscal transitional period and a combined total of \$30 million for fiscal years 1977 and 1978.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 15 OF THE ENDANGERED SPECIES ACT OF 1973

(16 U.S.C. 1542; Public Law 93-205)

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

[(A) not to exceed \$4,000,000 for fiscal year 1974, not to exceed \$8,000,000 for fiscal year 1975 and not to exceed \$10,000,000 for fiscal year 1976.] *(1) not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,800,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$25,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and*

[(B) not to exceed \$2,000,000 for fiscal year 1974, \$1,500,000 for fiscal year 1975 and not to exceed \$2,000,000 for fiscal year 1976.] *(2) not to exceed \$2,000,000 for the fiscal year ending June 30, 1976, not to exceed \$500,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$5,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.*

TEXT OF S. 3122, AS REPORTED

A BILL To extend the authorization for appropriations to carry out the Endangered Species Act of 1973.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended—

(1) by striking out “(A) not to exceed \$4,000,000” and all that follows through “\$10,000,000 for fiscal year 1976,” in paragraph (A) thereof and inserting in lieu thereof “(1) not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,800,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$25,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978,”; and

(2) by striking out “(B) not to exceed \$2,000,000” and all that follows through “\$2,000,000 for fiscal year 1976,” in paragraph (B) thereof and inserting in lieu thereof “(2) not to exceed \$2,000,000 for the fiscal year ending June 30, 1976, not to exceed \$500,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$5,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978.”.

AGENCY COMMENTS

Inasmuch as S. 2334 and S. 3122 were introduced by request, the Committee received no agency comments on these bills. The Committee did receive one agency comment on H.R. 8092, which is similar to S. 3122, as reported. This is as follows:

GENERAL COUNSEL OF THE U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 30, 1976.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department concerning H.R. 8092, an act to extend the authorization for appropriations to carry out the Endangered Species Act of 1973.

H.R. 8092 would amend the Endangered Species Act of 1973 by extending the authorization for appropriations to the Departments of Commerce and the Interior. The existing authorization for both Departments expires June 30, 1976.

The Department strongly supports enactment of legislation to extend the authorization of appropriations for the Department of Commerce under section 15(B) of the Endangered Species Act of 1973. Passage is imperative to the continuation of our program for the conservation of “endangered” and “threatened” species.

H.R. 8092, an act, increases the appropriation authorization under section 15(B) of the Endangered Species Act of 1973 for the Department of Commerce to \$5 million for fiscal years 1977 and 1978. The Department has submitted to the Congress draft legislation authorizing extension of the authorization at the level of \$2 million per year

for fiscal years 1977 and 1978. This legislation has been introduced as S. 2334. We recommend that clause (2) of H.R. 8092 be amended to conform to the provisions of S. 2334. We would defer to the Department of the Interior as to clause (1) of H.R. 8092.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

JOHN THOMAS SMITH II,
General Counsel.

○

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To extend the authorization for appropriations to carry out the Endangered Species Act of 1973.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended—

(1) by striking out “(A) not to exceed \$4,000,000” and all that follows through “\$10,000,000 for fiscal year 1976,” in paragraph (A) thereof and inserting in lieu thereof “(1) not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,800,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$25,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978,”; and

(2) by striking out “(B) not to exceed \$2,000,000” and all that follows through “\$2,000,000 for fiscal year 1976,” in paragraph (B) thereof and inserting in lieu thereof “(2) not to exceed \$2,000,000 for the fiscal year ending June 30, 1976, not to exceed \$500,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$5,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*