

Testimony of Daniel M. Ashe  
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Good morning Ms. DeLauro and Members. My name is Dan Ashe, and I am the President and CEO of the Association of Zoos and Aquariums, and the recent, former director of the United States Fish and Wildlife Service. The Association of Zoos and Aquariums, or AZA, as we are popularly known, is an accrediting body and professional organization. AZA accreditation is the gold standard in the global zoological profession, and our 233 members are among the world's great aquariums and zoos.

I am testifying today to share my experience as a former federal agency executive and director on the effects and management of a federal government shutdown. However, I also now have the experience of a regulated party and partner organization, and I would happily provide that perspective should you have questions.

It's an honor to share my thoughts on the ongoing federal government shutdown. As a 22-year career employee of the U.S. Fish and Wildlife Service, I managed the organization through shutdowns in 1995 (5 days), 1996 (21 days), and in 2013 (16 days). During all of these, I was an excepted executive employee, and of course, during the 2013 shutdown, I was the Director.

My overwhelming belief is that any shutdown of the federal government is debilitating to the mission and operation of any agency; disruptive to longstanding relationships with partners, constituents and regulated communities; and demoralizing for the outstanding professionals who have dedicated their lives to public service.

In the current context, any statement on this might be interpreted as partisan, so let me take care to align myself with recent and bipartisan criticisms of government shutdowns, including these from Republican members:

Useless (Sen. Capito); unnecessary (Rep. Upton); ludicrous (Rep. Herrera Beutler); costly (Rep. Katko); irresponsible (Rep. Paulsen); and stupid (Rep. Kinzinger).

Senator John Cornyn said, "People expect their government to work."

Representative Brian Fitzpatrick said, "No shutdown is good."

I say, Amen!

Let me also say that any comment or observation I make must be considered in the context of my deep sympathy and admiration for the public servants—career and political—who are managing the government during this shutdown. Their task—to extract sanity from an insane situation—is impossible. No shutdown is good. Every shutdown is the definition of chaos. Trying to manage a shutdown is chaos on top of chaos.

In each of the shutdowns that I experienced, we followed what I believe is a simple policy construct. You begin with the premise that to avoid violating the Anti-deficiency Act, the head of an agency must suspend agency operations until an appropriation is enacted. In the absence of an appropriation, the agency head can “except” certain activities and employees only when there is a reasonable and articulable connection between that function and the safety of human life or protection of property.

By following this simple and strict construct, we ensured that we had a clear and consistent approach and answer as we faced question, concern and criticism from the myriad people and interests adversely affected by the shutdown, and the attendant political pressures.

That construct can be summarized as “Closed means closed.”

We could assure people that we wanted nothing more than to resume normal operations, and we would do so, immediately, upon enactment of an appropriation.

It was important to have a clear, objective and consistent policy because the effects of a shutdown on a field organization like the U.S. Fish and Wildlife Service are significant, and they magnify with each passing day. The National Wildlife Refuge System is closed. Migratory bird surveys are suspended. Permit processing is halted, but permit applications keep coming. Every employee in travel status is recalled, and meetings, some months or even years in the making are cancelled.

The Service’s work involves a complex orchestration of people, partners, equipment and transportation. When staff is furloughed, all logistical planning and preparations stop. Losing 3 or 4 weeks, in January, can mean that spring or summer field work doesn’t happen. If you miss a field season window, the project will have to wait another year. In short, a shutdown reverberates through the entire organization. Its effects begin at least a week ahead, as the agency’s shutdown plan is activated and attentions are directed to shutting the organization down. They extend for months afterward, as the agency rebounds and catches up with backlogged work. As I said in opening, it is debilitating from an operational and mission perspective.

For the U.S. Fish and Wildlife Service, the jagged edge of controversy over past shutdowns—and the current one—has been the National Wildlife Refuge System. The refuge system consists of 567 units, protecting approximately 750 million acres of land and water, and welcoming nearly 50 million visitors annually. Closing the refuge system locks out hunters, anglers, birdwatchers, hikers, photographers, school children, and others. Closing is anathema to the organization, especially during the time of year when hunters are afield and the fall/winter bird migration is at its apex.

There was always tremendous pressure to make the closures more “surgical.” Couldn’t we allow some refuges to remain open? Perhaps under state or volunteer management? Perhaps using fee money or carryover funds from the previous year? Perhaps leave gates open and let visitors come to an unattended refuge? In our view, none of this was appropriate or lawful.

First, the organic statute for the refuge system is the National Wildlife Refuge System Administration Act. It requires the Director to strategically manage a “refuge system.” We viewed a piecemeal, refuge-

by-refuge, approach to managing through a shutdown as the absolute opposite. All 567 refuges are integral parts of a system.

Closed means closed.

The law requires that all refuge uses be “compatible” with the system and refuge purposes. If the refuge cannot be staffed, and “uses” not carried out under the control of authorized refuge personnel, then how can those uses be “compatible”? By law, compatibility determinations are written. I am unaware of a single determination that considers the management of uses during a shutdown.

And yes, we always had fee money, or carryover from prior years that could be used to fuel some degree of limited, temporary operations. I suppose there is a legal theory that would allow this, but it seems to strain compliance with the Anti-Deficiency Act’s requirement for there to be a reasonable and articulable connection to the safety of human life or protection of property for agency operations during a shutdown. And remember, to use fee money or carryover to support refuge operations, you have to activate financial and payroll staff who have an even more tenuous connection to safety of human life and protection of property.

If we decided to use carryover to open selected refuges, how would we decide which ones, and how would we explain to constituents at Florida’s Merritt Island NWR that they remain closed, but we decided to open Ding Darling NWR on the state’s gulf coast? How do we explain to Wyoming’s congressional delegation that National Elk NWR, in Jackson, is closed, but Utah’s Bear River is open? Any answer is going to be unsatisfactory, and create the implementation that we are playing politics.

And carryover does not come from some slush fund, somewhere deep in the refuge system or Service budget logs. It is money that was allocated to a purpose and a place. There is almost always a very good reason that it was unspent in the prior year, and always a specific plan to use it during the current year. So, reallocating carryover is a controversial and consequential decision. Using carryover to open one refuge means another refuge, likely several refuges, are paying the bill. They will have a project or projects that will be delayed, or worse, cancelled. They and their constituents and partners will be unhappy.

And if we could use carryover to open refuges, what about other Service programs with carryover. Should we use carryover to partially and temporarily open our migratory bird, endangered species, or international conservation programs? And if so, how would we decide what permit or grant applicants should get priority. We would be effectively picking shutdown winners and losers.

Taking such an approach would easily open us to criticisms of favoritism, bias, and politics.

It is unsatisfying and frustrating for an agency of doers, helpers and problem solvers to be sidelined. As I said earlier, every shutdown is chaos, and managing a shutdown is chaos on top of chaos. Our decision was to keep it clear and simple: Closed means closed.

Finally, I would add that the principal victims of the shutdown are the outstanding public servants who are furloughed, and placed on the sidelines, but especially, those who are excepted and asked to

continue working without pay. I spoke to a Wage Grade employee who is concerned about being able to make car and mortgage payments. I heard about a Refuge Officer, a single parent, who is being deployed to the southern border. Their work, their families, and their finances are being disrupted.

They have no choice; they are required to report for work; they are not being paid; they are not furloughed, so they can't apply for unemployment; they have essentially become indentured servants.

This is a tragedy and an embarrassment.

These are the same people who have responded, unflinchingly, when their nation called. In the days after September 11, 2001, they were guarding the Trade Center ruins, the St. Louis Arch and other national icons, and flying as air marshals. They deployed with boats, generators, and chainsaws in the wake of Hurricane Katrina. Fully one-quarter of the Service workforce deployed to the Gulf of Mexico to help respond to the BP oil spill. These people represent the very best in public service. They deserve better.

Recently, it was announced that the Service is planning to use carryover funds to allow the opening of selected refuges. As I said above, we did not do that during the shutdowns I helped manage. I'm sure it's legal. I'm certain it's irresponsible.

If the agency is going to use its carryover funds, they shouldn't be used to soften the effects of the shutdown by allowing selected people to hunt or celebrate or recreate on selected refuges during the shutdown, while excepted personnel are required to work but not being paid; the wage-grade maintenance professional; the GS-9 refuge officer; the indentured servants who are protecting life and property. They, their families, and their well-being should be top of mind during this difficult time. They deserve better.

There's an easy way to open refuges to hunters and others. End this shutdown.

In summary, no shutdown is good. Shutdowns are debilitating, disruptive, and demoralizing. Shutdowns are chaos, and managing a shutdown is chaos on top of chaos. It is inherently unmanageable.

Thank you for this opportunity, and for your concern. I'll leave you with the words of author Will Durant:

"Civilization begins with order, grows with liberty, and dies with chaos."