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THE WHITE HOUSE
WASHINGTON

July 7, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON
FROM: JIM CONNOR *JS*
SUBJECT: Coyote Paper

The President has reviewed your memorandum of July 3rd on the above subject and indicated the following:

"Let's get Domestic Council, Interior, Agriculture, EPA, Marsh, Hartmann and Rumsfeld together in Oval Office for a forty-five minute final analysis. Buchen and others too. ---- Time has come to act."

It was further indicated that this should be given urgent attention.

cc: Don Rumsfeld



THE WHITE HOUSE
WASHINGTON

Jim Cannon

Urgent

Let's get Don. Council,
Interior, Agric., EPA
& Marsh, Hartmann &
Rumsfeld together in Oval
Office for a 45 minute
final analysis. Becker
& others too.

Time has come to
act.

THE WHITE HOUSE

WASHINGTON

ACTION

July 3, 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON *Jm*
SUBJECT: Coyote Paper

Attached (Tab A) is our decision paper on the coyote issue for your review. It has been reviewed by Jack Marsh, Robert T. Hartmann, Phil Buchen (Dudley Chapman), Max Friedersdorf, and Jim Lynn.

Dudley Chapman of Phil Buchen's staff provided some additional views which are at Tab B.

In view of the comments made by the environmentalists at this morning's Cincinnati meeting, you may want us to meet with an environmental group to get their specific recommendations and input prior to your making your final decision.

Attachment

* THE DOMESTIC COUNCIL



THE WHITE HOUSE

WASHINGTON

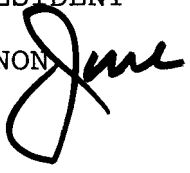
July 3, 1975

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Coyotes



Background

The issue is whether, how and under what conditions the Federal government should permit the use of toxicants (poisons) to control sheep predators, primarily coyotes.

Executive Order 11643 of February, 1972, restricts the use of toxicants for predator control on public lands and in Federal programs.

After the Executive Order was issued, Congress enacted, and President Nixon signed, the Federal Pesticide Control Act of 1972. This legislation provided that the registration of toxicants by EPA on both private and public lands be based on their effect on the environment.

To date, EPA has not authorized the use of any toxicants for coyote control. Therefore, poisons are now banned on all private and public lands by the 1972 law.

Court Situation:

A Wyoming Federal Court on June 12, 1975 revoked EPA suspension of pesticide registration. But because the decision was based on a technicality (i.e, failure to file an environmental impact statement by EPA) it is doubtful that the suspension will last long.



Congressional Situation

Those members favoring action that would permit resuming the use of poison against coyotes primarily represent the Western states and include:

Senators Mansfield, McClure, Garn, Moss, Domenici, Bentsen, Montoya, Fannin, Abourezk, Church, Tower, Bartlett, Laxalt, Curtis, McGovern, Hansen, Dole, Bellmon and Hatfield; and

Representatives Krueger, Runnels, Symms, Lujan, Abdnor, Hansen, Mahon, Melcher, Litton, Poage, Sisk, Burleson, Sam Steiger, Baucus.

Those members concentrating on the environmental concerns primarily represent the Eastern states and include Senators Javits, Hart, Buckley, Gravel, Proxmire, Stafford, Pell, Bayh, Cranston, Brooke, McIntyre, Nelson, Ribicoff, Weicker, Hugh Scott, Mathias, Schweiker, Williams, Pastore.

Max Friedersdorf indicates that the Congressional environmental forces are not active on the issue. On the other hand, the "Mansfield forces" are becoming more intense.

Options

1. Direct EPA and Interior to complete research and administration steps required to enable necessary predator decisions regarding use of one specialized toxicant to be made in time for the fall 1975 lambing season.

Recommend: Marsh, Lynn, Hartmann, **CANNON**

Approve _____ Disapprove _____

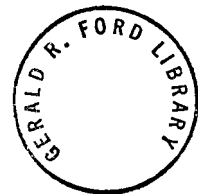
2. Rescind Executive Order and introduce legislation seeking to eliminate Federal restrictions on chemical toxicant use for predator control.

Recommend: Friedersdorf, Marsh, Hartmann, **CANNON**

Approve _____ Disapprove _____



B



THE WHITE HOUSE

WASHINGTON

July 3, 1975

MEMORANDUM FOR: JIM CANNON
FROM: DUDLEY CHAPMAN *DL*
SUBJECT: Coyote Paper: Intermediate Options

Following are suggested substitutions for (1) the paragraph entitled Court Situation and (2) Option 1 of your July 2 Options paper:

* * *

Legal Factors

Federal control of pesticides affecting sheep growers derives from three sources:

1. Executive Order 11643, signed by President Nixon in 1972, bans all use of chemical pesticides on Federal lands subject to three very narrow exceptions for (i) the protection of human health or safety, (ii) the preservation of wildlife species threatened with extinction, or (iii) the prevention of substantial and irretrievable damage to nationally significant natural resources.

2. The Federal Insecticide, Fungicide and Rodenticide Act of 1947 (FIFRA) as amended by the Federal Environmental Pesticide Control Act of 1972 (FEPCA). This statute requires EPA to maintain a system of registration restricting permissible pesticide chemicals and their uses. The statute permits emergency exceptions for Federal and State agencies.

3. EPA Regulations. EPA has issued regulations under the above statute which presently prohibit the use of all chemicals that sheep growers want to use. It is expected that one of these chemicals will become available in time for the 1975 fall lambing season. The regulations also provide procedures for invocation of the emergency exception.



NOTE: Litigation. The EPA regulations are presently enjoined from being enforced in a suit brought by livestock interests on the ground that EPA did not file an environmental impact statement. The suit was filed in Wyoming but has nationwide implications, so that in practical effect all the EPA regulations are at least temporarily suspended. The Justice Department is appealing this ruling and expects to be successful. The analysis in this paper assumes that the regulations will be reinstated.

Appeals for Relief

Two levels of relief are being sought by livestock interests. The sheep growers are pressing for a change in the Executive Order only at this time. This change is supported by the Interior Department. Other livestock groups, supported by the Department of Agriculture, prefer that you rescind the Executive Order in its entirety and propose legislation to the Congress to eliminate restrictions on chemical toxicant use for predator control.

Discussion

The need for chemical toxicants is seasonal and will not arise again until the fall of 1975. By that time, one chemical may be approved for use under the existing EPA regulations and would, therefore, be available on non-Federal lands. An amendment to the Executive Order, as proposed by the sheep growers and Interior, would accomplish this. The effect of the amendment would be to add a new ground of exception based on economic impact on livestock owners.

In addition to amending the Executive Order, changes in the EPA regulations may be accomplished by executive action that could be completed by fall. The regulations, like the Executive Order, presently contain no provision for exceptions based on economic impact on livestock owners. Such an exception could be published for public comment and accompanied by an environmental impact statement (neither or which are required for a change to the Executive Order). This could provide a more permanent basis for considering economic impact on livestock owners under the regulations as well as under the Executive Order.



A change in the Executive Order alone is criticized by those favoring the Department of Agriculture's position on the ground that (a) it would have no effect outside Federal lands and (b) even on Federal lands, the EPA regulations would still apply. The sheep growers understand this but are willing to settle at present for an amendment to the Executive Order. The further step of amending the EPA regulations would probably draw both attacks and lawsuits from environmental interests.

* * *

OPTIONS

Option

1. (a) Amend the Executive Order to provide for exceptions based on economic considerations for temporary and limited purposes.

(b) Direct EPA to revise its regulations to provide for exceptions based on economic considerations, with appropriate time limitations and safeguards.

cc: Phil Buchen
Ken Lazarus
Tod Hullin

