

Testimony of Michael Sutton

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

The Bear Protection Act, H.R. 2264, the Captive Primate Safety Act, H.R. 1776,

and the Murder Hornet Eradication Act, H.R. 6761

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Good morning and thank you for inviting me to testify in support of H.R. 2264, the Bear Protection Act, H.R. 1776, the Captive Primate Safety Act, and H.R. 6761, the Murder Hornet Eradication Act. My name is Michael Sutton, and I am a resident of Carmel Valley, California. I serve as executive director of the Goldman Environmental Foundation, which awards the annual Goldman Prize—the “Nobel Prize for the Environment.” Over the past 30 years, we have honored nearly 200 environmental leaders and activists in almost 90 countries.

Today I appear in my personal capacity and base my testimony on an entire career spent working in wildlife conservation. I have chaired the Boards of numerous organizations involved in conservation and science and served as a National Park Ranger, U.S. Fish and Wildlife Service Special Agent, and President of the California Fish & Game Commission, appointed twice by Governor Arnold Schwarzenegger (2007-2015). I also served on the state’s Wildlife Conservation Board, making \$100 million in grants for land conservation each year. I hold a bachelor’s degree in wildlife biology from Utah State University, studied ecology at the University of Sydney, Australia, and earned a law degree in international and natural resources law from George Washington University Law School.

I testify today in support of H.R. 2264, the Bear Protection Act (BPA), and offer thanks to Reps. Ted Lieu, Rodney Davis, Ann Kuster, and Glenn Thompson for introducing the measure. This legislation enjoys bipartisan support, as does H.R. 1776, the Captive Primate Safety Act, led by Reps. Earl Blumenauer and Mike Fitzpatrick. More than a decade ago, the Captive Primate Safety Act passed the House twice with overwhelming majorities. I want to note that Animal Wellness Action, the Animal Wellness Foundation, and the Center for a Humane Economy have endorsed this testimony and these bills.

The Illegal Wildlife Trade Threatens Many Species, Including Bears

Throughout my career, I have worked to stem the illegal trade in wildlife, including bear parts, rhino horn, elephant ivory, shark fins, and rare plants. It’s no secret that this trade puts enormous pressure on many wildlife species around the world. That’s why I worked to shut down the international trade in elephant ivory, investigated the smuggling of bear parts, and helped enact legislation making it illegal to possess shark fins in California.

Almost a decade ago, when I served as Vice President of the Monterey Bay Aquarium, we sponsored legislation in California to outlaw the trade in shark fins, which then California Assemblyman Huffman authored and helped enact. Not only was the practice of killing sharks

for their fins wasteful and inhumane, but it contributed to the decline of shark populations worldwide. Californians overwhelmingly supported this legislation. Indeed, many fellow fishermen joined me in this legislative effort, since those of us in the sportsmen's community have a deep aversion to killing for no legitimate purpose. I feel similarly about killing bears just for their parts and products.

The recent announcement by Chinese government officials that bear bile can be used as a treatment for COVID-19 was an ominous signal that demand for the parts of bears may surge and put enormous pressure on bears in the wild. That fact should draw the attention and urgent action by policy makers in the United States and other nations that are Parties to international wildlife treaties.

While the news from China is head-turning, the exploitation of bears for their parts and products is not a new issue for me or to conservationists in China, the United States, and other nations. This has been a long-standing concern at home and abroad.

In the U.S. and across the world, poachers kill bears and their cubs and, in some cases, take only their gallbladders, and sometimes their paws, leaving the rest of the bear behind. The gallbladders are easy to conceal and command a high price on the black market (in some cases more than \$1,000 each) owing to demand for them in traditional Chinese medicine. The trade is heavily centralized in China, South Korea, and Vietnam, where bears are also farmed for their bile in what amounts to a horror show—bears are kept in small cages for years with a tube inserted directly into their gallbladders to obtain bile until the bear eventually dies from infection. Asian Bear populations have dwindled, and for decades, Old World and New World bears have been targeted for the trade.

All eight of the world's bear species are protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The spectacled bear (*Tremarctos ornatus*), Asiatic black bear (*Ursus thibetanus*), sun bear (*Helarctos malayanus*), sloth bear (*Melursus ursinus*), giant panda (*Ailuripoda melanoleuca*), and some subspecies of brown bear (*Ursus arctos*) are listed on CITES Appendix I, which prohibits international commercial trade in their parts and products. Other species, including the polar bear (*Ursus maritimus*), some brown bear populations, and the American black bear (*Ursus americanus*) are listed on Appendix II, which means some international trade in their parts and derivatives can occur under very specific regulations and permits. The polar bear is listed as "threatened" under the U.S. Endangered Species Act. Some subspecies of black bears in the United States, the Florida black bear and the Louisiana black bear, are rare; only in 2016 was the latter subspecies removed from the federal list of endangered and threatened species.

At the 10th meeting of the Conference of the Parties to CITES in Zimbabwe more than two decades ago, the United States co-authored a Resolution on "Conservation of and Trade in Bears." The Resolution, which was adopted unanimously, begins by: "NOTING that the continued illegal trade in parts and derivatives of bear species undermines the effectiveness of the Convention and that if CITES Parties and States not-party do not take action to eliminate

such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.”

The resolution “URGES all Parties, particularly bear range and consuming countries, to take immediate action in order to demonstrably reduce the illegal trade in bear parts and derivatives by the 11th Meeting of the Conference of the Parties, by: a) confirming, adopting or improving their national legislation to control the import and export of bear parts and derivatives, ensuring that the penalties for violations are sufficient to deter illegal trade.”

This resolution prompted regulatory and legislative bodies to act in our country and throughout the world. Congress responded but was not able to complete its work. Senator McConnell introduced a bill, and it passed the Senate twice in the years following the 10th Conference of the Parties. A House bill, although it had strong bipartisan support, languished and was never passed.

State Laws Do Not Adequately Protect Bears from International Trade

Then, as now, protecting bears is a global issue that reaches deep into the forests of the United States. I’ve tracked poachers killing bears in American forests and pursued wildlife traffickers illegally moving bear parts from Idaho through Washington state and into Canada. Our patchwork of state laws—some prohibiting the bear parts trade, and others silent, many with differing penalties—complicated my wildlife enforcement work. That’s one reason why I’ve long hoped that the U.S. can enact bear protection legislation to complement state efforts to crack down on the trade and treat bear poaching with the seriousness it deserves across the nation.

Today, with thousands of bears held in captivity in China, Vietnam, and other Asian nations, and with wild, free-roaming bears targeted by poachers on several continents, particularly in the northern hemisphere, there is an urgent need for this legislation. Here in the United States, bears face substantial threats from humans—from hunting, highway mortality, and habitat fragmentation to private and governmental predator control programs. The effect of these threats is cumulative and difficult to mitigate, largely because bears are among the slowest-reproducing species in the world. One tool in our kit should be to enact and enforce national laws to punish wildlife traffickers and to establish that killing bears for their bile and gallbladders is just plain wrong. Killing animals for these purposes runs counter to the principles of the North American Model for Wildlife Management and that’s precisely why 40 states have rules against it.

The demand for bear parts and products across America and in other countries drives bear poaching and the illegal trade, and ultimately puts endangered bear species at great risk. Bear parts and derivatives are used in traditional medicines and, increasingly, luxury cosmetic items. The United States has an especially important role to play in bear conservation since it is both a bear range state and a nation with residents who consume bear parts. Reps. Lieu and Davis have crafted a bill that focuses narrowly on a specific problem in global bear conservation: the highly lucrative trade in bear parts and products such as the gallbladders and bile. The legislation does nothing to limit states from managing their resident bear populations, establishing bear hunting seasons, or regulating methods of hunting.

I've long been a proponent of state wildlife conservation programs, and in my capacity as a Fish and Wildlife Commissioner, I treated my work to protect bears and other wildlife in our state of California as a solemn responsibility. Then, as now, I looked to the federal government to partner with the states, especially on matters where there is global trafficking in the parts of wildlife.

Killing a bear for its gallbladder is not a practice associated with legitimate hunting: According to a game warden who videotaped poaching activity involving a bear cub repeatedly stabbed after its mother's gallbladder had been removed, "the cruelty was beyond any of our expectations. We expected quick clean kills...but they relished in the killing."

Most states are doing their parts and are already in alignment with the policy goals of the Bear Protection Act.

- Alaska's Administrative Code notes that a "person may not purchase, sell, barter, advertise, or otherwise offer for sale or barter: (1) any part of a bear, except an article of handicraft made from the fur of a bear."
- California's Fish and Game Code includes a provision stating that "it is unlawful to sell or purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state" and that "the possession of more than one bear gall bladder is *prima facie* evidence that the bear gall bladders are possessed for sale."
- In Virginia it is unlawful to "offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law."

While 40 states have laws on the books to address this trade, these vary widely state-to-state. A trafficker in Colorado may face up to three years in prison and a \$100,000 fine, while someone selling a bear gallbladder in Kentucky may receive only a \$100 fine. Federal sentencing guidelines dictate that the market value of the item must be at least \$350 for a prosecution under the Lacey Act, but the courts often attribute a lesser amount to the value of a gallbladder. Fortunately, countries such as Vietnam have turned away from this cruelty and are working to end the practice. Ultimately, the trade must be prohibited to stop the poaching of American bears, and the United States can do its part by enacting the BPA.

In one case that illustrates the value of the Bear Protection Act, an individual in Alaska was offered bear parts by a man in Idaho where commerce is legal. She agreed to buy them, sent payment, and was arrested when she went to the airport to collect her purchase. Although each one of the Alaska resident's actions related to this unlawful purchase were committed within the state, the case was ultimately dismissed because the "legal site" of the purchase was not clearly defined.

The Alaska Attorney General's office concluded that this decision "will lead to the inevitable result of encouraging individuals to unlawfully take bears in Alaska, take them outside to places like Idaho where the sale of bear parts is still legal, and sell them to purchasers in Alaska through out-of-state strawmen. This is the very kind of conduct the legislature and Board of Game intended to prevent...this does not further the administration of justice."

During my years as a federal wildlife agent, I witnessed first-hand the extent and impact of the wildlife trade across our nation. I participated in undercover investigations such as Operation SOUP and Operation VIPER in the Shenandoah Mountains where a large number of people were involved in a sophisticated multi-state bear gallbladder smuggling operation. These operations uncovered the movement of bear galls from Virginia to the District of Columbia, Maryland, New York, West Virginia, and South Korea. At the time, Virginia prohibited trade, while West Virginia allowed the trade (as did the District and New York at the time). After these cases made national headlines, West Virginia prohibited commercialization of bear gallbladders.

In Idaho, however, misguided state legislators felt that hunters who legally kill bears should be allowed to sell their parts and products. But I saw first-hand how such legal trade promotes and encourages bear poaching. I support the efforts of the states to strengthen their laws but believe the federal government cannot afford to be a bystander when it comes to fighting the trade. When the federal government and the states are aligned, we send a powerful signal to poachers and global wildlife traffickers that we have zero tolerance for this conduct.

The Need for Congressional Action is Clear

The Congress and the U.S. Fish and Wildlife Service have taken action to combat the trade in wildlife parts in recent years, by restricting the trade in elephant ivory, rhino horn, tiger bones, and other parts and products of species at risk from the global wildlife trade. The Bear Protection Act is one more pathway to address this multi-dimensional, multi-species problem, in this case by banning interstate and foreign commerce in bear gall bladders and other viscera.

Consider how the global trade in elephant ivory was brought under control. In the 1980s, the United States was one of the world's largest traders in ivory, importing \$26 million worth of ivory every year. When Congress passed the African Elephant Conservation Act that banned the import of ivory in 1989, it wasn't long before the rest of the world followed our lead and protecting the African elephant under Appendix I of CITES in the early 1990s.

Another example I urge you to consider is our collective efforts to prohibit animal fighting. The states have varying rules to prevent dogfighting and cockfighting. Those state laws have been strengthened through the years, but some states have anemic penalties. The federal government, with the support of nearly all members of this committee, adopted a strong federal statute against animal fighting, with felony-level penalties. The states have their part to play, but the federal government has an especially important role in investigating and interdicting interstate traffic and foreign commerce—a capacity that is generally beyond the reach of the state game wardens.

When it comes to bears, we are dealing with a global trade and only with a strong federal law can we hope to match the skill and resourcefulness of the poachers and traffickers involved in the trade.

The Bear Protection Act is national legislation that meets this international goal. The passage of this legislation will not burden the Fish and Wildlife Service and its Division of Law Enforcement but serve as another tool that special agents can use as they see fit. They have

broad discretion in the cases they choose to pursue, and the enactment of this measure would not change their ability to exercise that discretion.

The world sadly watched for decades as the trade in elephant ivory, rhino horn, and tiger bone contributed to the precipitous decline of these species throughout their range. Government works best when it forestalls problems before a crisis develops. Let's not wait until we can no longer find bears in the wild before adopting consistent state and federal policies against a lethal practice that has no legitimate purpose. Trading in bears parts is neither ethnical nor sportsmanlike, and frankly it's not a legitimate industry. The Congress should give it no quarter.

Captive Primate Safety Act, H.R. 1776

I'd like now to turn to the Captive Primate Safety Act, which seeks to promote animal welfare and protect public health and safety by prohibiting interstate commerce in monkeys, chimpanzees, and other primates as pets. This bill, too, has a long history. In this case, the House passed this bill twice, but the Senate, despite approval of the measure by the Senate Committee on Environment and Public Works in 2007, did not get the bill across the finish line—the opposite of what happened with the Bear Protection Act.

Simply put, primates are wild animals and should not be kept as pets. They can inflict serious injuries and spread life-threatening diseases, and the average pet owner cannot provide the care they need in captivity.

More than two dozen states prohibit keeping primates as pets, but many others do not. Importing primates into the United States for the pet trade is prohibited because of the health risks. Still, there are countless thousands of primates in private hands, and they are readily available for purchase from exotic animal breeders and dealers, even online. Because many of these animals move in interstate commerce, federal legislation is needed to complement state laws. And I note that more action is needed at the state level, with Nevada, North Carolina, Oklahoma, South Carolina, Wisconsin, and a few other states acting as outliers on this issue.

The Captive Primate Safety Act will amend the Lacey Act by adding nonhuman primates to the list of animals that cannot be transported across state lines as pets. It does for primates what the Captive Wildlife Safety Act—which Congress passed unanimously in late 2003—did for lions, tigers, and other big cats. (Note this statute needs an upgrade that would be provided by enacting the Big Cat Public Safety Act).

This legislation is narrowly focused on the pet trade. It would have no impact on zoos, research institutions, or responsible wildlife sanctuaries. The bill addresses the trade and transportation of primates by untrained individuals. This legislation would make it illegal to attend an exotic animal auction in another state and bring home a pet monkey, or order one online from out-of-state.

Nonhuman primates kept in captivity need housing in large enclosures, the companionship of other nonhuman primates, and a stimulating environment—in short, the kind of environment provided by their natural habitat. The average pet owner cannot meet these needs.

The images in the media of monkeys and chimpanzees, sometimes dressed in human clothing and living as members of human families, present an entirely unrealistic picture of what keeping a primate requires. Primates isolated from their own kind and out of their native environments suffer physical and behavioral problems. Squirrel monkeys in the wild spend most of their time in treetops, rarely coming to the ground, in sharp contrast to their life as pets. The second floor or an attic of a home is not an adequate substitute for the canopy of a forest.

In the wild, female primates share a very strong bond with their young. Newborn tufted capuchins may cling to their mothers for weeks, remain in constant contact for months, and live in family groups for years. Primates in the pet trade may be taken from their mothers when they are just weeks or even days old. In the hands of primate breeders, breeding females are subjected to this loss again and again. When they fail to meet their owner's expectations, pet primates are often subjected to isolation and neglect, and owners may turn to very harsh means to try to control them. For example, some owners resort to removing the animal's canine teeth.

Primates are long-lived. There are few options for placing these animals, and authorities must look to animal welfare organizations to provide sanctuary to these animals when they are cast aside by pet owners who finally realized they were in over their head. This amounts to a massive unfunded mandate on the animal welfare community, which then has to pick up the pieces and provide decades of care for discarded animals. The costs are astronomical and cause many animal welfare organizations to struggle to pay the bills for problems not of their making. So many of these primate sanctuaries are at capacity, and that's a measure of the scale of the problem in our society.

Primates hand-raised by humans are deprived of appropriate models for their natural behaviors; it can be impossible to rehabilitate them to live with others of their kind.

While infant primates may seem easy to manage, they inevitably grow stronger and more aggressive. Even small monkeys can inflict serious harm by biting and scratching.

Children are particularly vulnerable to attack because primates view them as lower in social hierarchy, but adults are also at risk. Primates can move with great speed and agility—patas monkeys are said to reach speeds of 30 miles an hour. A 20-pound monkey can quickly overwhelm a 200-pound man, according to a Health Advisory issued by the Missouri Department of Health and Senior Services.

Primates can harbor diseases and parasites that can be transmitted to humans. These include viral diseases (such as herpes B, hepatitis, and monkeypox), bacterial diseases (such as tuberculosis, salmonella, and shigella), fungal diseases (such as ringworm), intestinal protozoans and worms, and external parasites. The deadly Ebola virus likely was first transmitted to people in Africa from non-human primates.

The National Association of State Public Health Veterinarians (NASPHV), in its Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, recommends prohibiting primates in exhibit settings where there is a reasonable possibility of human contact with the animals.

Public contact is especially likely when primates are kept as pets and transported into public settings. Due to the many health risks posed by nonhuman primates, both known and unknown, the importation of primates into the United States for the pet trade has been prohibited since 1975. Primates may be imported for research purposes and must undergo a quarantine period to detect evidence of disease.

“Nonhuman primates, by virtue of their genetic, physiologic, and sometimes social similarities to humans, are particularly likely sources of infectious agents that pose a threat to humans,” according to research published by the Centers for Disease Control and Prevention (CDC).

Herpes B virus is present in most adult macaques, though they may not display any symptoms. Transmission to humans has been rare, but humans who develop clinical signs of Herpes B virus have a very high mortality rate without immediate treatment.

Herpes B virus also has been found in capuchins, patas monkeys, and even colobus monkeys who were housed near macaques. Pet buyers and public health officials may be unaware of the danger.

Simian foamy virus (SFV) is a retrovirus that infects a range of nonhuman primates. According to Canadian health authorities, about 70 to 90 percent of nonhuman primates born in captivity have SFV. In 2006, in light of the potential risk of SFV and as yet unidentified simian viruses, Canada prohibited blood donations by people who ever took care of or handled monkeys or their body fluids on a regular basis in their jobs.

Humans and nonhuman primates share susceptibility to wide array of bacterial agents including the bacterium that causes tuberculosis. Monkeys imported for research, particularly from countries with a high incidence of the disease, have been found to be carrying tuberculosis. Tuberculosis also can be transmitted from humans to nonhuman primates, and it can be fatal to them.

Because of the serious risk of disease transmission combined with the likelihood of escapes and attacks, keeping primates as pets threatens public health and safety. It also threatens the welfare of the animals. These social, intelligent animals should not be separated from others of their kind, forced to live in unsuitable environments, and confined in small cages to sequester these dangerous animals from people.

We understand people’s fascination with primates because they seem so much like us. But unlike cats and dogs—domesticated over thousands of years and dependent upon us for shelter and care—primates are wild animals. No amount of training or human affection will change their basic instincts. Because of their genetic similarity to us, they are ideal hosts for passing zoonotic diseases to people. For all of these reasons, they belong in the wild, not in our backyards and basements.

This legislation does not prohibit keeping primates as pets, but by prohibiting interstate movement it will discourage the trade and help protect the animals and the community.

This measure, like the Bear Protection Act, is a complement to relevant state laws and sets a bright-line national policy that keeping primates as pets is unacceptable. I urge support for both measures.

Murder Hornet Eradication Act, H.R. 6761

Finally, I'd like to signal my support for Chairman Grijalva's Murder Hornet Eradication Act, which would provide funds to study and eradicate this non-native insect in the United States.

When Asian giant hornets (*Vespa mandarinia*) more than two inches long were discovered in the Pacific Northwest earlier this year, the public was justifiably alarmed. This is the world's largest hornet, a species native to Asia. The species was dubbed the "Murder Hornet" for fear that multiple stings could prove dangerous and even fatal to humans. In Japan, Murder Hornets are blamed for the deaths of several people each year.

But the biggest danger posed by the giant hornet likely is to honeybees and other native insects, not necessarily to human well-being as feared. In that sense, this invasive species is no different than many others that threaten native wildlife. The hazards posed by invasive species, both terrestrial and marine, are well documented.

Governments around the country spend millions of dollars each year trying to eradicate invasive species or limit the damage they do to native wildlife and agriculture. In some cases, as with the Asian giant hornet, the danger is to valuable native species like the honeybee. Roughly a third of all the world's food crops depend on bees as pollinators, and these vital pollinators are critical to securing more than \$200 billion in crop yields globally every year, according to U.N. Food and Agriculture Organization. Because murder hornets decimate bee populations, they threaten not only biodiversity, but also food supplies, and agricultural and economic prosperity.

You can imagine the damage to our agricultural sector if honeybees were eradicated by so-called Murder Hornets. Indeed, giant hornets aside, honeybees face so many threats today that many farmers are compelled to pay beekeepers to place their hives in orchards and fields so their bees can pollinate the crops.

The discovery of Asian giant hornets in the Pacific Northwest this year was not the first time this species has been found in the United States. Agriculture inspectors in California have documented several examples of the species invading our state.

For these reasons, I support the Chairman's Murder Hornet Eradication Act so that the federal government may provide assistance for research aimed at documenting the danger posed by this invasive species to both industry and public health and determine ways to meet that challenge.