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February 21, 2013

The Honorable John Fleming, M.D.,
Chairman, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
House Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Fleming:

We submit this letter in response to questions posed by Representative Gregorio Kilili Camacho Sablan (D-MP) about our May 12, 2011 report, "The Modern U.S. Reptile Industry." You forwarded Rep. Sablan's questions to the United States Association of Reptile Keepers ("USARK"), and they forward them to us. USARK also requested that we address criticisms of the report made by Dr. Timm Kroeger¹ and Mr. Peter Jenkins.² We respectfully request that this letter and its attachments be made part of the hearing record.

GES's Report on the U. S. Reptile Industry

Georgetown Economic Services, LLC ("GES") was asked by USARK to prepare a report that outlined the size, scope, and flow of trade of the U.S. reptile industry. The report also, estimated the impact to the U.S. reptile industry of listing nine specific constrictor snakes as

¹ See: Dr. Timm Kroeger, letter to the Office of Management and Budget, commenting on behalf of The Nature Conservancy about the U.S. Fish and Wildlife Service's Large Constrictor Snake Proposed Rule, RIN 1018-AV68, December 2011.

² See: Testimony of Peter Jenkins on behalf of the Center for Invasive Species Prevention, before the U. S. House of Representatives, Natural Resources Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs with respect to HR 511, November 2012.

injurious wildlife under the Lacey Act. We undertook that assignment in June 2010 and our completed May 12, 2011 report outlined our conclusions.³ We found that:

- The U.S. reptile industry encompasses a vast number of participants including pet owners, hobbyists, breeders, importers, exporters, wholesalers, pet store proprietors, pet show promoters, entertainers, veterinarians, and manufacturers of pet food and ancillary pet products.
- In 2009, businesses that sell, provide services for, and manufacture products for reptiles earned revenues of \$1.0 billion to \$1.4 billion.
- In 2009, 4.7 million U.S. households owned 13.6 million pet reptiles. Reptile owners are spread throughout the United States without a concentration in any one area of the country.
- Reptile businesses can be found throughout the United States, although reptile importers are more densely concentrated in Florida and California than in other states.
- The vast majority of reptile businesses are small, individual or family-run businesses.
- With regard to the listing of the nine constrictor species under the Lacey Act, the report found:
 - The industry, and snake breeders and sellers in particular, will experience significant economic losses in the short-term. We estimate that the reduction of industry revenues will run between \$76 million to \$104 million in the first year.
 - Economic loss to the industry over the first ten years following an enactment would run between \$505 million to \$1.2 billion in lost revenues, assuming historical industry sales growth rates.
 - Even assuming no growth, the economic loss over the first ten years following an enactment would run between \$372 million to \$900 million in lost revenues.

³ A copy of the Report is attached.

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Criticisms of GES's Report

We summarize and respond to questions and criticisms of the report made by Representative Rep. Sablan, Dr. Kroeger, and Mr. Jenkins below.

The report ignores likely substitution effects on the part of the reptile industry, which leads to a likely large upward bias in the resulting estimates of negative economic impacts from the proposed rule. (Dr. Kroeger)

Response:

It was beyond the scope of the project to estimate secondary effects of the proposed listing. However, from our discussions and interviews with members of the reptile industry we found that many of the nine proposed snake species are a sideline and a passion for snake hobbyists and reptile business owners. Many of the people that breed these snakes do so because they are deeply interested reptile husbandry and they are fascinated by these creatures. Breeders typically have spent many years selectively breeding particular snake coloration patterns and body types, known in the reptile community as morphs. Even if the breeder of a now banned species wanted to develop morphs in another snake species, that development will take a number of years. In addition, the proposed ban itself has a chilling effect on breeders willingness to invest in a new morphs. Therefore, the substitution effect will be *de minimus*.

Losses in interstate trade in the nine species, which will be banned under a Lacey Act listing, likely would be counteracted through an increase in the intra-state production and trade of those species. (Dr. Kroeger)

Response:

As stated in our report, the majority of reptile sales are made to out-of-state consumers. Furthermore, reptile buyers and sellers are increasingly turning to the internet and reptile trade

shows to buy and sell snakes. Therefore, not only will a listing cut sellers off from many of their customers, it will shut down an avenue of growth for these businesses.

The internet allows businesses to reach potential customers from all over the United States, (or Canada, or the rest of the world for that matter). To draw large crowds, trade shows (even regionally oriented shows) typically depend on reptile breeders and sellers from many different states at a minimum. In the most popular shows, breeders come from across the United States. Thus, a prohibition on inter-state and international sales will mean that breeders will not have access to the critical number of customers needed to justify breeding the affected constrictors.

The listing will also balkanize the snake sector of reptile industry for the listed species. Instead of marketing to customers in North America or around the globe, the listing would create separate markets in each state. It is not clear that the breeding industries of many states could survive without inter-state sales.

The notion that intra-state sales of the listed species will be greater after the listing requires that intra-state consumers of the listed species increase the purchases of the listed snakes. We do not quarrel with the proposition that the listing will decrease supply of listed snakes in, say, Illinois, since all out-of-state suppliers are, by law, excluded from the new the new Illinois intra-state "market." *Ceteris paribus*, the reduction in supply would result in higher prices and less unit sales (i.e., trade). However, because the Lacey Act does not discriminate between breeders and pet owners, it is also illegal for pet owner to transport a listed species across states lines. That fact will decrease demand for the listed species, especially given that a significant number of Americans move across state lines each year. *Ceteris paribus*, the reduction in demand will also result in reduced unit sales.

In short, it is unlikely that there will be increased intra-state sales to offset the loss of inter-state sales.

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The report incorrectly applies the term “economic losses” when referring to what in fact are reductions in revenues for this small segment of the reptile industry. This is not merely a problem of semantics that is likely to mislead many readers of the report. (Dr. Kroeger)

Response:

The report was upfront in both its methods and its conclusions. Each time the report referred to economic impact or economic loss, the report explicitly stated that the losses and impacts that it was referring to concerned revenues. To characterize the report as misleading is itself misleading. Below we give a few examples:

“The industry, and snake breeders and sellers in particular, will experience significant economic losses in the short-term. We estimate that **the reduction of industry revenues** will run between \$76 million to \$104 million in the first year.” (Emphasis added) *The Modern U. S. Reptile Industry*, p. ii.

“**Total reptile revenues**, including reptile sales as well as ancillary product sales, range from \$1.0 billion to \$1.4 billion per year. Of these revenues, the listed constrictors account for approximately \$75.6 million to \$103.5 million per year. The first-year economic impact of the proposed rule assuming the Low-Impact Scenario is \$42.8 million to \$58.7 million **in terms of lost revenues.**” (Emphasis added) *Id.*, p. 71.

“Since the High-Impact Scenario posits that **all revenues** that the constrictors generate will be lost, the first-year economic impact of the proposed rule is \$75.6 million to \$103.6 million in **terms of lost business revenues.**” (Emphasis added) *Id.*, p. 72.

“The present value **of the lost revenues** is an estimate of the lost economic value associated with the listing of nine constrictors as injurious wildlife under the Lacey Act.” (Emphasis added) *Id.*, p. 74.

The report uses an inappropriate discount rate that by itself leads to a substantial (close to 20 percent) overstating of the projected future costs of the rule. (Dr. Kroeger)

Response:

Dr. Krueger in his comments notes that we used a 3.25% discount rate. He argues that a more appropriate rate would be 7%. Dr. Krueger states:

The correct rate to use is the average rate of return that the foregone profits could have and would have achieved. The historic (sic) average rate of return in the United States – approximately 7 percent - commonly is the rate used in such analyses, and is the default discount rate that the Office of Management and Budget requires federal agencies to use in benefit-cost analyses.

Dr. Krueger cites an Office of Management and Budget document, dated September 2003 for his authority.⁴

We do not dispute Dr. Krueger's suggestion that that the "correct rate to use is the average rate of return that the foregone profits could have and would have achieved." We do not agree however that a 7% discount rate reflects the "average rate of return on foregone profits" in 2010, 2011, 2012, or today. We contend that the discount rate of 3.5% used in the report is appropriate. By suggesting that 7% is an appropriate discount rate, Dr. Kroeger effectively argues that over the next ten years it is reasonable to expect a 7% rate of return on a relatively safe investment. A 7% rate may have been justified in when higher interest rates were offered -- such as those offered in 2003 -- but is not appropriate today.

Since we provide all the information to estimate the cost of the proposed listing, anyone is free to recalculate those costs using whatever discount rate they choose.

⁴ See: Office of Management and Budget, 2003, Circular A-4 – Regulatory Analysis, Sep. 17, 2003. http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf.

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The report's high-end loss estimate assumes that all sales of these snakes would stop, even though your own data shows that INTRA-state commerce, which would still be legal if H.R. 511 passed, account for almost 40% of sales. Doesn't that make the estimate misleading? (Rep. Sablan)

Response:

The estimate of the impact of listing all nine snake species under the Lacey Act required a prediction as to what business decisions participants of the reptile industry would take in reaction to the listing. No one can predict the future with any accuracy. However, when asked about the actions they would take in the face of a Lacey Act listing, many of the business owners that we talked to stated that they would have to shut down. Others were certain that, without inter-state sales, they could no longer justify the costs of breeding these snakes.

Instead of endorsing one prediction of the state of the future after a Lacey Act listing, we sought to give a range of possible impacts of the listing. We defined a low-impact scenario where "... it is posited that some (but not all) breeders will continue to breed the listed constrictors and to make intra-state sales and (for those who can) foreign sales if the proposal were to be finalized." Report, p. 70. We defined a high-impact scenario based on the possibility "...that the combination of higher per-unit costs of breeding and maintaining the listed constrictors as well as the reduced market for the banned snakes (and the concomitant lower prices) make it unprofitable to breed, keep, and sell these snakes." *Id.* Including a range of possible impacts is standard procedure in economic model and is not misleading. The actual impact is likely between the low-impact scenario and high-impact scenario.

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The report relies extensively on unreferenced data, i.e., “fact” assertions for which no source whatsoever is identified. It relies heavily on data for which the only source is an anonymous “personal communication” with unnamed people in the reptile industry. In short, the data sources cannot be checked. (Mr. Jenkins)

Response:

All assertions made in the report have citations. The report includes 193 footnotes and a five page appendix explaining the process by which financial data about the industry was collected. While some (but not all) names of business owners that we interviewed are omitted, letting interview subjects remain anonymous allowed us to gather the most comprehensive database of financial information on reptile businesses currently available.

The financial information about the industry cited in the report comes from first hand interviews and surveys with a wide range of industry participants. Many of the people that we interviewed and surveyed asked to remain anonymous. Without anonymity we would not have had such extensive industry participation. This industry perspective was crucial in allowing us to understand the size and scope of the U.S. reptile industry.

Many studies that we reviewed on the industry, including the USFWS’s economic impact analysis, complain about the lack of public information about the economics and dynamics of the U.S. reptile industry. Our report provides a reference source on the industry for the public and for legislators.

In addition to interviews, we conducted an extensive review of the literature about reptile businesses, reptile hobbyists, and the economics of the reptile industry. Secondary sources cited in the report include:

- United States Fish and Wildlife Service, Law Enforcement Management Information System (“LEMIS”) data.
- 2009/2010 American Pet Products Association National Pet Owners Survey
- *Reptiles Magazine*

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- Pet Product News
- SEC filings
- Louisiana Department of Agriculture & Forestry, Turtle Farm Records Database
- The 2007 American Veterinary Medical Association's *U.S. Pet Ownership & Demographics Sourcebook*
- And numerous newspaper and trade paper articles.

The author is not a Ph.D. and the report was not peer-reviewed (Mr. Jenkins)

Response:

This criticism stems from a misreading of the title page of our report. The report had two authors, Dr. Robert N. Fenili and Mr. Ariel H. Collis. Dr. Fenili has a Ph.D. in economics. However, the authors disagree strongly that a Ph.D. (or a M.A or B.A) is required to comment or to express an expert opinion in a legislative proceeding.

As to peer review, the report was written for USARK not for academic journal. However, the legislative process has allowed our work to be scrutinized by third party reviewers, as evidenced by the comments of Dr. Kroeger and Mr. Jenkins. This process is akin to peer review.

Thank you for considering our comments.

Sincerely,

Ariel Collis
Economist
Georgetown Economic Services

Robert Fenili, Ph.D.
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Georgetown Economic Services