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THE WHITE HOUSE
WASHINGTON

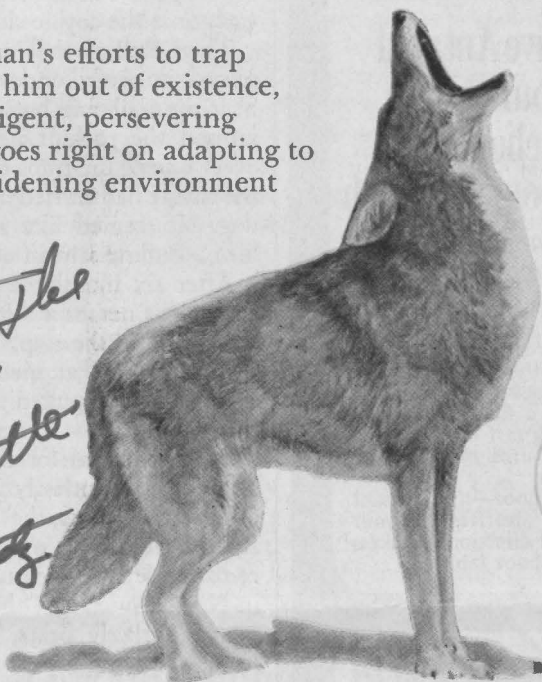
FROM DICK DUNHAM

File "Coyotes"

01 MAY 55 PM 2 10



Despite man's efforts to trap and shoot him out of existence, this intelligent, persevering creature goes right on adapting to an ever-widening environment



The Coyote Copes With Civilization

Condensed from AUDUBON

GEORGE LAYCOCK

SOME years ago, government trapper Bill Pullins arrived at a ranch in South Dakota to dispatch a sheep-killing coyote. "I didn't think it would be any big job," Pullins recalled. His trapping technique had worked well on hundreds in the past.

Finding the coyote's much-traveled trail, Pullins set a trap and camouflaged it with a cover of dirt, litter and grass. Returning later, he found that the trap had been carefully dug up and sprung. For weeks the two old-timers—coyote and trapper—waged a battle of wits. Time and

*Jim
Here is to the
Hound
the Coyote
and the
Hound*



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United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

June 6, 1975

Memorandum

To: James Cannon, Executive Director
Domestic Council
The White House

Subject: Response to proposed amendment of Executive
Order 11643 by the Department of Agriculture

The amendment of Executive Order 11643 proposed by the U.S. Department of Agriculture (USDA) would henceforth rely on the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, as the only regulatory means by which toxicant use for predator control would be restricted on public lands. This proposal does not recognize that the Federal Environmental Pesticide Control Act (FEPCA) amendments to FIFRA have not been fully implemented. Section 3 of FEPCA would extend Environmental Protection Agency (EPA) authority to control intrastate use of pesticides, but final regulations for this section of the Act cannot be expected for months. In the absence of both the Executive Order and a fully implemented FIFRA, as amended, intrastate use of hazardous chemicals would not be regulated adequately on private or public lands. With lack of any Federal legal restraint, misuse of these substances would be possible.

Sodium cyanide (NaCN) use in the M-44 could be available soon by EPA registration. On the basis of extensive preliminary data available from the Fish and Wildlife Service and state experimental programs, there is no indication that field use of NaCN in the M-44 poses an unacceptable environmental risk.

In anticipation of EPA's action, the Executive Order could be amended to allow use of NaCN in the M-44 in keeping with its registration. Language such as the following could be adopted for such modification:



Save Energy and You Serve America!

Executive Order 11643 is hereby amended by inserting in (a)(1) of Section 3, after the semicolon and before the word "or," the following:

except in the case of the Department of the Interior, such exception being restricted to the use of sodium cyanide.

Two options would then remain:

- (a) The remainder of the Executive Order could be retained until such time as the FEPCA amendments are fully implemented. The President would then have the option of further amending the Executive Order if experience in the operational use of the M-44 indicates that further modification of the Executive Order as it applies to the M-44 and NaCN is necessary, or if other predacides could be registered; or he could suspend or rescind the Executive Order and rely entirely on EPA's administration of FIFRA, as amended.
- (b) The remainder of the Executive Order could be amended to allow other pesticides available for the control of predators to minimize losses of livestock and poultry, and thereby be available for use by the Secretaries of Interior and Agriculture under rules and regulations developed by EPA under the FIFRA which provide for adequate protection and safeguards in their use.

Reimplementation of the operational use of the M-44 by the Fish and Wildlife Service may require additional environmental analysis. A draft program environmental impact statement on animal damage control activities of the Fish and Wildlife Service is now in the process of internal review and is expected to be transmitted to the Council on Environmental Quality in the near future. An environmental assessment has also been prepared which addresses the specific use of the M-44 and NaCN. The status of these documents should provide adequate time for the Fish and Wildlife Service to have met all NEPA requirements well within the time frame anticipated for EPA's registration of the M-44.

- 3 -

I have directed within the Department of the Interior that emergency requests from livestock producers in the coming months be handled as expeditiously as possible with minimum red tape.

A handwritten signature in black ink, reading "Kent Frizzell". The signature is written in a cursive, slightly stylized font. The "K" is large and loops around the "ent". The "F" is also large and loops around the "rizzell". The "ell" is written in a simple, cursive style.

Kent Frizzell
Acting Under Secretary

June 25, 1975

OMB TALKING POINTS PAPER

SUBJECT: PREDATOR CONTROL--THE COYOTE-SHEEP PROBLEM

1. Background. Some coyotes are predators of sheep. Control has traditionally been through trapping and shooting, until the 1940's, when poisonous control devices were made available. These kill coyotes, and other wildlife, and are cheap because limited personnel is needed. In 1971, due to the accidental poisoning of eagles, and as a response to the environmental movement, use of poisons in the Federal program and on public lands was banned by an Executive order. Woolgrowers want this ban lifted.

2. Use of poisons to kill predators is now prohibited.

Executive order. E.O. 11643 (1971) bans the use of poisons except in emergency situations--where the head of an agency makes a written finding in consultation with the heads of Interior; Agriculture; Health, Education, and Welfare; Environmental Protection Agency; and Council on Environmental Quality, that such use is essential to public health, protection of endangered species, or to the preservation of nationally significant natural resources. Such an emergency permit has been granted to the Secretary of the Interior, who now conducts a program using M-44, a less dangerous toxicant, in 10 States.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since the Executive order, control of toxicants was placed under FIFRA, and is regulated by EPA which has withdrawn the registration of the toxic chemicals most used. Even if the Executive order were abolished, the toxics could still not be used, unless EPA reregistered them. Recent amendments to FIFRA provide that the toxicants could be registered and used as a restricted-use pesticide.

NOTE: The U.S. District Court in Wyoming has recently invalidated the cancellation of registration of these toxicants pending preparation of an environmental impact statement on this action by the Environmental Protection Agency.



3. Woolgrowers want the use of toxicants to control coyote predation. The sheep industry is economically marginal, declining 5% a year for the last decade because of competition from synthetic fibers, poor marketing techniques, high operational costs, a low rate of return on investment, and the general high mortality of sheep. Sheep herds suffer 16.5% mortality before marketing; of this, 14-20% are estimated to be predator-caused; other causes are disease, parasites, toxic plants, and bad weather, but predation is very visible to the rancher. Because toxicants are cheap, ranchers like them, despite the fact that they are non-selective, cause secondary poisoning, and may not kill the predator coyotes (not all coyotes are sheep predators).

4. Environmentalists want to maintain the ban on toxicants. While a part of this is due to the "Bambi" animal protection complex, responsible ecologists make three points: 1) toxicants are non-selective, killing anything that may set them off; 2) toxicants can cause secondary poisoning (a cat dies because it eats a poisoned mouse, for example); 3) coyotes do not normally feed on sheep, and the problem is the result of placing sheep into natural ecosystems of which coyotes are a part. Finally, there are cultural-esthetic reasons for protecting wildlife.

5. Data is inconclusive as to coyote populations, actual sheep losses, and effectiveness of toxicants. Interior staff states that neither they nor anyone else knows what the coyote population is. However, one Interior staff member is willing to make a wild guess that there are 600,000 coyotes in the 18 Western States. The best estimate of sheep kills by coyotes is that 90% of all ranchers suffer 1-4% loss to predators; 10% suffer greater losses of up to 28%, even with predator controls in effect. Individual ranchers may suffer heavy losses. Woolgrowers assert that coyote populations are increasing. Surveys show that overall populations have increased, but populations vary: up in some States and down in others. The determining factor has been the population of jackrabbits, a staple of the coyote's diet. Coyote kills have been running about 70,000 a year, both before and after the toxicant ban. The attached table shows kills over the past two years by technique, and the last month's results with M-44.

6. Data are so incomplete that efforts to allow the use of toxicants is not justified. Available data (estimates in most cases) are inconclusive regarding coyotes, predator coyotes, sheep losses to predators, and effectiveness of toxicants. There is no substantial evidence to indicate that widespread



use of M-44 would effectively reduce coyote populations. Stronger poisons such as strychnine have large secondary effects. The Agricultural Research Service is conducting a major study to be completed late in 1975 that may provide more data. This study also is examining alternatives to toxicant baits, such as chemosterilants, repellent sprays, noise devices, improved fencing, and toxic collars to be worn by sheep. However, even if the data show that toxicants are useful and even if the Executive order is abolished, toxicants could still not be used since they cannot be registered under FIFRA according to current EPA regulations, although the recent court decision makes the toxicants available until EPA prepares an environmental impact statement on the cancellation of registration.

Much of the current argument on both sides is based on emotion rather than fact.



FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT
(7 USC 135 (1972))

Under this Act, which the Environmental Protection Agency administers, pesticides must be registered for use. If they are not registered, no one may use them. Under this Act, the registration for the chemicals used in toxic predator control devices was cancelled, largely due to the non-selectivity of the devices. Under amendments to FIFRA, new registration procedures have been established. These procedures will go into effect on October 1, 1976. Regulations will be promulgated on July 1, 1975. Every pesticide to be used after October 1976, must have an application for registration, regardless of current status. Anyone -- manufacturers, applicants, States -- may apply for registration of a pesticide. The criteria EPA will use for registration are: effectiveness, potential health impacts, environmental damage, persistence, and the economic values involved -- damage done by the pest, value of the crop, etc. If the pesticide is determined to be very harmful, registration will be denied. If there are harmful effects which can be offset by controlling its use, the registration will be as a limited-use pesticide, and only a certified applicator, approved by the State, may use the chemical. Finally, if the pesticide is safe, it will be registered for general use.

All of the cancelled predator control toxics are likely to be resubmitted for registration. If safety can be shown, it is likely that the M-44 device will be registered as a limited-use pesticide, to be used only by State certified agents. M-44 is currently being used under the emergency exemption provision of the Executive order, and under a provision of FIFRA which allows for the experimental use of pesticides in order to gather information prior to making a registration determination.



Table 1

Coyote kill for the last two years, by technique:

fixed wing aircraft shooting	18,089
helicopter shooting	27,105
trapped	58,991
dennded	16,710
ground shot	12,682
snared	4,747
dogged	465
M-44	1,637
TOTAL	140,426

Results of April 1975 M-44 use:

Number of States	Number live-stock protected	Number of M-44's	Number coyotes killed
8	137,271	4,225	206

In addition, 117 other animals were killed:

foxes	44
wild dogs	10
raccoons	7
skunks	25
opossums	31
TOTAL	117



THE WHITE HOUSE
WASHINGTON

Coyotes

Date June 26

For Jim Cannon

From Tod Hullin

Here is the latest draft.

I am working on the options now
which basically are:

1. Leave Executive Order as is
2. Amend the Executive Order
3. Rescind the Executive Order.



I. PROPOSAL

The National Wool Growers' Association has proposed that Executive Order 11643, signed in 1972 and prohibiting the use of poisons to kill predators on public lands, be modified to allow the use of chemical toxicants when non-toxic methods have been "determine inadequate or ineffective".

II. PROBLEM

Abstract: The issue of whether, and with what devices, to control sheep predators, primarily coyotes. Raising sheep is an important element of the economy in the 17 Western states. Efforts to control coyotes have had mixed results, and the effectiveness of control devices varies from place to place.

III. BACKGROUNDA. GENERAL INFORMATION

The Federal government has conducted an animal damage control program since 1916 and continues to do so under the jurisdiction of the Bureau of Sport Fisheries and Wildlife of the Department of the Interior.

The sheep industry is under financial stress even though it receives price supports for wool and is protected by restrictive tariffs. Decline in the industry is due to: competition from synthetic fibers, poor marketing techniques, increased operational costs, a low rate of

return on investment, reductions in public land grazing allotments to protect ranges, the nature of sheep as animals with high mortality generally and few defenses against predators. Mortality of a sheep crop prior to marketing averages 16.5%. Of these deaths, 14-20% are estimated to be caused by predators. Sheep population is down from 31.8 million in 1947 to 14.8 million in 1972, and has decreased an average of 5% annually in the last decade. However, higher prices for sheep products since 1972, a leveling off of sheep populations in 1974, and increased demand for wool may limit the downward trend. Predator damage has received the most attention from the sheep industry because they believe that is a major cause of their economic problems.

Sheep losses to predators are not clearly known. Loss figures are unreliable, and depend not only on the form of measurement, which varies considerably, but upon season, weather, terrain, and other conditions indigenous to each ranch. Any assertion about losses must be treated with great skepticism. These loss estimates will vary according to the points the person presenting the figures wishes to make. The Fish and Wildlife Service is extremely reluctant to make any estimates of losses. However, it is safe to stay within the following range: 10 percent of all wool growers suffer heavy predator losses (up to 28%), and 90% of all ranchers suffer predator losses of 1-4% with the current level of predator control activities.

Coyote populations are growing and difficult to control. They naturally fluctuate, depending on weather, habitat, food -- usually rodents, rabbits, some plants -- and birthrates. Coyotes are not endangered or threatened species.

Livestock (young lambs and rarely calves) are not a major part of coyote diets.

Although some control techniques are more effective than others, nothing has been developed which stops predator losses. Not all coyotes are predators on sheep. Predators are usually male repeat killers. The only certain factor regarding predator control is that no past method has been consistently effective. The coyote population in the western states is large and healthy. It has withstood the application of 8 or so lethal methods of control, and has followed fluctuations over the years that appear to be to some degree independent of man's control.

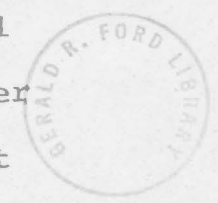
Control device technology has advanced, but nothing is really effective. Prior to the 1940s, the major control techniques were trapping, shooting, denning (killing the young in their den) and the use of strychnine-baited carcasses. In the early 40s, the coyote-getter was developed and deployed in large numbers. This is a sodium cyanide gun which goes off when an animal (or person) steps on it. It is not selective. The same decade also saw the development and use of thallium sulfate and 1080 (sodium monofluoroacetate), another spring-loaded poison mechanism. These were all used in large numbers; however, it was during this decade of greatest toxicant use that the sheep industry declined the most.



On a cost basis, toxicants are cheapest because they can be scattered on the land with a minimum of personnel. Steel traps require daily or bi-daily checking by trappers, in order to comply with State laws. Other personnel-intensive methods, such as shooting, cost about the same. More expensive is shooting from aircraft and helicopters, /

Two major problems were identified with (1) killing of non-target species; (2) secondary poisoning caused by inserting the poison into the environment.

President Nixon issued an Executive Order in February 1972 barring the use of poisons, except in emergency situations, for predator control on public lands and in Federal programs. This Executive Order was based on the findings, interpretations and recommendations of the Cain Report, a report prepared in 1971 by the Advisory Committee on Predator Control, commissioned jointly by the Secretary of the Interior and the Chairman of the Council on Environmental Quality, chaired by Dr. Stanley A. Cain of the University of Michigan. The Environmental Protection Agency subsequently suspended and cancelled registration for poison used in predator control. The Cain Report reconfirmed the earlier findings that use of toxicants took a heavy environmental toll. In March 1972, then Administrator Ruckelshaus of EPA suspended Federal registrations of poisons used in predator control under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, based on the finding that their continued



use posed an imminent hazard to the environment. At the time of suspension, there was no meaningful information on the effectiveness of poison baiting, especially in relation to the economic loss caused by predators to the sheep industry. In view of the documented environmental hazards, further use of the poisons appeared to be unjustifiable.

Following the ban on use of chemical toxicants, the Fish and Wildlife Service initiated an accelerated mechanical control program which relied heavily on increased use of shooting from aircraft. These efforts have demonstrated that depredation losses can be controlled in most but not all instances by mechanical means, such as shooting, denning and trapping. Weather, terrain, or legal restrictions on aircraft use can impose limitations.

There was no further Federally authorized use of chemical toxicants for predator control until February 8, 1974, when EPA granted an experimental use permit to the State of Texas under provisions of FIFRA. This permit allowed use of the M-44 device, a spring-loaded mechanism of sodium sulfate, a non-persistent chemical potion, which explodes when a scented string is tugged by a coyote, to accumulate information required to support possible future use of the device and the chemical. Thereafter, similar permits were granted to the States of California, South Dakota, Kansas, Idaho, Nebraska and Montana. The States of Wyoming and Oregon declined to accept experimental permits.



In consideration of the lack of information with respect to the safety and effectiveness of the M-44 and sodium cyanide and limitations on the effectiveness of mechanical control, the Department of the Interior established emergency criteria allowing the Fish and Wildlife Service to use the M-44 and sodium cyanide to protect sheep and goats from depredation under the terms of an experimental use permit issued by EPA on May 28, 1974.

The purpose of these experimental permits was to gather new information about the hazards posed by the M-44 device and sodium cyanide and its effectiveness in controlling livestock predators.

Under the terms of these permits, the necessary data is scheduled to be submitted to EPA by July 15, 1975, and consideration of a relaxation of the 1972 ban to allow use of the M-44 and sodium cyanide is scheduled to be completed by September 1, 1975. The 1975 Spring lambing season for sheep and goats has ended and the next season when predation may require control begins November 1, 1975.



Over 80 research projects are being conducted to determine the effectiveness of predator control devices and to develop new devices. A poisonous collar to be worn around the neck (where coyotes attack) of sheep has proven worthy of further investigation. Repellent sprays to go on sheep have not been effective, nor have noise devices designed to scare coyotes. Fences are effective, but much of the range land of sheep cannot be fenced due to the rough terrain. Further, coyotes have shown that they adapt and learn to spit out strychnine pellets and to avoid toxicants baits. Evidence indicates that they may also breed a genetic resistance to toxicants. The most effective devices remain shooting and steel traps.



B. INDUSTRY POSITION

The livestock industry charges that it is presently suffering from increasing livestock losses and that there have been increasing confirmed losses of lambs and of calves, believed to be due to the increased numbers and activities of coyotes.

According to the industry, this increasing rate of livestock loss is a result of (a) the Environmental Protection Agency's 1972 suspension of sodium cyanide, 1080, and strychnine; (b) the Executive and Secretarial Orders prohibiting the use of toxicants on Federal lands; (c) the Presidential and Executive Orders forbidding Federal employees from participating in toxicant programs; and (d) the Secretary of the U.S. Department of the Interior's failure adequately to control predators on Federal lands. Some believe that changed management practices by growers due to increasing costs have resulted in less human presence and corresponding loss increases. All of these actions were based on the Cain Report which is based upon information which is disputed by the industry.

Due to the vast expanse of Federal lands located in the same Western states, it is difficult for the states, such as Wyoming, their various agencies and interested private parties to control the number of predators on private lands without coordinated control measures being exercised on Federal lands.



The Department of the Interior has been conducting a predator control program which corresponds with the recommendations of the Cain Report. The industry charges that this program has been ineffective and has caused the coyote population to increase. The industry contends that the predator population can only be controlled reasonably and economically by a carefully controlled toxicant program against predators on private, state and Federal lands, and that if the Department of the Interior does not reinstitute the use of chemical toxicants on Federal lands and adequately control predators, livestock losses will continue.

On June 26, 1973, the Environmental Protection Agency issued an order refusing the State of Wyoming permission for state registration of pesticides. FIFRA prohibited EPA from approving use of pesticides which had been previously denied, disapproved, or cancelled by the Administrator. EPA suggested that Wyoming request an emergency exemption under FIFRA. The request was filed and subsequently denied because the Agency determined that the State did not provide sufficient information to support the exemption as required by established regulations.



C. ENVIRONMENTALIST POSITION

Environmentalists maintain that the decline of the livestock industry, particularly the sheep segment, is due to far larger problems than predation. Economic stresses include such factors as increased labor costs (giving rise to less efficient range management), the increase in the synthetic fiber industry, and the general supply/demand situation for meat. Significant declines in the sheep industry in the East have also occurred where coyotes are not a problem. Predator rates are up in some areas, down in others and on balance appear to remain unchanged since the toxicant ban.

The Cain Committee (on which the Executive Order and EPA's subsequent suspension/cancellation were largely based) found that killing of non-target special and secondary poisoning caused by inserting the poison into the environment to be of significant magnitude.

The FIFRA requires that registration and use of toxicants be based upon data demonstrating (a) that the product will be effective in its intended use and (b) that it may be used without reasonable adverse effects on the environment, which of course includes wildlife. The findings of the Cain Report would thus be a major obstacle to registration of toxicants with secondary poisoning potential.



The most promising of the toxicants from a registration standpoint is sodium cyanide. EPA has issued a total of nine experimental use permits for the testing of sodium cyanide in the spring-loaded ejector mechanism (known as M-44) in an effort to collect data on its effectiveness. However, the wool growers will say that the M-44 does not work and that we must go to other poisons.

EPA seriously questions the use of other toxicants because of their exhibited toxic and secondary poisoning effects. Effects which caused initial suspension to be taken. Suspended poisons cannot be reregistered for use without full exploration of benefits and risks. Suspension decisions == as in the case of the 1972 EPA predator poison ban -- may not be reversed without the opportunity for full public participation. These hearings should not be initiated without a finding of substantial new evidence which may materially affect the prior order. Based upon past experience, these hearings could take several months.

Collection of substantial new evidence is most likely to occur with respect to sodium cyanide. This chemical is not as persistent as the other two toxicants, and a primary consideration in the cancellation was the explosive nature of the device in which it was employed. A non-explosive device (the M-44) is now available. However, sodium cyanide could not be registered for use without opportunity for a public hearing.



As for a potential time frame for registering sodium cyanide, EPA feels obligated to await the outcome of the experimental programs. To respond prior to the collection of data already requested in the experimental programs could only lead to the charge by environmentalists that EPA is not interested in the facts, but only political expediency. Registration prior to finalization of experimental data could trigger a court challenge by environmentalists and could delay ultimate registration even longer. Thus, no action can reasonably be expected until September 1975, assuming that adequate data will be available by that time. Further, the Department of the Interior advises that in any case, it must prepare an environmental impact statement prior to operational use of any toxicant in its programs, and Fall would be the earliest this could be completed.

Environmentalists do not intend to prevent the livestock industry from protecting its livelihood. The concern is on the methods used. Proper animal management, denning, trapping, shooting and other alternatives are available and do not result in unacceptable environmental effects; the spring-loaded cyanide device may be acceptable if it proves safe and effective in current experiments. However, persistent toxicants with high potential for inflicting direct and secondary poisoning on non-target species should not be allowed on either public or private lands.



In summation, the environmentalists oppose the proposed modification in the Executive Order. Actions to register toxicants causing secondary poisoning effects are unlikely to be forthcoming in less than two years, if at all. The only feasible relief at this time lies with cyanide (sodium or potassium) for use in the M-44 device, and even this will depend upon results of the current experimental program and cannot reasonably be accomplished before late summer 1975, which is anticipated to be in time for the next lambing season. On balance, it appears that the Wool Growers' proposal will greatly alienate the environmental community without really helping the livestock industry.

D. COURT SITUATION

On June 12, 1975, Judge Ewing Kerr, U. S. District Court for the District of Wyoming, granted the plaintiffs' motion for a preliminary injunction enjoining the Administrator of the U.S. Environmental Protection Agency, Russell E. Train, from enforcing the Agency's March 9, 1972, order suspending the registrations of three pesticides -- strychnine, sodium cyanide and sodium monofluoroacetate (1080) -- for use against predators. Judge Kerr's basis for granting the injunction was that the Agency failed to prepare and file an environmental impact statement in accordance with the provisions of the National Environmental Policy Act. EPA has recommended and requested that the Department of Justice file an appeal and seek a stay of the Order pending appeal.



E. CONGRESSIONAL SITUATION

The sentiment in the Congress on this issue appears to be based on regional considerations. Those members favoring the position of the National Wool Growers Association primarily represent the Western states and include Senators Mike Mansfield, Jim McClure, Jake Garn, Ted Moss, Peter Domenici, Lloyd Bentsen, Joseph Montoya, Paul Fannin, James Abourezk, Frank Church, John Tower, Dewey Bartlett, Paul Laxalt, Carl Curtis, George McGovern, Clifford Hansen, Bob Dole, Henry Bellmon, Mart Hatfield; Congressmen Bob Kreeger, Harold Runnsle, Steve Symms, Manuel Lujan, James Abdnor, George Hansen, George Mahon, John Melcher, Jerry Litten, W. R. Poage, Bernie Sisk, Omar Burleson, Sam Steiger, Max Baucus.

These members sent you a letter on March 21, 1975, urging that you meet with representatives of various groups affected by the loss of livestock to predators. In that letter they indicated that:

"Although strenuous efforts have been made by Federal and State agencies to control coyote damage through non-toxic means, and these have often been successful, in many areas effective alternative methods have not been found and the result has been marked increases in coyote populations and resultant rising predation. Numerous ranchers have either been driven out of business or forced into alternative production. The economic hardship among communities and regions has been serious.

"Ample protection against the misuse of chemicals is provided by the Federal Environmental Pesticide Control Act of 1972, which amended the Federal Insecticide, Fungicide and Rodenticide Act. These amendments were enacted subsequent to Executive Order 11643.



"The situation is critical. Losses of livestock and poultry are mounting and wildlife values are being threatened. We hope you will be able to arrange the requested meeting in the very near future."

Those members concentrating on the environmental concerns urge that Executive Order 11643 remain unchanged primarily represent the Eastern states and include Jacob Javits, Phil Hart, James Buckley, Mike Gravel, William Proxmire, Robert Stafford, Claiborne Pell, Birch Bayh, Alan Cranston, Edward Brooke, Thomas McIntyre, Gaylord Nelson, Abraham Ribicoff, Lowell Weicker, Hugh Scott, Mac Mathias, Richard Schweiker, Harrison Williams, John Pastore.

These members sent you a letter on October 11, 1974, in which they indicated:

"There has been no hard evidence that large numbers of livestock have been destroyed by coyotes in the western states and available evidence suggests that estimated losses from predators were not affected by the ban on poisons at all.

"Based on the evidence thus far presented, it would be tragic to revoke Executive Order 11643 and resume wholesale poisoning on the public lands with the attendant killing of all types of innocent animals. We certainly sympathize with the problems of the western sheep ranchers, but our western public lands and the animals that live on these lands are a part of our nation's heritage that should not be placed in danger by the indiscriminate use of poisons which have not provided a satisfactory solution to the problem in the past."

Although the above signed a letter opposing a change in the Executive Order, they are not active on the issue. On the other hand, the Mansfield forces are becoming more intense in their frustration.



Coyotes

THE WHITE HOUSE

WASHINGTON

MEETING TO DISCUSS PREDATOR CONTROL

FRIDAY, JULY 11, 1975
9:15 a.m. (45 minutes)
The Cabinet Room

From: Jim Cannon 

I. PURPOSE

The purpose of this meeting is to discuss whether and under what conditions poisons should be used to control sheep predators, primarily coyotes.

II. BACKGROUND, PARTICIPANTS, PRESS PLAN

A. Background: The sheep industry alleges unmanageable livestock losses from coyote predation. While effectiveness of control devices varies, nothing has been developed which prevents predator losses. Nevertheless, industry believes that poisons offer the most effective method for predator control. However, the use of poisons presents two major problems: (1) killing of non-target species and (2) secondary poisoning of non-target species caused by their feeding on poisoned animals.

Currently, the poisons that the sheep industry wants to use (1080, strychnine, sodium cyanide) are banned on Federal lands and in Federal programs by the Executive Order and suspended by EPA from use on all lands under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

If the Executive Order were amended today, the poisons that the sheep herders want to use would NOT be available and could NOT be used because they are still suspended by EPA. Thus, amending the Executive Order at this time would not help the wool growers.

However, Interior and EPA think that their ongoing experiments will produce data allowing the registration and use of sodium cyanide by early September. If sodium cyanide is registered for use, it could be used on private lands but not used on public lands because the Executive Order prevents it. The Executive Order would then have to be amended before sodium cyanide could be used on public lands.

Attached at Tab A is a copy of my memorandum to you on the coyote problem.

B. Participants: See list attached at Tab B.

C. Press Plan: The meeting will be announced. There will be a White House staff photo.

THE WHITE HOUSE

WASHINGTON

ACTION

July 3, 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON *Jim*
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 *JC*

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 _____



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



ATTENDEES

Earl Butz, Secretary of Agriculture

Russell Train, Administrator, Environmental Protection Agency

Russell Peterson, Chairman, Council on Environmental Quality

David Lindgren, Acting Solicitor, Department of the Interior

(Secretary Hathaway was the Governor of Wyoming when that State brought suit to prevent the Federal suspension of registered predator control poisons. When asked about this during his confirmation hearings, Secretary Hathaway stated that he would not become personally involved in a reassessment of the Department's position on predator control. Secretary Hathaway has delegated the Department's responsibility on this issue to the Solicitor's Office).

James T. Lynn, Director, OMB

Don Rumsfeld

Robert T. Hartmann

Jack Marsh

Max Friedersdorf

Phil Buchen

Jim Cannon

Dick Dunham

Tod Hullin

Jim Mitchell, OMB



THE WHITE HOUSE
WASHINGTON

July 7, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON
FROM: JIM CONNOR *JB*
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



file

THE WHITE HOUSE

WASHINGTON

ACTION

July 3, 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON *Jim*
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

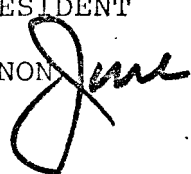
July 3, 1975

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.

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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 *DC*

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

THE WHITE HOUSE

WASHINGTON

July 3, 1975

MEMORANDUM FOR JIM CANNON
FROM TOD HULLIN *TH*
SUBJECT LAWYERS' MEETING ON COYOTES

Today I convened a meeting of lawyers from CEQ, EPA, Agriculture, Interior and Justice to discuss some questions that have been raised by Dudley Chapman of Phil Buchen's staff.

CONCLUSIONS

- If the Executive Order were amended today, the poisons that the sheep herders want to use (1080, strychnine, sodium cyanide) would NOT be available and could NOT be used because they are suspended by EPA. Thus, amending the Executive Order at this time would not help the wool growers.
- However, Interior and EPA think that their ongoing experiments will produce data allowing the registration and use of sodium cyanide by early September. If sodium cyanide is registered for use, it could be used on private lands but not used on public lands because the Executive Order prevents it. The Executive Order would then have to be amended before sodium cyanide could be used on public lands.

NOTE: This is a slight change in the information that had been previously available in that EPA and Interior were now indicating that it is likely that sodium cyanide will be registered based on the data from their experiments.

In anticipation of the action on sodium cyanide, I think Chapman will suggest an option calling for the amendment of the Executive Order and possibly a change in the EPA regulations. This is similar to one of the options presented in my earlier option papers.

If sodium cyanide becomes registered, this approach would help the wool growers address their coyote problem.

RECOMMENDATION

My personal recommendation is to

1. Meet with the environmentalists to discuss this issue prior to announcing the President's decision (if the meeting on July 3 in Cincinnati was not sufficient).
2. Wait until EPA registers sodium cyanide (this is not a sure thing, but it will probably happen by early September).
3. Then amend the Executive Order.

This could all be accomplished before the Fall lambing season and would satisfy and assist the wool growers. Additionally, if it is handled properly, the outrage of the environmentalists could be minimized.

THE WHITE HOUSE

WASHINGTON

July 2, 1975

MEMORANDUM FOR: JIM CANNON
THROUGH: PHIL BUCHEN *P.W.B.*
FROM: DUDLEY CHAPMAN *DC*
SUBJECT: Coyote Paper

Three comments:

(1) The text does not explain the significance of the time lag between now and the 1975 fall lambing season--which is that the coyote problem will be in abeyance, providing time to work out this problem.

(2) Option two appears rather precipitous. There are intermediate steps possible short of either rescinding the executive order or introducing legislation that could meet the sheep herders objectives at much less offense to the environmentalists.

(3) The explanation of the court situation is misleading. The failure to file an impact statement is not just a technicality. The issue is whether one is required here and Justice thinks it is not. A more prudent statement would be as follows:

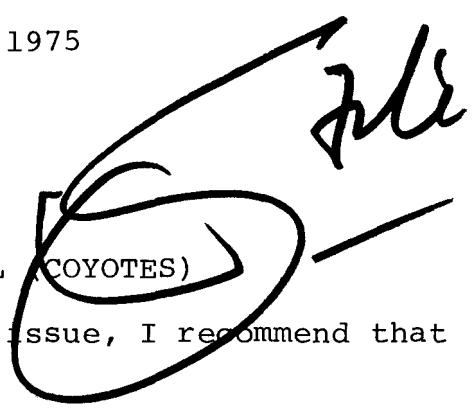
"The Justice Department expects to get a reversal of this decision, which held that EPA should have filed an environmental impact statement for its regulations."

cc: Tod Hullin

THE WHITE HOUSE

WASHINGTON

June 25, 1975

MEMORANDUM FOR JIM CANNON
FROM TOD HULLIN 
SUBJECT PREDATOR CONTROL (COYOTES) 

If asked about the status of this issue, I recommend that you indicate:

- (1) A decision paper is being drafted and should be to the President by the middle of next week. 
- (2) This effort is being coordinated by the Domestic Council staff and includes OMB, CEQ, EPA, Interior, Agriculture and the Wool Growers; and it will be staffed through the White House.
- (3) All parties recommend that the President meet with appropriate environmental interests to hear their side of the issue. The perception is that the President is only getting one side of the story.

What has been done

June 18	Hullin assigned issue by Dick Dunham
June 19-21	Draft option paper prepared for agency review
June 23	Hullin convened meeting with representatives from CEQ, EPA, Interior, Agriculture, OMB to outline the issue, review the options and give them 24 hours to comment on draft paper
June 23	Reviewed Congressional situation with Pat O'Donnell of Max Friedersdorf's office
June 24 (cob)	Received comments from agencies. Quality of response varies considerably

What is being done

June 25 Talked to Justice Department re status of
 court case

June 25 Reviewing comments and attempting to compile
 a complete options paper. New draft should
 be completed by Noon, June 26.

 This process is raising some new questions
 which will have to be answered.

What is going to be done

June 26 Hullin to meet with Art Quinn of Wool Growers Assn.

June 26 Draft option paper completed

June 27 Staffing to CEQ, EPA, Interior, Agriculture,
 OMB for fact check and strengthened analysis
 the options

June 30 Staffing to White House - Marsh, Friedersdorf,
 Lynn, Buchen, Hartmann for review and recommendation

July 2 Final to Cannon for signature

Personal View

On all sides this issue is characterized by a lack of
knowledge and strong emotional feelings.

SUGGESTED MODIFICATIONS (EPA)

I. PROPOSAL

The National Wool Growers Association and the American National Cattlemen's Association have proposed that Executive Order 11643, which prohibits the use of poisons to kill predators on public lands, be modified to allow the use of chemical toxicants when non-toxic methods have been "determined inadequate or ineffective".

II. PROBLEM

The problem centers in the 17 Western states where sheep raising is an important element of the economy with close to 12 million sheep grazing in a given year. Cattle and goats are also targets for coyotes, but the major impact of predation is felt in sheep, which are easier prey for the coyote.

It is important to resolve the issue of modifying the Executive Order prior to the Fall lambing season when flocks are in greatest jeopardy from coyote predation. Accordingly, although the issues presented require prompt attention and resolution, there is no pending emergency situation which demands immediate action. //

III. BACKGROUND

A. GENERAL INFORMATION

The Federal government has conducted an animal damage control program since 1916 and continues to do so. It is conducted by the Bureau of Sport Fisheries and Wildlife of the Department of the Interior. A major part of this responsibility has been an operational predatory animal damage control program in the West, in cooperation with the states, counties, and local livestock organizations. Since program

inception, heavy reliance was placed on the use of toxicants as a general control method. Conservationists alleged that these toxicants did great damage to non-target species, including the American eagle and other endangered species, and in general posed an unacceptable risk to wildlife and human safety. The livestock industry contended that, without the use of toxicants, predator damage to cattle, sheep, goats, and poultry would be severe.

President Nixon issued an Executive Order in February 1972 barring the use of poisons, except in emergency situations, for predator control on public lands and in Federal programs. This Executive Order was based on the findings, interpretations and recommendations of the Cain Report, a report prepared in 1971 by the Advisory Committee on Predator Control, commissioned jointly by the Secretary of the Interior and the Chairman of the Council on Environmental Quality, chaired by Dr. Stanley A. Cain of the University of Michigan. The Environmental Protection Agency subsequently suspended and cancelled registration for poison used in predator control. The Cain Report reconfirmed the earlier findings of the Leopold Report (conducted for USDI) that use of toxicants took a heavy environmental toll. In March 1972, then Administrator Ruckelshaus of EPA suspended Federal registrations of poisons used in predator control under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, based on the finding that their continued use posed an imminent hazard to the environment. At the time of suspension, there was no meaningful information on the efficacy of poison baiting, especially in relation to the economic loss caused by predators to the sheep industry. In view of the documented hazards, further use of the poisons appeared to be unjustifiable.

Following the ban on use of chemical toxicants caused by the actions cited above, the Fish and Wildlife Service initiated an accelerated mechanical control program which relied heavily on increased use of shooting from aircraft. These efforts have demonstrated that depredation losses can be controlled in most instances by mechanical means, such as shooting, denning and trapping, within the limitations imposed by weather, terrain, or legal restrictions on aircraft use.

There was no further Federally authorized use of chemical toxicants for predator control until February 8, 1974, when EPA granted an experimental use permit to the State of Texas under provisions of FIFRA. This permit allowed use of M-44 device and sodium cyanide to accumulate information required to support possible future registrations of the device and the chemical. Thereafter, similar permits were granted to the States of California, South Dakota, Kansas, Idaho, NEBRASKA and Montana. The States of Wyoming and Oregon declined to accept such an experimental permit.

In consideration of the lack of information with respect to the safety and efficacy of the M-44 and sodium cyanide and limitations on the efficacy of mechanical control in certain situations, the Department of the Interior, in consultation with the Departments of Health, Education, and Welfare, and Agriculture, the Environmental Protection Agency, and the Council on Environmental Quality, emergency criteria were established allowing the Fish and Wildlife Service to use the M-44 and sodium cyanide to protect sheep and goats from depredation under the terms of an experimental use permit issued by EPA on May 28, 1974 (attachment).

The purpose of these experimental permits was to gather new information about the hazards posed by the M-44 device and sodium cyanide and the efficacy of the system in controlling livestock predators.

Under the terms of these permits, the necessary data is scheduled to be submitted to EPA by July 15, 1975, and consideration of a relaxation of the 1972 ban to allow use of the M-44 and sodium cyanide is scheduled to be completed by September 1, 1975. The 1975 Spring lambing season for sheep and goats has ended and the next season when predation may require control begins November 1, 1975. Thus, as stated earlier, there is no current emergency situation which demands immediate action.

B. INDUSTRY POSITION

The livestock industry charges that it is presently suffering from increasing livestock losses and that there have been increasing confirmed losses of lambs and of calves, believed to be due to the increased numbers and activities of coyotes.

According to the industry, this increasing rate of livestock loss is a result of (a) the Environmental Protection Agency's 1972 suspension of sodium cyanide, 1080, and strychnine; (b) the Executive and Secretarial Orders prohibiting the use of toxicants on Federal lands; (c) the Presidential and Executive Orders forbidding Federal employees from participating in toxicant programs; and (d) the Secretary of the U.S. Department of the Interior's failure adequately to control predators on Federal lands. Some believe that changed management practices by growers due to increasing costs have resulted in less human presence and corresponding loss increases.

All of these actions were based on the Cain Report which is based upon information which is disputed by the industry.

Due to the vast expanse of Federal lands located in the same Western states, it is difficult for the states, such as Wyoming, their various agencies and interested private parties to control the number of predators on private lands without coordinated control measures being exercised on Federal lands.

The Department of the Interior, through the Bureau of Sport Fisheries and Wildlife, has been conducting a predator control program which corresponds with the recommendations of the Cain Report. The industry charges that this program has been ineffective and has caused the coyote population to increase. The industry contends that the predator population can only be controlled reasonably and economically by a carefully controlled toxicant program against predators on private, state and Federal lands, and that if the Department of the Interior does not reinstitute the use of chemical toxicants on Federal lands and adequately control predators, livestock losses will continue.

On June 26, 1973, the Environmental Protection Agency issued an order refusing to grant the request of the State of Wyoming for state registration of pesticides. The provision of FIFRA under which Wyoming requested such authority prohibited the Agency from approving registration of pesticides which had been previously denied, disapproved, or cancelled by the Administrator. EPA suggested that Wyoming request an emergency exemption under FIFRA. Such a request was filed and subsequently denied because the Agency determined that the State did not provide sufficient information to support the exemption as required by established regulations.

C. ENVIRONMENTALIST POSITION

Environmentalists maintain that the decline of the livestock industry, particularly the sheep segment, is due to far larger problems than predation. Economic stresses include such factors as increased labor costs (giving rise to less efficient range management), the increase in the synthetic fiber industry, and the general supply/demand situation for meat. Significant declines in the sheep industry in the East have also occurred where coyotes are not a problem. Predator rates are up in some areas, down in others and on balance appear to remain unchanged since the toxicant ban.

-6-

The Cain Committee (on which the Executive Order and EPA's subsequent suspension/cancellation are largely based) found non-target impacts resulting from secondary poisoning to be of significant magnitude. The FIFRA requires that registration of toxicants be based upon data demonstrating (a) that the product will be efficacious in its intended use and (b) that it may be used without unreasonable adverse effects on the environment, which of course includes wildlife. The findings of the Cain Report would thus be a major obstacle to registration of toxicants with secondary poisoning potential.

The most promising of the toxicants from a registration standpoint is sodium cyanide. EPA has issued a total of nine experimental use permits for the testing of sodium cyanide in the spring-loaded ejector mechanism (known as M-44) in an effort to collect data which can support or refute registration effectiveness, as do other methods of control (both chemical and nonchemical), and alone is not a substitute for sound livestock management practices. The Wool Growers will say that the M-44 does not work and that we must go to other poisons. As noted above, new information about the M-44 as a result of the ongoing experimental programs is due to be filed with the Agency by July 15, 1975.

Regarding other toxicants, EPA has significant questions which stand in the way of their potential for reregistration because of their exhibited toxic and secondary poisoning effects. Effects which caused initial suspension to be taken. EPA policy specifies that reregistration of products which have been previously suspended due to a finding of unreasonable adverse effect cannot be accomplished without full exploration of benefits and risks, and without opportunity for public hearing. Suspension decisions made after a full opportunity for formal hearings -- as in the case of the 1972 EPA predator poison ban -- may not be reversed without the same opportunity for full public participation. These hearings demand public resources and should not be initiated except upon a finding

of substantial new evidence which may materially affect the prior order. In the case of Compound 1080 or strychnine, it is clear that a showing of substantial new evidence followed by a formal administrative hearing would be necessary prior to any reversal of the Agency's 1972 Orders. Such hearings, based upon past experience, could take from several months to a year or more.

Collection of substantial new evidence is most likely to occur with respect to sodium cyanide. This chemical is in a different situation since it is not as persistent as the other two toxicants, and a primary consideration in the cancellation was the explosive nature of the device in which it was employed. A non-explosive device (the M-44) is now available. EPA's Office of General Counsel has advised that sodium cyanide could not be registered in accordance with EPA regulations without opportunity for a public hearing. As for a potential time frame for registering sodium cyanide, EPA feels obligated to await the outcome of the experimental programs. To respond prior to the collection of data already requested in the experimental programs could only lead to the assumption by the Wool Growers that the programs were meaningless stalling devices, and to the charge by environmentalists that EPA is not interested in the facts, but only political expediency. Furthermore, a court challenge by environmentalists at this stage -- without waiting for the experimental data -- could delay ultimate registration even longer. Thus, no action can reasonably be expected until September 1975, assuming that adequate data will be available by that time. Further, the Department of the Interior advises that in any case, it must prepare an environmental impact statement prior to operational use of any toxicant in its programs, and Fall would be consistent with USDI's timing needs as well.

There is tremendous interest in predator control by wildlife organizations and the public at large. To many, the coyote symbolizes the free and vanishing wildlife in this country. Reaction to use of toxicants on public land has been particularly strong. Many have voiced an objection to use of toxicants on "my land" (Federal land) to deter "my coyotes" to protect the "self serving" interests of the sheep industry. Administrator Train and Chairman Peterson suggest the solicitation of the input of the major environmental organizations, e.g., the National Wildlife Federation, the Humane Society, Environmental Defense Fund, Friends of the Earth, Fund for the Animals, Sierra Club, Natural Resources Defense Fund, etc., before proceeding with any changes.

Environmentalists do not intend to prevent the livestock industry from protecting its livelihood. The concern is on the methods used. Proper animal management, denning, trapping, shooting and other alternatives are available and do not result in unacceptable environmental effects; the spring-loaded cyanide device may be acceptable if it proves safe and efficacious in current experiments. However, persistent toxicants with high potential for inflicting direct and secondary poisoning on non-target species should not be allowed on either public or private lands.

In summation, then, EPA opposes the proposed modification in the Executive Order. Actions to register toxicants causing secondary poisoning effects are unlikely to be forthcoming in less than two years, if at all. The only feasible relief at this time lies with cyanide (sodium or potassium) for use in the M-44, and even this will depend upon results of the current experimental program and

cannot reasonably be accomplished before late summer 1975, which is anticipated to be in time for the next lambing season. On balance, it appears that the Wool Growers' proposal will greatly alienate the environmental community without really helping the livestock industry.

D. COURT SITUATION

On June 12, 1975, Judge Ewing Kerr, U. S. District Court for the District of Wyoming, granted the plaintiffs' motion for a preliminary injunction enjoining the Administrator of the U.S. Environmental Protection Agency, Russell E. Train, from enforcing the Agency's March 9, 1972, order suspending the registrations of three pesticides -- strychnine, sodium cyanide and sodium monofluoroacetate (1080) -- for use against predators. Judge Kerr's basis for granting the injunction was that the Agency failed to prepare and file an environmental impact statement in accordance with the provisions of the National Environmental Policy Act. EPA has recommended and requested that the Department of Justice file an appeal and seek a stay of the Order pending appeal.

E. CONGRESSIONAL SITUATION

The sentiment in the Congress on this issue appears to be based on regional considerations. Those members favoring the position of the National Wool Growers Association primarily represent the Western states and include Senators Mike Mansfield, Jim McClure, Jake Garn, Ted Moss, Peter Domenici, Lloyd Bentsen, Joseph Montoya, Paul Fannin, James Abourezk, Frank Church, John Tower, Dewey Bartlett, Paul Laxalt, Carl Curtis, George McGovern, Clifford Hansen, Bob Dole, Henry Bellmon, Mart Hatfield; Congressmen Bob Kreeger, Harold Runnsle, Steve Symms, Manuel Lujan, James Abdnor, George Hansen, George Mahon, John Melcher, Jerry Litten, W. R. Poage, Bernie Sisk, Omar Burleson, Sam Steiger, Max Baucus.

These members sent you a letter on March 21, 1975, urging that you meet with representatives of various groups affected by the loss of livestock to predators. In that letter they indicated that:

"Although strenuous efforts have been made by Federal and State agencies to control coyote damage through non-toxic means, and these have often been successful, in many areas effective alternative methods have not been found and the result has been marked increases in coyote populations and resultant rising predation. Numerous ranchers have either been driven out of business or forced into alternative production. The economic hardship among communities and regions has been serious.

"Ample protection against the misuse of chemicals is provided by the Federal Environmental Pesticide Control Act of 1972, which amended the Federal Insecticide, Fungicide and Rodenticide Act. These amendments were enacted subsequent to Executive Order 11643.

"The situation is critical. Losses of livestock and poultry are mounting and wildlife values are being threatened. We hope you will be able to arrange the requested meeting in the very near future."

Those members concentrating on the environmental concerns urge that Executive Order 11643 remain unchanged primarily represent the Eastern states and include Jacob Javits, Phil Hart, James Buckley, Mike Gravel, William Proxmire, Robert Stafford, Claiborne Pell, Birch Bayh, Alan Cranston, Edward Brooke, Thomas McIntyre, Gaylord Nelson, Abraham Ribicoff, Lowell Weicker, Hugh Scott, Mac Mathias, Richard Schweiker, Harrison Williams, John Pastore.

These members sent you a letter on October 11, 1974, in which they indicated:

"There has been no hard evidence that large numbers of livestock have been destroyed by coyotes in the western states and available evidence suggests that estimated losses from predators were not affected by the ban on poisons at all.

"Based on the evidence thus far presented, it would be tragic to revoke Executive Order 11643 and resume wholesale poisoning on the public lands with the attendant killing of all types of innocent animals. We certainly sympathize with the problems of the western sheep ranchers, but our western public lands and the animals that live on these lands are a part of our nation's heritage that should not be placed in danger by the indiscriminate use of poisons which have not provided a satisfactory solution to the problem in the past."

Although the above signed a letter opposing a change in the Executive Order, they are not active on the issue. On the other hand, the Mansfield forces are becoming more intense in their frustration.

THE WHITE HOUSE
WASHINGTON

*File
Coyotes*

Date July 8

For Pat McKee

From Tod Hulin

Per our conversation, attached is the material provided by OMB.

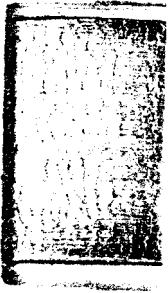
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President*



OFFICE OF MANAGEMENT AND BUDGET
ROUTE SLIP

To: Tom Hullin

Take necessary action ☐
Approval or signature ☐
Comment ☐
Prepare reply ☐
Discuss with me ☐
For your information ☐
See remarks below ☐



FROM Joan McEntee DATE 6/26/75

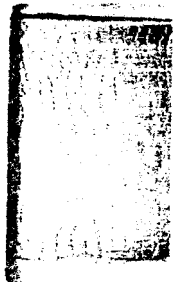
REMARKS

JLM asked me to send you some additional coyote information. You have this already, but it seems responsive.

-- There are over 80 anti-predator research projects currently underway (most are Agriculture or Interior's).

Interesting fact:

One demonstration ranch in Wyoming where no controls are being used is showing a 32% loss due to coyotes vs. a 28.3% loss with controls.



Current Animal Damage Control Activities

The program is operated through cooperative agreements with the States (all but five) to provide scientific advice, supervisors, equipment, and financial support for operations. Typically, a rancher will suffer a loss, and call either the U.S. Fish and Wildlife Service or the State Department of Natural Resources for animal damage control assistance. The Department then sends out operational personnel to kill the predators. If simple and cheap devices fail, techniques are escalated to the more expensive and personnel-intensive methods. Almost anyone can request assistance to guard against animal damage. Funding is derived from cooperative agreements and financing with the State, counties, livestock associations or other groups. This includes Weyerhaeuser, which may want to keep porcupines away from its reseedling on a national forest, a farmer trying to keep mice out of his grain bins, or ranchers requesting control of sheep predators. Direct beneficiaries of Animal Damage Control work are:

<u>Activities</u>	<u>Initial Beneficiaries</u>			
	<u>Total Field Expenditures</u>	<u>Federal</u>	<u>State-Local</u>	<u>Private</u>
Forest, range and wildlife protection	70.8 K	40%	40%	20%
Health and safety	130.5 K	5%	95%	0%
Protecting crops and livestock (coyote control)	2,702.0 K	0%	<1%	>99%
Protecting urban and industrial facilities	139.4 K	3%	3%	94%
Total	3,042.7 K			

X

X

X

The Fish and Wildlife Service (FWS) of the Department of the Interior has been conducting an operational and grant program with the States for predator control since it was transferred from the Department of Agriculture in 1939 (7 USC 426 (1931)). This, in itself, is an issue. Many sheep growers feel that the Animal Damage Control program should be transferred back

to the Department of Agriculture. While this choice may have been viable in the past when agriculture alone was the primary interest involved in controlling predators, the environmental considerations now involved in controlling the population of one species probably preclude the transfer back to Agriculture.

X

X

X

The current program now runs at \$8.8 M, over \$3.5 M of which is solely for operational expenses for coyote control. In Eastern States, advice is given out through university extension services. In Western States, operational programs are conducted by trappers who are paid by the State and the Federal Government. Efforts have been made over the last 13 years to limit the Federal role to research and grants, but pressures from the Western States' delegation have consistently foiled such efforts, although a bill did pass the House in 1972. Currently, the Fish and Wildlife Service has given up on a legislative vehicle and is restructuring the nature of its cooperative agreements to include only grants and the provision of research, up to \$300,000 per State as the 60% Federal share.

In March 1972, following the Executive order, the FWS stopped using chemical toxicants on public lands, and on lands where the owner used chemical toxicants. It was able to increase its mechanical efforts, such as shooting from fixed-wing aircraft and from helicopters, by a reprogramming of \$300 K in FY 1972 and an increase in the budget of \$400 K in FY 1974. Such mechanical techniques are very expensive, but have high kill statistics. Kill statistics alone, however, may not be related to an actual decrease in predators. From April 1973 to the present, the kill by device is:

Coyotes

Fixed-wing aircraft shooting	18,089
Helicopter	27,105
Trapped	58,991
Denned	16,710
Ground shot	12,682
Snared	4,747
Dogged	465
M-44	<u>1,637</u>

TOTAL 140,426

The following were also killed:

Bear	292
Bobcat	4,795
Lion	61
Fox	7,030

X X X

Fish and Wildlife Service, Department of the Interior

1975 Animal Damage Control BA

Operational services - mammals (90% coyotes)	\$3,413,600
Extension services - mammals	340,300
Financial assistance - mammals	1,000,000
Operational services - birds	387,100
Extension services - birds	204,800
Research - mammals	1,680,200
Research - birds	1,035,000
Overhead	620,000

TOTAL \$8,681,000

	1974	1975	1976
Total BA	6,743,000	8,822,000	8,822,000
Obligations for coyotes	3,524,000	5,346,000	5,523,000

Data on Predator Control for Three Western Regions
(where coyote control operations occur)

	Federal	State Co-op
Control Agents:		
Coyotes	91.9 work years	310 work years
All other	55.0 work years	134 work years

Funds:

Control operations:

Coyotes	\$3,394,000	\$3,559,000
All other	991,000	1,386,000

(There are not direct
State control operations)

Operational expenses include: salaries of field personnel, travel (per diem), hire of aircraft, purchase of control tools (radios, shells, traps), and purchase of vehicles.

Research (\$000's)

	<u>In-house</u>	<u>Contract</u>
Fish and Wildlife Service:		
Coyote	1,100	225
All other	1,682	53,700
Agriculture Department:		
Coyote	2,100 (369 pure, 1,800 applied research)	
All other	0	0
State Co-op:		
Coyote	0	0
All other	714	0

There is extremely little coordination of research between departments and the Federal and State research efforts.

Service Funds Expended in the ADC Program by State in FY 74*
(from State Annual Reports)

California	\$227,512
Idaho	238,200
Nevada	188,550
Oregon	187,100
Washington	70,446
	<u>911,828</u>
Arizona	\$ 75,000 (estimate)
New Mexico	257,850
Oklahoma	146,561
Texas	300,384
	<u>759,795</u>
Illinois	\$ 33,800
Indiana	19,500
Michigan	11,500
Minn. - Wisc.	30,000
Ohio	89,600
	<u>184,400</u>
Ala. - Miss.	\$ 13,078
Arkansas	14,380
Florida	8,157
Georgia	9,300
Ky. - Tenn.	9,272
Louisiana	15,786
N.C. & S.C.	19,565
	<u>89,538</u>
Conn. - Mass. - R.I.	\$ 17,593
Maine	11,600
Maryland	24,225
New Hampshire	6,700
New Jersey	18,200
New York	13,661
Pennsylvania	14,300
Vermont	5,225
Virginia - W. Virginia	28,768
	<u>140,272</u>
Colorado	\$ 84,939
Montana	218,843
Nebraska	54,382
N. Dakota	46,467
S. Dakota	92,095
Utah	183,000
Wyoming	234,752
	<u>914,478</u>

*Regional Office expenses not included.

TOTAL 3,000,311

Eagles

Eagles are also a part of the predator control problem. Here, again there is limited knowledge, yet strongly held views for and against the control of eagles. The Cain report computed that even if all eagles ate only sheep, total losses would be only 1% of the sheep crop. The Fish and Wildlife Service Predator Control staff does not believe these figures, and assumes greater eagle losses, although these are unproven. Nevertheless, the Service conducts eagle removal programs in Montana (capturing, and transporting live eagles far from the sheep grounds). There is no doubt, however, that eagles will attack young lambs. But American sentiment views the eagle as a special species. Golden and Bald Eagles, for example, are the only animals directly protected by an act of Congress (other protection laws arise from treaty obligations).

While few eagles were reported as inadvertant victims of 1080, the thallium sulfate--caused death of 48 eagles made the non-selectivity of toxicants a major concern. In 1972-73, nearly 2,500 eagles were accidentally killed by fur trappers in just 7 Nevada counties. These were due to sight-bait (e.g., a chicken wing tied to a tree with a trap underneath it), however, and have since been banned in favor of scented baits. Scented baits such as M-44 have not yet caused the death of any eagles, although a turkey vulture and a raven have been reported dead.

Currently, golden eagles may only be killed when the Secretary of the Interior issues permits at the request of the governor of a state.

ALTERNATIVES IN PREDATOR CONTROL

Existing Restraints on Toxicant Use

- A. Executive Order 11643
- B. Registration requirements of FIFRA, as amended

Alternatives*

- | | |
|--|---|
| I. Retain Executive Order
Continue emergency M-44 use
Maintain present level of mechanical control | VIII. Amend E.O. to allow M-44, private lands
Continue emergency M-44 use, public lands
Maximize aerial control |
| II. Retain Executive Order
Continue emergency M-44 use
Maximize aerial control (\$1.905 million) | IX. Same as VIII above
Tighten 1080 & strychnine emergency use restrictions |
| III. Rescind Executive Order
Toxicant registration determined by EPA | X. Suspend E.O. to allow M-44 until toxic collar ready
Present level of mechanical control |
| IV. Amend E.O. to allow M-44 use
Present level of mechanical control | XI. Suspend E.O. to allow M-44 until toxic collar ready
Maximize aerial control
Zone M-44 use |
| V. Amend E.O. to allow M-44 use
Maximize aerial control (\$1.595 million) | XII. Suspend E.O., M-44 private lands only until toxic collar
Present level of mechanical control |
| VI. Amend E. O. to allow M-44 use
Maximize aerial control
Zone M-44 use | XIII. Suspend E.O., M-44 private lands only until toxic collar
Maximize aerial control |
| VII. Amend E.O. to allow M-44, private lands
Continue emergency M-44 use, public lands
Present level of mechanical control | XIV. Amend E.O., use M-44 and individual 1080 baits |
| | XV. Amend E.O., prohibit only toxicants with secondary
poisoning effects. |

* All alternatives will continue the accelerated research program now operational

