



Testimony of Elly Pepper

Before the House Natural Resources Committee Subcommittee on Water, Oceans and Wildlife

July 18, 2019

Distinguished members of the House Natural Resources Committee, thank you for the opportunity to provide testimony on the CECIL Act. My name is Elly Pepper and I am the Deputy Director of the International Wildlife Conservation Initiative for the Natural Resources Defense Council (NRDC). NRDC is a national, not-for-profit environmental organization with more than three million members and online activists working to protect the world's natural resources, public health, and environment. NRDC has long placed a priority on wildlife conservation, working to extend protections to numerous species via robust implementation of the Endangered Species Act (ESA), international wildlife conventions like the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), state laws, and other mechanisms.

NRDC supports the aims of the CECIL Act, which are to ban imports and exports of species proposed to be listed under the ESA; require trophy import applicants to show that the removal and import of the species benefits conservation in a specific and meaningful way; ban elephant and lion trophy imports from Tanzania, Zimbabwe, and Zambia; impose fees on trophy permit applications; provide greater transparency over trophy import permits; terminate the International Wildlife Conservation Council (IWCC); and commission a Government Accountability Office (GAO) study on the effectiveness of trophy hunting in supporting international wildlife conservation. Though we are always concerned about amending the ESA, especially given various efforts to undermine the statute, we believe the CECIL Act's requirements are critically-needed and long overdue. It is worth noting that the bill does not ban trophy hunting or stop all imports – although the committee may want to visit that issue at another time – but simply helps ensure the U.S. trophy import process does what its proponents claim it does: direct the proceeds from trophy hunting to species conservation.

We are living in a very different time than when trophy hunting began. Then, wildlife was seemingly plentiful and the global community was unaware of the threats wildlife species would face in the future. Today, we know from sources like the recently-released Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) Global Assessment Report that one million species face extinction due to human actions, many within decades, including the kind of species that are targeted by this legislation.¹ The top driver of this extinction crisis, behind changes in land and sea use, is direct exploitation, which includes trophy

¹ IPBES. (2019). Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services at 3. H. Ngo, M. Gueze, J. Agard, A. Arneth, P. Balvanera, K. Brauman, S. Butchart, K. Chan, L. Garibaldi, K. Ichii, J. Liu, S.M. Subramanian, G. Midgley, P. Miloslavich, Z. Molnar, D. Obura, A. Pfaff, S. Polasky, A. Purvis, J. Razzaque, B. Reyers, R.R. Chowdhury, Y. Shin, I. Visseren-Hamakers, K. Willis, and C. Zayas (eds.). IPBES secretariat, Bonn, Germany.



hunting and international wildlife trade.² Massive biodiversity loss will not only have devastating impacts on wildlife itself—but also on humans. In fact, many scientists assert that the destruction of nature is as dangerous to human life as climate change – and may threaten human life sooner than global warming – because it can result in cascading effects that reduce overall ecosystem functioning. These alarming predictions are based on business as usual, clearly showing that the status quo – including international conservation efforts and regulatory mechanisms – is not working.³ Especially given the severity of this biodiversity crisis and the inadequacy of current efforts, trophy hunting of species threatened with extinction (i.e., those listed as Vulnerable, Endangered, or Critically Endangered on the International Union for Conservation of Nature’s (IUCN) Red List) is ludicrous.⁴

Even more perplexing is that, amidst this biodiversity crisis, the Administration established an advisory committee to promote the antithesis of sound conservation policy and strike at the heart of the Fish and Wildlife Service’s mission to “conserve, protect and enhance fish, wildlife and plants and their habitats for the enjoyment of the American people.”⁵ Indeed, the International Wildlife Conservation Council or IWCC, was created in 2017 to “advise the Secretary . . . on the benefits international hunting has on foreign wildlife and habitat conservation, anti-poaching and illegal wildlife trafficking programs, and [on] other ways in which international hunting benefits human population in these areas,” despite that trophy hunting carries many significant *negative* repercussions. In doing so, the Council flouts the responsibilities Congress gave the Service—namely to conserve species in danger of extinction through the ESA and to regulate trade with the goal of protecting species from overexploitation through CITES. The activities the Council’s charter instruct it to take on further show that it contravenes the Service’s mission, including “recommending removal of barriers to the importation into the United States of legally hunted wildlife,” “providing recommendations that seek to resume the legal trade of [banned] items,” “providing recommendations for regulations that will lead to a reduction of unwarranted [seizure and forfeiture] actions,” and “reviewing the Endangered Species Act’s foreign listed species . . . with the goal of eliminating regulatory duplications.”⁶ These activities interfere with the Service’s legal mandate to help provide adequate safeguards for international species to alleviate inadequate regulation in countries where trophy hunting transpires, the loss of hunting-related conservation revenue to corruption, the deleterious trafficking of rare and endangered species, and circumstances where hunting-related deaths of imperiled species outpace births.⁷ They also

² *Id.* at 3-4.

³ *Id.* at 5, 6, 25. *See, e.g.,* Frank, E.G. & Wilcove, D.S. (2019). *Long delays in banning trade in threatened species.* *Science* 363 (6428) (finding: (1) that the CITES process of regulating trade in threatened species lags considerably behind the IUCN identification of species in need of protection from trade, with CITES listing species an average of 10.3 years after the IUCN assesses them as being threatened by international trade; and (2) that over 28% of species listed on the IUCN Red List as Vulnerable, Endangered or Critically Endangered are not protected under CITES Appendix I or II).

⁴ *Id.* at 17.

⁵ U.S. Fish and Wildlife Service Website, *About the U.S. Fish and Wildlife Service*, https://www.fws.gov/help/about_us.html.

⁶ International Wildlife Conservation Council Charter, <https://www.fws.gov/iwcc/pdf/international-wildlife-conservation-council-charter.pdf>

⁷ *See, e.g.,* 16 U.S.C. § 1537(b) (requiring FWS to work with the Secretary of State to encourage foreign countries to promote the conservation of listed species).



place the fate of species that are legally required to be managed based on the best available science, to trophy hunting enthusiasts—essentially outsourcing international conservation policy from conservation biologists to hunters.

The IWCC’s mission also directly contravenes the public interest, which has shown widespread support for the conservation of imperiled species and opposition to trophy hunting of endangered species. We have only to look to the public outcry when Cecil the lion, for whom this bill was named, was killed by a trophy hunter or when President Trump removed trophy import restrictions for Tanzania and Zimbabwe to see that the American public cares deeply about wildlife.⁸ As such, a council that advises the Interior Secretary only on the benefits of trophy hunting, while ignoring its many drawbacks, goes against the interest of the public, which is funding the Council through taxpayer dollars.

Not only is the IWCC’s mission incompatible with the public interest in sound wildlife conservation and the Service’s mission, but its membership is also extremely unbalanced. While conservation groups nominated staff for representation on the IWCC during the member selection process, the Interior Department rejected these applications in favor of 18 advocates for trophy hunting, the proliferation of firearms, and the importation of exotic animals and/or their parts. As a result, the Council does not include a single expert in global wildlife and habitat conservation, international trade, or foreign aid.⁹ Indeed, four of the five nongovernmental groups represented on the Council share the same vested interest in deregulating trophy hunting as doing so will reduce costs or raise profits for their members. Moreover, the Council’s membership is heavily tied to a few pro-trophy hunting lobbying groups. Eight of the Council’s members are connected to Safari Club International or Conservation Force, avowedly pro-trophy hunting organizations. Additionally, six Council members have connections to firearm manufacturers or the National Rifle Association (NRA). One of the Council’s members is a registered lobbyist for the NRA, despite FWS’s prohibition on lobbyists serving as advisory committee members. And the Council’s initial point of contact with the Department is a former NRA lobbyist.

If this weren’t troublesome enough, the Council’s charter is entirely devoid of provisions that could conceivably moderate the influence of the hunting interests dominating the Council. For example, Council member John Jackson, President of Conservation Force, participated in a Council discussion about lifting the three-year-old ban on importing lion trophies from Tanzania

⁸ A 2015 survey conducted by Marist Institute for Public Opinion determined that 86% of Americans, 75% of gun owners, and 65% of hunters oppose trophy hunting of big game like elephants and lions, with 62% of Americans, 48% of gun owners, and 34% of hunters believing the practice should be prohibited by law. HBO Real Sports/Marist Poll, *Americans Oppose Big Game Hunting... More Than Six in Ten Favor Legal Ban*, 2015, Available at http://maristpoll.marist.edu/wpcontent/misc/usapolls/us151001/Sports/HBO%20Real%20Sports_Marist%20Poll_Complete%20Survey%20Findings_November%202015.pdf.

⁹ The Council has spoken candidly of its lopsided membership. At the Council’s meeting in June 2018, for example, Council member Steve Chancellor suggested that conservation community “join us, not fight us,” tacitly conceding that no members of that community were among the Council’s membership. With no members of the conservation community actually sitting on the Council, member Keith Mark openly characterized those who might disagree with the Council’s monolithic point of view as “a vocal subset of the population.”



even though he routinely submits applications for import permits on behalf of Conservation Force members, including at least one request to import a lion from Tanzania in 2018.

Finally, the IWCC is also illegal under the Federal Advisory Committee Act (FACA), which is why NRDC, the Center for Biological Diversity, Humane Society International, and Humane Society of the United States, represented by Democracy Forward, have sued to have it terminated. FACA was enacted in 1972 to curb the executive branch's reliance on superfluous and secretive advisory committees. Prior to FACA, special interests had used these committees – and the associated veneer of governmental legitimacy – to drive federal decision-making outside the light of public scrutiny, participation, and debate.¹⁰ Congress saw “great danger[]” in “special interest groups [using] their membership on such bodies to promote their private concerns.”¹¹ As such, FACA requires that federal advisory committees be in the public interest,¹² fairly balanced among competing points of view,¹³ and structured to avoid inappropriate influence by special interests.¹⁴ Additionally, committees must make their meetings open to the public and disclose all documents produced to or by their membership.¹⁵ As explained previously, the IWCC actually *contravenes* the public interest, is comprised of an illegal list of members, and is rife with undue influence by special interests. Further, the Council has failed to exhibit transparency and encourage public participation. Indeed, several IWCC meetings have not provided the required 15-day notice,¹⁶ disallowed members of the public from addressing the committee,¹⁷ and failed to produce meeting documents prior to such meetings, thereby foreclosing public participation.¹⁸ The Council has met in secret with DOI officials including then-Secretary of the Interior Ryan Zinke, Secretary David Bernhardt, and Senior Deputy Director Benjamin Cassidy, who became the Safari Club's Director of Government Affairs this

¹⁰ See H.R. Rep. No. 92-1017 at 2, 6. See also *Pub. Citizen v. DOJ*, 491 U.S. 440, 453 (1989) (“FACA was enacted to cure specific ills, above all the wasteful expenditure of public funds for worthless committee meetings and biased proposals . . .”).

¹¹ H.R. Rep. No. 92-1017 at 6. As an example, Congress pointed to a committee where “only representatives of industry were present” and “[n]o representatives of conservation, environment, clean water, consumer, or other public interest groups were present.” *Id.*

¹² 5 U.S.C. App. II § 9(a)(2); 41 C.F.R. § 102–3.30(a).

¹³ 5 U.S.C. App. II § 5(b)(2), (c) (requiring that “the membership of [an] advisory committee [] be fairly balanced in terms of points of view represented and the functions to be performed by the advisory committee.”).

¹⁴ 5 U.S.C. App. II § 5(b)(3), (c) (stating that the advisory committee's charter must contain appropriate provisions to “assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment[.]”).

¹⁵ 5 U.S.C. App. II § 10(a)(2)-(3). See also 41 C.F.R. § 102–3.150 (requiring advisory committees to publish notice of their meetings “at least 15 calendar days prior” to the meetings, unless documented and “exceptional circumstances” require otherwise); 41 C.F.R. § 102–3.150(a), (d) (requiring that all meetings must be held “in a manner or place reasonably accessible to the public” and allow “[a]ny member of the public [to] speak to or otherwise address the advisory committee if the agency's guidelines so permit.”); 5 U.S.C. App. II § 10(b) (requiring that advisory committees make available “the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for” the committee.).

¹⁶ 41 C.F.R. § 102–3.150.

¹⁷ *Id.* § 102–3.150(a), (d).

¹⁸ See *Food Chem. News v. Dep't of Health & Human Servs.*, 980 F.2d 1468, 1472 (D.C. Cir. 1992) (Materials must be released well before the relevant meeting, so that the public can “follow the substance of the [committee's] discussions.”)



month.¹⁹ The Council has also established at least three subcommittees that have met privately but failed to announce such meetings to the public or release documents prepared for such meetings.²⁰

On June 14, the Administration issued an Executive Order requiring agencies to terminate at least 1/3 of their advisory councils in certain situations, including where the agency determines that the cost of operation is excessive in relation to the benefits to the Federal Government. The IWCC has a budget of \$250,000 per year according to its charter. This amount of money far outweighs the Council's benefits, which are precisely zero. This sham Council, which has now been constituted for 18 months, has yet to even produce a single recommendation—at least not one that has been disclosed to the public. If the Administration does not use this EO to disband the IWCC immediately, we fully support this legislation doing so.

¹⁹ For example, both the evening before and the morning of the Council's first meeting, the full Council was invited to convene with DOI officials including Secretary Zinke, Deputy Secretary David Bernhardt, and Ben Cassidy, the agency's Senior Deputy Director for Intergovernmental and External Affairs and a former lobbyist for the National Rifle Association who recently became the Safari Club's Director of Government Affairs.

²⁰ Beyond FACA's requirement for public notice and participation, an advisory committee must also make available "the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for" the committee. 5 U.S.C. App. II § 10(b). Pursuant to the Department's Manual, these obligations extend to the IWCC's subcommittees and working groups. *See* DOI, Department Manual, 308 DM 2.11, available at <https://www.doi.gov/elips/browse>.