



February 23, 2022

The Honorable Deborah Haaland
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

The Honorable Martha Williams
Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, DC 20240

Re: Hunting and Wildlife Conservation Council Charter Renewal; Request for Nominations (Docket #: FWS-HQ-R-2021-N217).

Dear Secretary Haaland, Director Williams,

On behalf of the Center for Biological Diversity (“Center”), and its 1.7 million supporters and members, we write in opposition to the renewal of the euphemistically titled “Hunting and Wildlife Conservation Council” as its establishment in its current formulation clearly violates the Federal Advisory Committee Act (“FACA”) and does not serve any essential purpose.

We request that the Secretary provide additional legal and factual justification to support the establishment of this committee on the docket at [regulations.gov](https://www.regulations.gov), and then provide a supplemental notice and comment after an actual “formal record” is created, and *prior* to the solicitation of nominees. However, if the Secretary chooses to proceed at this time in violation of FACA and the Administrative Procedure Act, we write to nominate Brett Hartl, government affairs director at the Center, to ensure that this council is not egregiously biased in favor of activities that cause severe harm to wildlife, public health and the integrity of public lands.

The Federal Advisory Committee Act states that no advisory committee shall be established unless it is “*specifically* authorized by statute or by the President” or “determined as a matter of *formal record*, by the head of the agency involved after consultation with the Administrator, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.”¹ The Hunting and Wildlife Conservation Council fails to meet either of these thresholds.

First, it is clear that *none* of the statutory authorities or executive orders cited to by the Secretary here authorize this council. Indeed, they illustrate the opposite. For example, the Federal Land Management and Policy Act specifically authorizes two FACA committees on *two* specific topics (e.g. establishment of a California Desert Conservation Area Advisory Committee). Worse for the Secretary, the National Wildlife Refuge System Improvement Act of 1997 does not authorize *any* FACA committees. Even Executive Order 13443 itself does not authorize a FACA committee, it refers back to an earlier “Sporting Conservation Council” that had been authorized earlier — it provides no authorization for the committee proposed here. The Secretary’s feeble waiving at multiple statutes in the hopes that one sticks is simply invalid.

Second, the Secretary fails to “determine as a matter of formal record” that the creation of such council is indeed in the “public interest in connection with the performance of duties imposed on

¹ 5 U.S.C. appendix § 9

the agency by law.” It is true that the Secretary asserts that this committee complies with this provision, but simply saying it is so, without a modicum of justification or legal support does not make it so.

By providing no other information to the public in any format, it is simply impossible for members of the public to ascertain as to whether or not this assertion is supported by a “formal record” or what correspondence or consultations consisted of between the Secretary and the Administrator of General Services Administration. Indeed, the Hunting and Wildlife Conservation Council website’s link to its old “charter” does not even work, giving the public no way to even examine that document for any legal justification.² Thus, in failing to create a formal record to review, the Secretary clearly violates the basic requirements of the Administrative Procedure Act for failing to offer a reasonable justification for its action that allow the public to provide meaningful comments upon.

If anything, the overwhelming scientific and factual literature strongly suggests that current hunting practices on public lands undermine the Secretary’s ability to complete the “duties imposed on the agency by law.” Just this week, a scientific research paper in the journal *Science* announced that *half* of all bald eagles — the nation’s national symbol and an animal of deep spiritual importance to numerous Tribal Nations — are poisoned by lead ammunition.³

The use of lead ammunition is also known to poison numerous endangered species including the California Condor. And the use of lead ammunition poisons the very hunters themselves that eat wildlife they kill on public lands. Other “hunting” practices, such as trapping on public lands, are known to result in the deaths of non-target wildlife, including threatened and endangered species including Canada lynx, gray wolves, and other carnivores. Despite this, the Secretary offers no factual support on the record for her assertion that this council would further *any* duties imposed by law.

The membership of any advisory committee must “be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.”⁴ The laughably biased proposed composition of this FACA committee illustrates an overwhelming bias in favor of commercial and recreational hunting, shooting and extractive uses that seek only to monetize this nation’s natural wildlife heritage. Conservation non-profits are not even a recognized category and must be shoe-horned into the “Wildlife and habitat conservation/management organizations” category. This clear and overt bias would render any operationalized committee to be in violation of the law, and the Center will certainly litigate it, just as we did for the stupendously stupid “International Wildlife Conservation Council.”

Should the Department of the Interior proceed nonetheless, we are nominating Brett Hartl, government affairs director, to serve on this council to bring a modicum of rationality and balance to this one-sided monstrosity. Brett Hartl has an undergraduate degree in conservation biology, worked as a field biologist with endangered species in Hawaii and California for five years, graduated magna cum laude in Environmental Law from Lewis and Clark Law School, and has taught wildlife management, environmental policy, and other classes at George Mason University, American University’s Washington College of Law, the Smithsonian’s Front Royal Conservation

² See attachments.

³ <https://www.science.org/doi/10.1126/science.abj3068>

⁴ 5 U.S.C appen § 5(b)(2)),

Biology Institute and at Prescott College. As a non-consumptive viewer of wildlife, he has visited over 100 national wildlife refuges, and has likely observed more species of North American birds and mammals than any other candidate considered for this committee. His curriculum vitae is attached to this comment letter, as is the Center's petition seeking to ban the use of lead ammunition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kieran Suckling".

Kieran Suckling
Executive Director
Center *for* Biological Diversity