



June 27, 2018

The Honorable Bob Goodlatte, Chairman  
House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Rob Bishop, Chairman  
House Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Jerrold Nadler,  
Ranking Member  
House Committee on the Judiciary  
2141 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Raúl Grijalva,  
Ranking Member  
House Committee on Natural Resources  
1329 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Goodlatte, Chairman Bishop, Ranking Member Nadler, Ranking Member Grijalva,

Please accept this letter from the Center for Biological Diversity (the “Center”) in response to a request for information from Rep. Rob Bishop and Rep. Bruce Westerman dated June 20, 2018.

The Center for Biological Diversity believes that the welfare of human beings is deeply linked to healthy nature — to the existence in our world of a vast diversity of wild animals and plants. Because diversity has intrinsic value, and because its loss impoverishes society, we work to secure a future for all species, great and small, hovering on the brink of extinction. We do so through science, law, policy and creative media, with a focus on protecting the lands, waters and climate that species need to survive.

We want those who come after us to inherit a world where the wild is still alive.

*En el Centro para la Diversidad Biológica, creemos que el bienestar de los seres humanos está profundamente ligado a la naturaleza — a la existencia en nuestro mundo de una vasta diversidad de animales salvajes y plantas. Ya que la diversidad tiene un valor intrínseco, y debido a que su pérdida empobrece a la sociedad, trabajamos para asegurar un futuro para todas las especies, grandes y pequeñas, que se encuentran al borde de la extinción. Hacemos esto por medio de la ciencia, las leyes y medios creativos, con un enfoque en la protección de las tierras, el agua y el clima que las especies necesitan para sobrevivir.*

*Queremos que aquellos que vienen después que nosotros hereden un mundo en donde la naturaleza siga viva aún.*

Since its origin in 1989, the Center has won protection for more than 500 imperiled species in the United States and around the world and over 250 million acres of wildlife habitat. In doing so we have secured cleaner air, cleaner water, more open space and fairer government decision-making for hundreds of human communities. More than 1.6 million people have joined the Center’s support network to help us protect the environment that all species and human communities depend on.

As the Bishop-Westerman letter acknowledges, the Center has a longstanding interest in conserving the Okinawa dugong (*Dugong dugon*). This gentle, slow swimming, curious and much beloved marine mammal belongs to one of the most endangered orders (*Sirenia*), families (*Dugongidae*) and genera (*Dugong*) on the planet. Its closest relative, the Steller's sea cow, was driven extinct just 27 years after being discovered by European explorers in 1741. Only four *Sirenia* species remain today. All of them are imperiled, including the manatee here in the United States. The manatee was listed as “endangered” under the U.S. Endangered Species Act in 1967 and has recovered very well since then in Florida, Puerto Rico and the U.S. Virgin Islands. Last year it was downlisted to “threatened” status. Its recovery was secured by America’s strong, science-based environmental laws, culture of coalition-based conservation, and hallmark democratic tradition of encouraging and empowering citizens to participate in, and when necessary, enforce America’s federal environmental laws.

The Okinawa dugong has not fared so well. It has declined for decades as its habitat has been destroyed, polluted and industrialized. Just 50 mature individuals are thought to remain in the wild. It is on an extinction trajectory and will disappear in our lifetimes if actions such as those that saved the manatee are not soon taken to save it. Many American scientists, citizens, conservation groups and federal agencies share our concern. Indeed, the U.S. Fish and Wildlife Service listed the dugong as “endangered” under the Endangered Species Act in 1970<sup>1</sup>, which as you know seeks to protect many imperiled non-U.S. species.



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<sup>1</sup> U.S. Fish and Wildlife Service. 1970. List of Endangered Foreign Fish and Wildlife. December 2, 1970 (35 FR 18319).

Saving the Okinawa dugong has been a priority of the U.S. government for nearly 50 years. The Center is proud to have participated in that effort, to have conducted research, public education and meetings with decision-makers; to have filed federal litigation to ensure the U.S. government openly and properly enacts the mandates of the U.S. Congress codified in its creation of the National Historic Preservation Act.<sup>2</sup>

Effective conservation is a group effort. Thus the Center's campaigns to save American endangered species always involve working in coalition with other concerned scientists, citizens, conservation groups, tribes and/or local, state and the federal government. The Center's campaign to save the dugong is no different: It has necessarily and fruitfully involved working in coalition with other concerned American and Japanese citizens and non-governmental environmental organizations.

However, the Center's decision to help the dugong — and all the strategies it has employed to do so — are exclusively determined, controlled and directed by the Center's board of directors and executive director. Neither its dugong campaign, nor any of its conservation work, is controlled in any manner by any other domestic or foreign interest. Nor does the Center formally represent the interest of any party other than itself and the species and places it seeks to protect.

If Reps. Bishop and Westerman are truly confused about the Center's motivation and control, it is perhaps because they abuse their positions of power so regularly, and are so deeply influenced by powerful corporate donors, that they are unable to conceive of people being motivated by empathy, public interest and respect for the rule of law and democracy. Such a cynical world view could well lead them to far-fetched conspiracy theories and bullying McCarthy tactics rather than seeing the much simpler truth that an endangered species protection group would naturally take action to save one of the most imperiled marine mammals on earth in its time of need.

But notwithstanding Bishop and Westerman's clumsy invocation of the Communist Party, this isn't the 1950s. There is no conspiracy. And the Center for Biological Diversity will not be intimidated by crude political bullying tactics. We respond to the Bishop-Westerman letter as follows:

The Center is not registered as an agent of a foreign principal pursuant to the Foreign Agents Registration Act ("FARA") because the Center does not act and has not acted as an "agent, representative, employee, or servant, or ... person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal" such as to trigger FARA's registration and reporting requirements.<sup>3</sup> The Center's activities, including but not limited to its Okinawa dugong conservation efforts, are exempt from FARA because they are undertaken in the Center's interest and are "activities not serving predominantly a foreign interest."<sup>4</sup> Responding to the Bishop-Westerman letter's characterization of FARA, the Center has not attempted to influence the public or a government official in "formulating, adopting, or changing the domestic or foreign policies of the United States ..." on behalf of a foreign principal; acted in the political or public interests of a foreign government or entity; or solicited, collected, disbursed, or dispensed funds for, or in the interest of, a foreign principal in a manner that would trigger FARA's registration and reporting requirements.

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<sup>2</sup> See *Center for Biological Diversity v. Mattis*, 868 F.3d 803 (9<sup>th</sup> Cir. 2017).

<sup>3</sup> 22 U.S.C. § 611(c)(1).

<sup>4</sup> 22 U.S.C. § 613(d).



The Center is unaware of any documents or communications with the Department of Justice referring or relating to FARA registration by the Center or any related tax-exempt organizations. This is likely because, as noted above, the Center has not engaged in any activity triggering FARA's requirements. Should the Center's activities implicate FARA in the future, we will take our legal obligations seriously as we do all applicable federal laws.

We cannot provide you with documentation listing the names of Center employees engaged in influencing domestic environmental or natural resources policies, laws or public opinion while acting as an agent, representative, employee, servant, or in any other capacity at the order, request, or under the direction or control of a foreign entity or non-U.S.-based environmental group, because no Center employee has carried out any activity triggering FARA's requirements. Nor have any of our staff been directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign entity or non-U.S.-based environmental group.

Additionally, we must specifically note to Rep. Bishop and Rep. Westerman that under Rule X of the Rules of the House of Representatives for the 115th Congress, oversight of FARA falls squarely within the House Committee on the Judiciary, not the House Committee on Natural Resources.<sup>5</sup> Rule XI states that "each committee may conduct at any time such investigations and studies as it considers necessary or appropriate *in the exercise of its responsibilities under rule X*."<sup>6</sup> Thus the Center is unclear as to what grant of authority Rep. Bishop and Rep. Westerman have invoked here to pursue this investigation given the lack of oversight authority regarding FARA with respect to the Committee on Natural Resources. Notably FARA oversight is not mentioned or hinted at in the Committee on Natural Resources' own Authorization and Oversight Plan for the 115th Congress.<sup>7</sup>

The Center agrees that the Foreign Agents Registration Act is a very important issue for congressional oversight. As you may be aware, President Trump's campaign manager, Paul Manafort, has been indicted regarding his possible violations of FARA, while President Trump's first national security advisor, Michael Flynn, belatedly registered as a foreign agent under FARA. Given the clear evidence that the Russian government actively worked to undermine our democratic elections in 2016 and actively worked to elect Donald Trump as president, determining if other individuals associated with the Trump administration or his campaign violated FARA would be an excellent place to begin such oversight.

Finally, in order to ensure governmental transparency — and perhaps clarify the source of Rep. Bishop and Rep. Westerman's irrational but politically convenient paranoia about what is clearly a normal use of American environmental laws by American environmental groups to ensure the proper functioning of an American federal agency — the Center formally requests that Rep. Bishop and Rep. Westerman provide the Center with all correspondence concerning this issue between themselves or their staff and any individuals or organizations outside the federal government and Congress. This should include, but not be limited to, early drafts of the Bishop-Westerman letter suggested or authored by outside parties. We would appreciate receiving these documents within 30 working days.

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<sup>5</sup> See RULE X, Organization of Committees: Rule X(1)(I)(19) (emphasis added).

<sup>6</sup> *Id.* at Rule XI(1)(b)(1), emphasis added.

<sup>7</sup> Available at [https://naturalresources.house.gov/uploadedfiles/oversight\\_plan\\_115th.pdf](https://naturalresources.house.gov/uploadedfiles/oversight_plan_115th.pdf).

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Suckling', with a stylized flourish at the end.

Kieran Suckling  
Executive Director  
Center for Biological Diversity