



To: Subcommittee on Water, Oceans and Wildlife Republican Members
From: Subcommittee on Water, Oceans and Wildlife Republican Staff; Kiel Weaver (Kiel.Weaver@mail.house.gov), Annick Miller (Annick.Miller@mail.house.gov), and Rob MacGregor (Robert.MacGregor@mail.house.gov)
Date: July 18, 2022
Subject: Hybrid Legislative Hearing on H.R. 4951, H.R. 7918, H.R. 7975, H.R. 8090

The Subcommittee on Water, Oceans and Wildlife will hold a hybrid legislative hearing on H.R. 4951, *Canyon's Law* (DeFazio); H.R. 7918, the *Sea Turtle Rescue Assistance Act of 2022* (Keating); H.R. 7975, the *Great Lakes Restoration Semipostal Stamp Act of 2022* (Walberg); and H.R. 8090, *to reauthorize funding for the Reclamation Climate Change and Water Program* (Porter) on **Thursday, July 21, 2022, at 9:00 a.m. EDT**, in room 1324 Longworth House Office Building and via Cisco Webex.

Republican Members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Rob MacGregor (Robert.MacGregor@mail.house.gov) **no later than Tuesday, July 19, at 4:30 p.m. EDT**, if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (EverettWinnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- At a time when 40 states and more than 116 million Americans are being impacted by drought¹ and western reservoirs are at record low levels, the Democrat majority has yet to advance comprehensive legislation this year to proactively address the growing water crisis.
- The Republican-sponsored bill, H.R. 7975 (Walberg), would facilitate non-federal investment in environmental restoration activities.
- H.R. 4951 (Defazio) is now the third bill advanced by the Majority that would override state wildlife efforts on federal lands.
- The remaining two bills, H.R. 7918 and H.R. 8090, would create a new federal grant program and extend a federal authorization, respectively.
- Federal witnesses will unfortunately not testify or answer questions on any of these bills.

¹ Drought.gov, National Current Conditions July 6, 2022 - July 12, 2022, <https://www.drought.gov/current-conditions>



II. WITNESSES

Panel I – Members

- **U.S. Representative Katie Porter**, (D-CA) (H.R. 8090).
- Other bill sponsors may join this panel.

Panel II – Non-Federal Witnesses

- **Mr. Joseph Robison**, Southeast Regional Supervisor, Michigan Department of Natural Resources, Detroit, MI (H.R. 7975) *Republican Witness*.
- **Dr. Charles Innis**, VMD, Director of Animal Health, New England Aquarium, Boston, MA (H.R. 7918).
- **Dr. Mark Mansfield**, Family Physician, Pocatello, ID (H.R. 4951).
- **Mr. Adel Hagekhalil, PE**, General Manager, Metropolitan Water District, Los Angeles, CA (H.R. 8090).

III. BACKGROUND

H.R. 4951 (Rep. Peter DeFazio, D-OR) To prohibit the use of M-44 devices, commonly known as “cyanide bombs”, on public land, and for other purposes. *Canyon’s Law*.

This bill would prevent the use of M-44 devices on federal lands and would also require any federal, state or county agency that placed an M-44 on federal lands to remove it within 30 days of enactment.

An M-44 is a spring-loaded device that delivers a dose of cyanide powder to targeted animals, usually predators, such as coyotes. The device is triggered when a predator tugs on the baited capsule holder, which then ejects sodium cyanide powder into the animal’s mouth.² Wildlife Services, a program within the United States Department of Agriculture’s Animal and Plant Inspection Service (APHIS) that works and contracts with state wildlife agencies, uses M-44 devices to control predators suspected of preying on livestock and federally listed endangered or threatened species or who are vectors of diseases.³ APHIS is currently registered to use M-44 devices for coyotes, gray and red foxes, and feral dogs in sixteen states (AZ, CO, ID, MT, ND, NE, NM, NV, OK, OR, TX, UT, VA, WA, WV, and WY). While APHIS holds the principal registration, five State Departments of Agriculture have state-limited registrations (MT, NM, SD, TX and WY). Like similar bills (H.R. 4716 and H.R. 7398) that the Water, Oceans and Wildlife Subcommittee has heard this Congress, H.R. 4951 would usurp state wildlife management actions on federal lands.

M-44 devices contain twenty-six use restrictions as a part of the pesticide label’s Direction for Use.⁴ These restrictions provide specific instructions for the application, storage, and disposal of M-44 devices. Additionally, training and record keeping are required for use and federal agencies, like Wildlife Services, use bilingual signs to mark the placement of each device and inspect them weekly.⁵

² USDA Wildlife Services, M-44 Device for Predator Control: Factsheet, May 2019, https://www.aphis.usda.gov/publications/wildlife_damage/fs-m44-device.pdf

³ *Id.*

⁴ *Id.*

⁵ *Id.*

In August 2017, the Wild Earth Guardians and Center for Biological Diversity, along with several other special interest groups, petitioned the Environmental Protection Agency (EPA) to outlaw the devices, but the EPA declined to ban their use.⁶ The petition brought forward by these groups was in response to incidents that involved M-44 devices killing pets.

While M-44 devices can pose a risk to pets, mainly dogs, from Fiscal Years (FYs) 2011 to 2015, 97.5 percent of the animals killed by these devices were the targeted species.⁷ The most common nontarget species taken were raccoons (31.5% of the nontarget take), common gray fox (21.0%), red fox (12.7%), Virginia opossum (9.4%), feral or free-roaming dogs (8.3%), striped skunks (5.8%), swift fox (5.2%), and feral swine (1.1%).⁸ Of the annual average of 30 feral or free-roaming dogs taken as non-target species, six were possibly pet dogs with their owners, who were typically trespassing, or running free. Others were feral dogs or unidentifiable dogs without a collar.⁹

H.R. 4951 has eighteen Democrat cosponsors.

H.R. 7918 (Rep. William Keating, D-MA) To require the Secretary of Commerce to establish the Sea Turtle Rescue Assistance Grant Program. *Sea Turtle Rescue Assistance Act of 2022.*

The *Sea Turtle Rescue Assistance Act* would establish a federal grant program to provide funding for the recovery, care, and treatment of stranded sea turtles in the United States, data collection for scientific research on such turtles and facility operating costs.

All six sea turtle species found in U.S. waters are listed as threatened or endangered under the *Endangered Species Act* (16 U.S.C. 1531 et seq.). In the United States, the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Fish and Wildlife Service (USFWS) have shared jurisdiction for recovery and conservation of threatened and endangered sea turtles. NOAA oversees conservation and recovery of sea turtles in the marine environment, while the USFWS leads the conservation and recovery of these animals on nesting beaches.¹⁰ NOAA's John H. Prescott Grant program has provided funding to assist stranded sea turtles.¹¹

Sea turtles can become stranded on coasts due to a number of factors, including cold-stun events.¹² The Sea Turtle Stranding and Salvage Network (Network) is a consortium of 50 federal, state and private partners established to respond to stranded turtles.¹³ According to the Network, eight of these partners cared for more than 2,000 sea turtles over the last two years at a cost of \$5 million

⁶ Madeline Coles, EPA says they will not ban M-44 "cyanide bombs", AP, November 26, 2018, <https://apnews.com/article/ec2b2bc0937e4bd59dc3b175bf6be985>.

⁷ USDA Human Health and Ecological Risk Assessment for the Use of Wildlife Damage Management Methods by USDA-APHIS-Wildlife Services, THE USE OF SODIUM CYANIDE IN WILDLIFE DAMAGE MANAGEMENT, May 2017, at 2. https://www.aphis.usda.gov/wildlife_damage/nepa/risk_assessment/7-sodium-cyanide-amended-peer-reviewed.pdf.

⁸ *Id.*, at 2-3.

⁹ *Id.*, at 4.

¹⁰ NOAA, Fisheries, <https://www.fisheries.noaa.gov/sea-turtles>.

¹¹ The John H. Prescott Marine Mammal Rescue Assistance Grant Program report (FY 2001-2010), <https://repository.library.noaa.gov/view/noaa/3933> at 22.

¹² National Aquarium, *Sea Turtle Rescue Assistance Act*, <https://aqua.org/support/conservation/save-wildlife-and-habitats/sea-turtle-rescue-assistance-act>.

¹³ *Id.*

per year.¹⁴ The National Aquarium, the New England Aquarium, and the South Carolina Aquarium established programs aimed at recovering and rehabilitating stranded sea turtles and have engaged in a campaign to enact H.R. 7918.¹⁵ Each of these entities, as well as other non-federal partners in the Network, would likely be eligible for grant funding under the bill.

This legislation would authorize \$5 million annually for the next five fiscal years. The bill would require the Secretary of Commerce to distribute the grants equitably on a regional basis and each grant is limited to no more than \$150,000 in a twelve-month period. The bill would also cap administrative costs at six percent.¹⁶

The bill does not have any cosponsors.

H.R. 7915 (Rep. Tim Walberg, R-MI) To provide for the issuance of a Great Lakes Restoration Semipostal Stamp. *Great Lakes Restoration Semipostal Stamp Act of 2022.*

The Great Lakes Semipostal Stamp Act of 2022 would direct the U.S. Postal Service (USPS) to issue a Great Lakes Restoration Semipostal Stamp. The proceeds from the stamps would be transferred to the EPA for the operations supported by the Great Lakes Restoration Initiative (Initiative). The stamp would be available for purchase by the public for five years and the proceeds from the sale of the stamp would not supplant federal funding for the Great Lakes Restoration Initiative.

Currently, the USPS has two 75-cent fundraising stamps (known as semipostal stamps) available for purchase, the Breast Cancer Research Stamp and the Save Vanishing Species Stamp.¹⁷ The price of a semipostal stamp pays for the First-Class single-piece postage rate in effect at the time of purchase plus an amount to fund causes that have been determined to be in the national public interest.¹⁸ The Breast Cancer Research Semipostal was issued in 1998 and was the first semipostal in U.S. history. As of April 2022, the stamp has raised more than \$94.4 million for breast cancer research. Under current law, 70 percent of the net amount raised is given to the National Institutes of Health and 30 percent is given to the Medical Research Program at the Department of Defense (DOD). The Save Vanishing Species Semipostal was first issued in 2011. As of April 2022, the stamp has raised more than \$6.9 million to help protect threatened and vanishing species.¹⁹ Under current law, 100 percent of the net amount raised is transferred to the U. S. Fish and Wildlife Service (USFWS) to support the Multinational Species Conservation Funds.

One hundred percent of the net amount raised by the sale of the Great Lakes Semipostal Stamp would be dedicated to the Initiative, which was authorized in 2016 under Title IV of the *Water Infrastructure Improvements for the Nation Act* (Pub. L. 114-332) and reauthorized in 2019 (Pub. L. 116-294). The EPA implements the program by distributing appropriated funds to other federal agencies to undertake Great Lakes restoration activities and projects.²⁰ The EPA also administers a

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ H.R. 7918 (117th) <https://www.congress.gov/bill/117th-congress/house-bill/7918/text>.

¹⁷ USPS, *Semipostal Stamps*, <https://about.usps.com/what/corporate-social-responsibility/activities/semipostals.htm>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Pervaze A. Sheikh, *Great Lakes Restoration Initiative*, (June 3, 2017) <https://crsreports.congress.gov/product/pdf/IF/IF10128>, at 1.

grant program to fund non-federal projects that foster Great Lakes restoration.²¹ In total, the Initiative includes eleven different federal agencies which comprise the Interagency Task Force (Task Force) and Regional Working Group Agencies. The Task Force is responsible for developing a plan to guide restoration, referred to as the Action Plan.²² Action Plan III for FYs 2020-2024 lays out how the agencies plan to meet the long-term goals listed below:²³

- Remediation of all “Areas of Concern”;
- Fish safe to eat;
- Water safe for recreation;
- Safe source of drinking water;
- No new self-sustaining invasive species;
- Existing invasive species controlled;
- Harmful/nuisance algal blooms eliminated; and
- Habitat protected and restored to sustain healthy ecosystem function and native species.

H.R. 7975 has twenty-four cosponsors, including thirteen Republicans and eleven Democrats.

H.R. 8090 (Rep. Katie Porter, D-CA) To reauthorize funding for the Reclamation Climate Change and Water Program.

H.R. 8090 would extend the authorization of the Bureau of Reclamation’s (Reclamation) Climate Change and Water Program (Program) for another ten fiscal years until 2033. The original Program authorization was part of the “Secure Water Act”, which was included in the *Omnibus Public Land Management Act of 2009* (Pub. L. 111-11).

Under Section 9503(f) of Public Law 111-11, Congress directed Reclamation to establish a “climate change adaptation program” that would assess the effects of global climate change on the quantity of water resources in the western United States and to develop strategies aimed at addressing potential water shortages and conflicts. The law further directed Reclamation to analyze each of its eight river basins in which water supply changes could impact water deliveries to the agency’s water customers, hydroelectric power generation, recreation, fish and wildlife habitat, endangered species, and other issues and to mitigate each of the above impacts.²⁴

The law additionally required Reclamation to submit reports to Congress within two years and every five years thereafter on the effect of global climate change on water supplies and operations in Reclamation’s eight river basins and identify mitigation and adaptation strategies to address these effects, among other things.²⁵ To date, three reports have been sent to Congress, with the most recent Report (Report) being sent in January 2021, which was largely drafted by the last administration.²⁶ This Report found that “average temperatures are projected to increase in the Northwest, particularly in the Columbia and Missouri River Basins, and decline in the Southwest.

²¹ *Id.*

²² *Id.*

²³ Great Lakes Restoration Initiative, *Great Lakes Restoration initiative: Action Plan III Fiscal Year 2020 – Fiscal Year 2024, October 2019*, <https://www.epa.gov/sites/default/files/2019-10/documents/glri-action-plan-3-201910-30pp.pdf> at 2.

²⁴ 42 U.S.C. 10363, Reclamation Climate Change and Water Program.

²⁵ *Id.*

²⁶ Bureau of Reclamation, *SECURE Water Act Section 9503(c)* (June 28, 2021) <https://www.usbr.gov/climate/secure/>.

In most river basins, snowpack is projected to decline as more winter precipitation falls as rain and warmer temperatures melt snow sooner.”²⁷ In terms of mitigation and adaptation strategies, Reclamation focused on “maintaining reliability through construction,” “water management improvements,” “maintaining hydropower system infrastructure,” “protecting fish through infrastructure improvements,” and listed a number of risk management strategies such as “incorporating climate change into dam safety assessments” and managing risks from wildfire.²⁸

The next report is due in 2026. Since Reclamation’s Climate Change and Water Program expires at the end of FY 2023, H.R. 8090 would extend it for another ten fiscal years.

The Program received \$13.5 million in FY 2022,²⁹ \$9.4 million in FY 2021³⁰ and \$5.2 million in FY 2020.³¹ In its FY2023 budget justification, Reclamation recommended \$15 million in funding for the Program.³² It is unclear how the next report, to be written by the Biden administration, will compare to the 2021 Report or how the Biden administration will implement the overall Program during the remainder of its tenure. The Department of the Interior (DOI) will submit testimony on this topic but is not making itself available to provide oral testimony or answer Member questions at the hearing.

H.R. 8090 does not have cosponsors.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 4951 (DeFazio)

- Would ban the use of M-44 devices on federal lands.
- This ban would make it harder for federal and state agencies to manage predators and reduce livestock depredation.

H.R. 7918 (Keating)

- Would establish an annual \$5 million grant program within the Department of Commerce to assist stranded sea turtles over six fiscal years.
- Funding could be awarded to non-federal entities for recovery and rehabilitation of sea turtles, data collection and facility operations.

H.R. 7975 (Walberg)

- Would create a Great Lakes Restoration Semipostal Stamp.
- Funds raised by stamp sales would supplement the Great Lakes Restoration Initiative.

H.R. 8090 (Porter)

²⁷ Bureau of Reclamation, *2021 SECURE Water Act Report to Congress*, <https://www.usbr.gov/climate/secure/docs/2021secure/2021SECUREReport.pdf>, at 15.

²⁸ *Id.*, at 38, 39, 43, 45, 49, and 50.

²⁹ Division D – Energy and Water Development and Related Agencies Appropriations Act (2022) <https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-D.pdf>.

³⁰ Dept. of the Interior, Budget Justifications (2022), <https://www.doi.gov/sites/doi.gov/files/fy2022-bor-budget-justification.pdf>, at 23.

³¹ Bureau of Reclamation, Budget Justifications (2021) https://www.usbr.gov/budget/2021/FY_2021_Budget_Justifications.pdf, at 32.

³² Bureau of Reclamation, Budget Justifications (2023) <https://www.usbr.gov/budget/2023/FY-2023-Bureau-of-Reclamation-Budget-Justifications.pdf>, at 505.

- Would extend Reclamation's Climate Change and Water Program for another ten fiscal years.

IV. COST

The bills have not received a Congressional Budget Office cost analysis.

V. ADMINISTRATION POSITION

Unknown at this time.

VI. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 4951](#) (DeFazio)

[H.R. 7918](#) (Keating)

[H.R. 7975](#) (Walberg)

[H.R. 8090](#) (Porter)