

GAO

Report to the Chairman, Subcommittee
on Fisheries and Wildlife Conservation
and the Environment, Committee on
Merchant Marine and Fisheries, House
of Representatives

January 1990

PERSONNEL
PRACTICES

Questionable Personnel
Practices at the U.S.
Fish and Wildlife
Service



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General Government Division

B-235438

January 23, 1990

The Honorable Gerry E. Studds
Chairman, Subcommittee on Fisheries and
Wildlife Conservation and the
Environment
Committee on Merchant Marine and Fisheries
House of Representatives

Dear Mr. Chairman:

This report responds to your March 28, 1989, request to review the personnel policies and actions of the former director of the Department of the Interior's Fish and Wildlife Service (FWS). The former director, Frank H. Dunkle, held office from May 7, 1986, to March 15, 1989. You requested this information to determine which personnel policies and practices the Subcommittee should encourage or not encourage the new FWS director to continue.

In March 1989, Mr. Dunkle was reassigned from the post of FWS director to another position within FWS. The reassignment followed a controversy surrounding Mr. Dunkle's removal of the Portland, Oregon, regional director and reassignment of the Portland director's two assistants. The removal prompted 20 Members of Congress to write the Secretary of the Interior in November 1988 questioning whether a pattern of personnel changes at FWS reflected improved management principles or wide-scale politicization that could damage FWS' ability to review objectively the impacts of proposed federal actions on fish and wildlife.

You asked us to compare the number of special assistant, confidential assistant, and senior executive positions created during Mr. Dunkle's tenure with the numbers of such positions created during his recent predecessors' tenures. You asked us to determine the purposes and costs of the new positions and the contributions made by the incumbents to FWS' mission. Lastly, you asked us to determine, if possible, whether the new positions contributed to or detracted from the efficiency, effectiveness, and professionalism of FWS.

Results in Brief

We identified 72 positions that were created during Mr. Dunkle's tenure. Of the 72, 31 were special/confidential assistant and senior executive positions, more than twice the number of such positions created by his immediate predecessor.

We have the following concerns in connection with 22 of the 72 positions: the propriety of assigning 2 senior executives to nonfederal organizations; the need for 2 special assistant-to-the-director positions and 12 senior biologist positions; inaccurate descriptions of 3 positions that had been occupied for up to 10 months; and the supervisory relationships of 2 special assistant positions. In addition, we have concerns about the authority used to appoint Mr. Dunkle to his next FWS position. Twenty-one of these 22 positions were still occupied at the time we did our work and FWS was paying about \$1.6 million annually in salary and related benefits for these 21 positions.

The remaining 50 positions resulted primarily from FWS reorganizations. The establishment of these positions, which we do not question, generally did not change the basic responsibilities, reporting relationships, and locations of positions that existed before Mr. Dunkle's term.

Sixteen of the 27 FWS executives and managers that we interviewed expressed concerns about Mr. Dunkle's management practices. Their concerns included such things as the motives for creating positions and the lack of sufficient consideration to the impact of personnel actions on people and FWS' budget. Six others gave both negative and positive comments. The remaining five believed that, overall, the changes Mr. Dunkle made were good and improved FWS.

Interior agreed with some of our recommendations but disagreed with those concerning its use of certain appointment authorities. Since the Department's comments indicate that it does not plan to discontinue the related practices that we found questionable or inappropriate, Congress may wish to intercede.

Background

FWS' mission is to conserve, enhance, and protect fish and wildlife and their habitats for the continuing benefit of the American people. As part of this mission, FWS must determine whether fish, wildlife, and plant species are endangered and if so take action to return endangered species to health, a function requiring FWS executives and managers to deal with politically sensitive and controversial natural resource issues.¹ FWS' mission is carried out by, as of August 1989, 24 senior executives and about 7,700 other employees working from a national office, seven

¹We issued a report on one of those issues. ENDANGERED SPECIES: Spotted Owl Petition Evaluation Beset by Problems (GAO/RCED-89-79, Feb. 21, 1989). We found several factors that raised questions about FWS' thoroughness and objectivity in considering the petition to designate the spotted owl as an endangered species.

regional offices, a regional research office, and a variety of field installations, such as fish hatcheries and wildlife refuges. (See app. I for FWS' organization chart.)

FWS is headed by a director who is under the supervision of the Assistant Secretary of the Interior for Fish and Wildlife and Parks. The director has authority to establish new positions and, for positions up to certain levels of responsibility or grade, to approve appointments.² The director must obtain the assistant secretary's approval for making appointments to certain positions such as deputy director, assistant director, and regional director.

Certain positions and appointments require approval beyond the director and assistant secretary. For example, the federal senior executive service (SES) began operating in July 1979 and its members act as the government's general managers. Interior's Executive Resources Board must approve SES positions and appointments. A Qualifications Review Board convened by the Office of Personnel Management (OPM) must approve the managerial qualifications of persons before they are first appointed to career SES positions. OPM must also approve certain other positions, such as those excepted from the competitive service.

Approach

To answer the Subcommittee's questions on positions created during Mr. Dunkle's tenure, we (1) obtained reports from Interior and OPM to identify newly created positions; (2) analyzed position descriptions and supporting justifications to determine purposes of the positions; and (3) obtained salary costs from requests for, and notifications of, personnel action and relocation costs from travel records.

Much of the information we gathered on Mr. Dunkle's personnel practices was obtained through interviews with FWS officials in Washington and three FWS regions—Boston, Denver, and Portland. The 27 officials interviewed were among the top officials at the four locations and had supervisory responsibility for the positions created during Mr. Dunkle's tenure or for related positions. We also interviewed Mr. Dunkle. Appendix VI contains more information on our objectives, scope, and methodology.

²Approval of a position itself comes from FWS' personnel office, which puts the proposed position through a classification review process to determine the proper grade/pay for the duties described.

Number of Special and Confidential Assistants

Of the 72 positions (listed in app. II) created during Mr. Dunkle's tenure, 13 were special and confidential assistants to the director. In contrast, one of Mr. Dunkle's predecessors (Mr. Robert Jantzen) created 3 such positions and the other (Mr. Lynn A. Greenwalt), for approximately the last 5 years of his tenure, created none. Data were unavailable for the approximately first 2-1/2 years (October 1973 through February 1976) of Mr. Greenwalt's tenure.

We estimate that the salary, fringe benefits, and relocation costs related to the 13 positions totaled about \$1.1 million during Mr. Dunkle's tenure. Appendix III compares the special and confidential assistant positions, as well as SES positions, created under Mr. Dunkle and his two predecessors for the periods that data were available.

Most Positions Created for Reorganization Purposes

Most of the 72 positions created during Mr. Dunkle's tenure resulted from FWS reorganizations. The establishment of these positions generally did not change the basic responsibilities, reporting relationships, and locations of positions that were in existence before Mr. Dunkle's term. For example, 14 of the positions resulted from a reorganization of FWS' national office, announced in May 1986 and supported by an earlier FWS study. The reorganization was generally viewed with favor by the FWS officials we interviewed. Appendix IV briefly describes FWS' purposes for creating the 43 positions that we do not question.³

Uncertain Need for and Propriety of Some Personnel Actions

We have various concerns about 22 positions. Our concerns are summarized below and are discussed in more detail in appendix V.

Questionable Assignments to Nonfederal Organizations

Two FWS senior executives were assigned temporarily to nonfederal organizations during Mr. Dunkle's tenure, and we question the propriety of the two assignments. Mr. Dunkle made one of the assignments after requesting, but not obtaining, Interior's required approval for a detail

³Although we identified 72 positions for review, we have no opinion on 7 of the positions. We did not review them in detail because they were vacated before June 1989.

and without the controls and protections set forth in the Intergovernmental Personnel Act of 1970 (IPA),⁴ its implementing regulations, and OPM guidance. In addition, the appropriation act for Interior during the period of this assignment specifically prohibited Interior from using funds to detail employees unless the detail was in accordance with OPM regulations. Therefore, FWS appropriations should not have been used to pay the executive's salary and benefits (estimated to have totaled \$95,200) during the approximately 1-year assignment with the American Fisheries Society in Bethesda, MD.

The other assignment is questionable because, contrary to OPM guidance, (1) several top-level officials said that the assignment might have been made in anticipation of retirement and (2) justification for paying 100 percent of the executive's salary, fringe benefits, and relocation costs was not provided in the assignment agreement. The executive's 2-year assignment with the Alabama Chapter of the Coastal Conservation Association in Mobile, AL, is to run through August 1990. We estimate that, through August 1989, the salary and fringe benefit costs had totaled \$101,800. FWS paid \$13,000 to relocate the executive.

Questionable SES Appointment

In March 1989, Mr. Dunkle was reassigned from the position of FWS director to the position of Director of the Fort Collins Research Center in Colorado. Mr. Dunkle's reassignment was made under SES limited emergency appointment authority, which may be used to satisfy a bona fide, unanticipated, urgent need of an agency to fill a position.⁵ OPM approved the appointment. In our opinion, the justification supporting the appointment does not sufficiently identify the events creating a bona fide, unanticipated, urgent need for this appointment. Therefore, we question whether Mr. Dunkle's appointment meets the statutory requirements for such appointments.

Responsible OPM officials told us that OPM had also approved these types of appointments in other situations to help accommodate departing political appointees during presidential transitions. Given OPM's acknowledgement of the practice, we saw no need to determine the extent to which it has occurred.

⁴This act, as amended (codified at 5 U.S.C. 3371-3376), authorizes federal agencies to assign employees temporarily to eligible nonfederal organizations for work of mutual concern and benefit. The act also authorizes federal agencies to arrange for these assignments with or without reimbursement and provides various protections for federal employees.

⁵See 5 U.S.C. 3132(a)(6) (1982).

Need for Certain Special Assistant Positions Questioned

As of August 1989, two senior executives occupied special assistant positions (one for fisheries and the other for contaminants) at FWS which we believe are questionable and need to be reevaluated. We reviewed the assistants' position descriptions and related documentation, and we obtained the views of five top officials in FWS' national office on the need for the two positions. The five officials were the acting director, who had been Interior's Deputy Assistant Secretary for Fish and Wildlife and Parks since January 1986; the deputy director-line;⁶ and the three assistant directors having responsibility for directing Service activities.

On the basis of our review of the documentation supporting the establishment of the positions and comments made by the above officials, it is unclear whether these positions are needed. Accordingly, we believe they need to be reevaluated. It is also unclear how the duties and responsibilities of the special assistant for contaminants position relate to other FWS positions. If this position is continued, we believe its relationship to other FWS positions needs to be clarified.

Undefined and Incorrectly Defined Regional Positions

Although three employees had been assigned to newly created positions up to 10 months, their duties and responsibilities were still unsettled as of August 1989. As such, the official description for each position was inaccurate. We recognize that position descriptions may not always be up to date, but we believe they should be as current as possible. Accurate descriptions are needed for, among other purposes, establishing an employee's grade and pay. For the three positions in question, significant discrepancies had existed for long periods of time between the incumbents' position descriptions and the jobs they were doing and their reporting relationships.

In addition to these three positions, in August 1988, Mr. Dunkle directed the regional offices to create new senior biologist positions to place certain incumbents whose positions as zone supervisors were being abolished as a result of a regional reorganization. In light of this purpose for creating the senior biologist positions, together with FWS supervisory officials' varied views and uses of the position, we believe the 12 positions that were created require examination as to whether they should continue and, if so, what the duties and responsibilities should be.

⁶FWS also has a deputy director-staff position. However, the official in that position was assigned in January 1989, after the special assistant positions were created.

Certain Schedule C Supervisory Relationships Questionable

During Mr. Dunkle's tenure, OPM approved Schedule C positions⁷ of assistants to the FWS director based on close and confidential working relationships between key officials and the assistants. OPM guidance says that Schedule C appointees may not report to or through officials in the competitive service and that a close and confidential relationship will not exist unless the appointees are subject to the immediate supervision of a key official. The guidance also states that OPM must approve, in advance, changes in the approved reporting relationships.

Available documentation shows that two assistants were organizationally assigned to the director's immediate office and that he or his deputy signed their performance appraisals. However, according to the Assistant Director for External Affairs, who is responsible for the Office of Legislative Services, a GM-15 career employee in the federal competitive service provided the daily supervision for the two assistants for substantial periods of time. He added, however, that the director assigned them projects and they reported to the director. Both special assistants confirmed that they had worked in the legislative services area. Given the nature of these daily supervisory relationships, we question whether FWS complied with the OPM guidance mentioned above.

Another Schedule C position was authorized before Mr. Dunkle's tenure and, according to an FWS official, was still occupied in August 1989. OPM authorized the position as confidential assistant to the FWS director in January 1985. However, the incumbent said his duties included working at the White House and, since January 1989, for an Interior assistant secretary. We believe that the assignment of duties and the supervisory relationship for the above assistant was contrary to OPM's authorization of the position for the periods mentioned.

Changes Affected Many FWS Top-Level Officials Negatively

At FWS' national office and Boston, Denver, and Portland regional offices, we interviewed 27 officials—the acting director (a political appointee), 14 senior executives (SES positions), and 12 deputy, assistant, and associate regional directors (GM-15 and GM-14 positions). We held these interviews with FWS' top-level officials to obtain views on management practices followed during Mr. Dunkle's tenure as FWS director, and whether those practices contributed to or detracted from FWS' efficiency, effectiveness, and professionalism.

⁷Schedule C positions are exempted from the competitive service and can be designated as such only with OPM's approval.

Officials gave both positive and negative comments. They generally believed that changes, such as the reorganization of FWS' national office, were positive. However, many officials had a different view regarding Mr. Dunkle's management practices. The comments made by 16 officials were negative, and 6 others had both negative and positive comments. The comments made by 5 officials about Mr. Dunkle's practices were positive. In general, the negative comments indicated an overall concern about the motives for creating positions and the lack of sufficient consideration to the impact of personnel actions on people and FWS' budget.

Senior executives and other officials we interviewed pointed to specific cases where they believed positions had been created for questionable purposes. One example cited was the situation in the Portland office where, within 1 week, Mr. Dunkle reassigned the regional director and his two assistant regional directors to newly created positions, all of which were included in the 22 positions that were of concern to us. The regional director was eventually removed because he refused assignment to a newly created position. The regional director claimed his reassignment and removal were in reprisal for certain of his actions in carrying out FWS' mission. Mr. Dunkle denied this claim and said the regional director was reassigned to the new position, special assistant for contaminants, on the basis of his related experience.⁸

Another example involved the Boston office where Mr. Dunkle reassigned the regional director and his deputy regional director on the same date. The former director and deputy director were both reassigned from those positions to newly created positions. One of these new positions, special assistant for fisheries, now occupied by the former regional director, was included in the 22 positions that were of concern to us. This position also concerned certain top-level FWS officials. We did not have a concern with the other newly created position, Associate Regional Director, Chesapeake Bay Program.

There also was a concern that the Dunkle directorship may have harmed FWS' effort to attract well-qualified people to the SES. This concern appears to have resulted from FWS' reassignments of senior executives during the Dunkle years. Fifteen of FWS' 24 senior executives were reassigned a total of 20 times during that period of 34 months. Of the 20, 9

⁸The former regional director filed an appeal with the Merit Systems Protection Board regarding his removal on January 31, 1989. Before the Board's scheduled hearing, Interior and the official reached a settlement. Among other terms of the settlement, Interior agreed to reinstate the official with back pay from January 13 to May 1, 1989, and the former regional director agreed to withdraw his appeal and resign on May 1, 1989.

were reassignments to existing SES positions, 5 were reassignments to new SES positions, and 6 were reassignments to new positions created as a result of the national office reorganization.

Conclusions

The head of an agency requires leeway in organizing work, creating positions, and appointing people to them. However, in doing so, the agency head is obligated to comply with pertinent requirements, and to ensure that others under his or her supervision do so as well. This includes ensuring that created positions fit the needs of the organization and that the positions are properly defined. The duties and proper pay of a position should not be decided many months after the position is filled. The duties and supervisory relationships for Schedule C appointees should conform to OPM's authorization of the positions. In addition, an agency head must not exceed the authority of his or her position in assigning personnel. It appears that Mr. Dunkle did not always comply with these requirements. Moreover, according to perceptions of most top-level FWS officials, Mr. Dunkle did not create an environment in which employees believed that certain positions were created and filled to improve the organization.

OPM's authority to approve limited emergency appointments and Schedule C positions serves as a control on their use by federal agencies. However, it is uncertain whether OPM properly exercised this control when it approved Mr. Dunkle's limited emergency appointment. Further, we do not believe agencies' use of this appointment authority is appropriate to accommodate departing political appointees, as OPM officials indicate has been done. In addition, on the basis of testimonial evidence we gathered, Interior and FWS circumvented OPM's control over Schedule C positions by assigning Schedule C appointees duties and establishing supervisory relationships other than those approved by OPM for the positions.

Recommendations to the Secretary of the Interior

We recommend that (1) the Secretary of the Interior ensure that the assignment of the senior executive to the Coastal Conversation Association in Alabama, including arrangements for sharing salary and benefit costs, and similar assignments made in the future conform with the IPA and related OPM regulations and guidance. In addition, we recommend that (2) the Secretary, under IPA guidance, determine what portion of the salary and benefit costs should have been assumed by the American Fisheries Society for the assignment of the senior executive to the Society and recoup such costs from the Society. We also recommend that the

Secretary instruct the Director of FWS to (3) review existing special assistant positions to determine whether they are necessary to accomplish FWS' mission and, if so, are defined properly; (4) ensure that the actual duties and responsibilities of the positions and approved descriptions agree; (5) determine whether the regional senior biologist positions make the best use of FWS' resources; and (6) ensure that Schedule C appointees' supervisory relationships are the same as those approved by OPM. Finally, when changes in the supervisory relationships of Schedule C appointees must be made, we recommend that (7) as required in OPM guidance, the Secretary instruct the Director to request approval from OPM.

Recommendation to the Director, OPM

We recommend that the Director, OPM, ensure that limited emergency appointment authority is used to meet agencies' bona fide, unanticipated, urgent needs for filling positions. Further, OPM should ensure that such appointments are not used to accommodate departing political appointees.

Agency Comments and Our Evaluation

We obtained official comments from Interior and OPM on a draft of this report. Interior did not share our concerns and the concerns expressed by various top-level FWS officials regarding Mr. Dunkle's management practices. After reviewing the positions in question, Interior did not believe any further action was needed on our four recommendations concerning (1) the assignment of a senior executive to the Coastal Conservation Association; (2) the assignment of a senior executive to the American Fisheries Society; (3) the development of accurate position descriptions for three officials; and (4) the supervisory relationships of Schedule C employees. Interior did agree to take action on the other three recommendations.

We believe that additional action is needed on all seven recommendations to address those positions that we questioned and to ensure that relevant personnel laws, regulations, and guidance are followed in the future. We disagree with Interior's position that 16 U.S.C. 661 and 742f(a)(4) provided authority for the assignment of a senior executive to a nonfederal organization for approximately 1 year. These provisions provide Interior with general authority to carry out its mission, including assisting and cooperating with other organizations, but we do not believe they provide authority for detailing employees to work at private organizations for extended periods of time. Rather, we believe that the IPA provides the authority for such assignments.

In addition, Interior emphasized that OPM's guidance permitted flexibility regarding reimbursement for assignments under the IPA. While OPM's guidance recognizes that there will be instances where reimbursement may be based on factors other than the relative benefits each organization will receive from the assignment, it further provides that such instances should be rare and must be explained in the assignment agreement. Finally, Interior said that the two Schedule C assistants received performance ratings from the director or his deputy. Interior also said that Schedule C employees are organizationally assigned to the director's immediate office and receive their general assignments from the director. However, on the basis of testimonial evidence we gathered, it appears that the two Schedule C appointees were supervised daily by a GM-15 career employee in the competitive service for significant periods of time.

OPM said that the limited emergency appointment of Mr. Dunkle to the Fort Collins position appeared valid because a bona fide emergency may be based upon whether an organization can function effectively for a period of time without a particular position. However, Interior did not identify the events creating an emergency. We are also troubled by comments made by OPM that the limited emergency appointment authority had been used to accommodate departing political appointees during the presidential transition. We believe that this use of the authority is questionable unless the facts indicate that an emergency exists. Thus, in light of OPM's comments, we revised our recommendation to ensure that use of the authority is limited to bona fide, unanticipated, urgent needs of agencies. We discussed our revised recommendation with OPM officials; they said they had no objection to it.

We also received written comments from the former director of FWS. In general, Mr. Dunkle said that his management practices and specific personnel actions were under the supervision of the Assistant Secretary for Fish and Wildlife and Parks and that he had legal authority for the actions taken. He emphasized the need for and the positive impact of his actions in 1986 to reorganize the FWS national office.

Although we generally agree with Mr. Dunkle that most of his personnel actions were legal and within his discretion as an agency head, we do not agree that the assignment of a senior executive to a nonfederal organization received required Interior approval. In addition, the assignment was made without the controls and protections set forth in the IPA,

its implementing regulations, and OPM guidance. Also, we question certain assignments of Schedule C political appointees who were supervised daily by a career employee. We do agree with Mr. Dunkle that the 1986 FWS national office reorganization was a significant change that was generally well received in FWS.

The full text of Interior's, OPM's and Mr. Dunkle's comments on all of our findings and recommendations, along with our evaluation, are included in appendixes VII, VIII, and IX.

Matters for Congressional Consideration

Interior cited 16 U.S.C. 661 and 742f(a)(4) as authority for assigning a senior executive to a nonfederal organization for approximately 1 year. These statutory provisions give Interior general authority to protect fish and wildlife, including assisting and cooperating with other organizations, but we do not believe these provisions should be used, in place of the IPA, to detail employees to nonfederal organizations for extended periods of time. Rather, we believe that the assignment should have been made under the IPA and that FWS should have followed the IPA and implementing OPM regulations and guidance for the assignment.

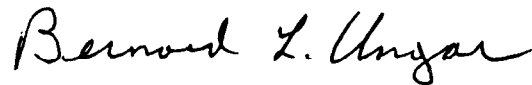
Interior's comments indicate that it does not plan to change its practices regarding the use of the above authorities for assignments to nonfederal organizations and regarding the Schedule C and limited emergency appointment authorities which we also found questionable or inappropriate. Thus, Congress may wish to intercede. First, Congress may wish to amend 16 U.S.C. 661 and 742f(a) (4) to clarify that use of these authorities to assign employees to outside organizations is inappropriate. Second, the appropriate congressional committees may wish to pursue Interior's use of these authorities and its use of Schedule C and limited emergency appointment authorities during appropriations and oversight hearings.

As arranged with the Subcommittee, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time we will send copies to the Secretary of the Interior; the Director, FWS; the Director, OPM; the State President of the Alabama Chapter of the Coastal Conservation Association; the Executive Director of the American Fisheries Society; Mr. Frank H. Dunkle, the former director, FWS; and to other parties upon request. We will also send copies to the Chairmen of the Senate and House Committees on Appropriations, the Senate Committee on Energy

and Natural Resources, and the House Committee on Merchant Marine and Fisheries.

Please contact me at 275-5074 if you or your staff have any questions concerning the report. The major contributors to the report are listed in appendix X.

Sincerely yours,



Bernard L. Ungar
Director, Federal Human Resource
Management Issues

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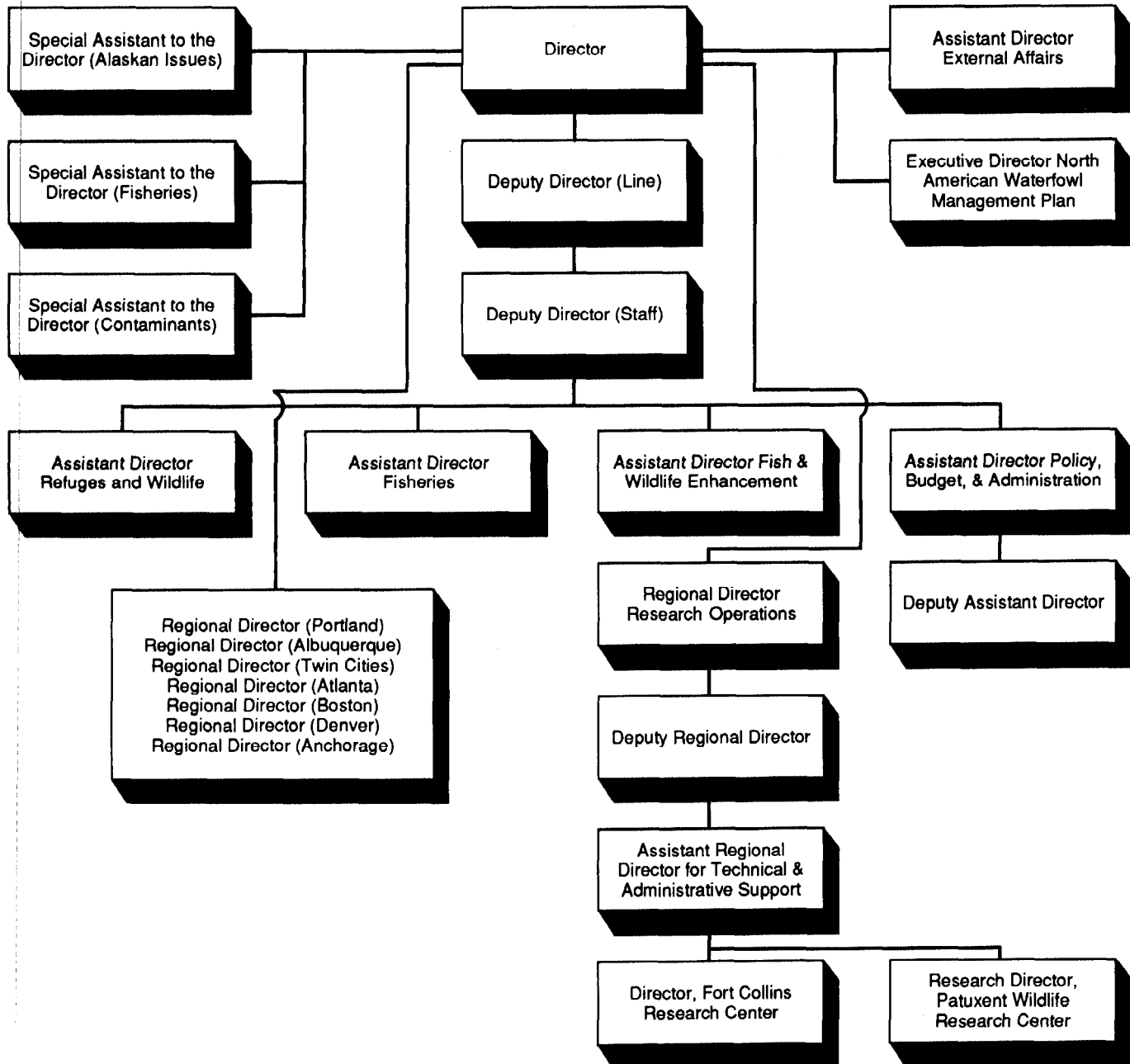
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Abbreviations

FWS	U. S. Fish and Wildlife Service
IPA	Intergovernmental Personnel Act of 1970
OPM	Office of Personnel Management
SES	Senior Executive Service

U. S. Fish and Wildlife Service Organization Chart - August 1989



Note: The chart includes all 24 SES positions and the director's position.

List of Seventy-Two FWS Positions Selected for Review

Title	Number	Grade	Location	Date approved
Special Assistant to the Director	1	ES-05	Gainesville, FL	May 1988
Special Assistant to the Director	1	ES-05	Washington, DC	Apr. 1987
Special Assistant to the Director	1	ES-04	Washington, DC	July 1988
Special Assistant to the Director	1	ES-03	Lakewood, CO	Mar. 1987
Confidential Assistant	1	GS-09	Washington, DC	Dec. 1986
Confidential Assistant	1	GS-11	Washington, DC	June 1986
Confidential Assistant	1	GS-11	Washington, DC	June 1986
Confidential Assistant to the Director	1	GM-14	Washington, DC	Oct. 1986
Special Assistant to the Director	1	GM-14	Washington, DC	Oct. 1986
Special Assistant to the Director	1	GS-14	Washington, DC	May 1987
Special Assistant to the Director	1	GS-15	Washington, DC	June 1986
Special Assistant to the Director	1	GM-15	Denver, CO	Jan. 1988
Special Assistant to the Director	1	GM-15	Washington, DC	Sept. 1986
Executive Director, North American Waterfowl Management Plan (NAWMP)	1	ES-05	Minneapolis, MN	Nov. 1987
Deputy Executive Director, NAWMP	1	GM-15	Minneapolis, MN	Jan. 1988
Deputy Director (Western Operations), NAWMP	1	GM-15	Portland, OR	Oct. 1988
Director, Fort Collins Research Center	1	ES-04	Fort Collins, CO	Mar. 1989
Research Director, Patuxent Wildlife Research Center	1	ES-05	Laurel, MD	June 1987
Deputy Assistant Director, Fish and Wildlife Enhancement	1	ES-04	Washington, DC	July 1986
Other Directorate Positions	14	Various	Washington, DC	Various
Associate Regional Director, Chesapeake Bay Program	1	GM-15	Boston, MA	July 1988
Program Officer	1	GM-15	Lakewood, CO	Apr. 1987
Associate Regional Director	1	GM-14	Portland, OR	Nov. 1988
Associate Manager	24	GM-14	Various	Various
Senior Biologist	12	GM-13	Various	Various
Total Positions	72^a			

^aWe did not attempt to identify every position created during Mr. Dunkle's tenure from May 7, 1986, to March 15, 1989. In keeping with the scope of our review, agreed to by the Subcommittee, we identified all special and confidential assistant positions and all newly created SES positions. We also identified certain other newly created positions at the GM 13-15 levels from our work at three regional offices. For two (associate manager and senior biologist) of the regional positions identified at these levels, FWS had created similar positions in four other regions, and these positions are included among the 72. Although we selected 72 positions, we did not review in detail 7 positions that were vacated before June 1989. These were special or confidential assistant to the director positions.

Comparison of Special/Confidential Assistant Positions of Three Former FWS Directors

Director	Term of office ^a	Position			Total
		Special/ confidential assistants Schedule A and C ^b	SES	Other SES	
Frank H. Dunkle	May 1986-Mar 1989	9	4	18	31 ^c
Robert Jantzen	Nov 1981-Sept 1985	3	0	8	11
Lynn A. Greenwalt	Oct 1973-Jan 1981	0 ^d	0	6 ^e	6

^aFor the periods of time not shown above, FWS was headed by acting directors.

^bAt FWS, special and confidential assistant to the director positions are usually filled by Schedule C appointees and SES members. In one instance this position was filled by a Schedule A appointee. Schedule A exceptions from the competitive service are made when examinations are not practicable and Schedule C exceptions are made because of the position's policy-determining or confidential character.

^cAlthough 72 positions were established under Mr. Dunkle's tenure, 41 positions are not shown above. These 41 are regional positions at grades 13 through 15. They are excluded from the comparison because comparable data were not available for the previous directors.

^dLimited to the period March 1976 to January 1981. Data were not available for October 1973 through February 1976.

^eLimited to the period October 1978 to January 1981. GS-16 through GS-18 executive positions converted to the SES in July 1979 are not included.

FWS' Purposes for Creating Forty-Three Positions

Number	Purpose
14	Senior executive positions were established in Washington, DC, as part of a national office reorganization in 1986. The reorganization involved a shift to a new management structure to permit FWS to more effectively address natural resource conservation and management issues in the field.
24	Associate manager positions were created in seven FWS regions as part of a regional reorganization announced in 1988. The purpose of the reorganization was to eliminate a level of management and to place greater emphasis on the roles and responsibilities of assistant regional directors.
2	Positions of executive director and deputy executive director for the North American Waterfowl Management Plan ^a were created in Minneapolis, MN, to help implement an agreement on waterfowl conservation and management.
1	The position of research director, Patuxent Wildlife Research Center, in Laurel, MD, was established by upgrading an existing position to the SES level.
1	The position of associate regional director was established in Boston, MA, to provide liaison with other federal and state agencies and with private organizations regarding FWS' involvement in the Chesapeake Bay restoration program.
1	A special assistant to the director position was created primarily to handle the FWS national office reorganization mentioned above, and its subsequent realignment of roles and responsibilities in the headquarters office and in some regional offices.

43^b

^aThe North American Waterfowl Management Plan, signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986, provides the framework for cooperative international efforts in waterfowl conservation and management.

^bIn contrast to the 43 above positions, we have concerns in connection with 22 of the 72 positions. For 7 positions, we have no opinion because we did not review them in detail. These were Schedule A and C special/confidential assistant positions vacated before June 1989.

GAO Concerns Regarding Twenty-Two Newly Created FWS Positions

We identified 72 positions that were created during Mr. Dunkle's tenure. Of these 72 positions, we have concerns in connection with 22, identified in table V.1 below and discussed in more detail later in this appendix.

Table V.1: Twenty-Two FWS Positions of Concern

Position	Grade	Cost ^a		Problem noted
		Annual salary/ benefits	Relocation	
Senior Executive Assignments:				
Deputy Assistant Director, Fish and Wildlife Enhancement	ES-4	b	0	Assignment of a senior executive from this position to a nonfederal organization without Interior approval was improper.
Special Assistant to the Director for Alaskan Issues	ES-5	\$101,800	\$13,000 ^c	Assignment of a senior executive from this position to a nonfederal organization is not consistent with OPM guidance on IPA assignments.
Senior Executive Appointment:				
Director, Fort Collins Research Center	ES-4	99,000	10,000	Appointment of Mr. Dunkle to this position using limited emergency appointment authority is questionable.
Questionable Positions:				
Special Assistant to the Director for Fisheries	ES-5	101,800	34,000	Three of five key FWS officials questioned the content of, or need for, this position.
Special Assistant to the Director for Contaminants	ES-4	99,000	0	Position had been occupied since July 1988. FWS officials have conflicting opinions on the need for this position and its relationship to existing Interior and FWS positions.
Program Officer	GM-15	96,300	0	Incumbent was assigned to this position in March 1989. The scope of duties for the position was undefined as of August 1989.
Deputy Director (Western Operations), North American Waterfowl Management Plan	GM-15	87,200	0	Incumbent was assigned to position in October 1988. Both the supervisor and incumbent believed the approved position description required considerable revision.
Associate Regional Director	GM-14	85,600	0	Incumbent was assigned to position in January 1989. In February 1989, an FWS evaluation team reported that the position description needed to be rewritten to reflect new duties because it did not contain sufficient work assignments related to day-to-day activities. Position description had not been amended as of August 1989.
Senior Biologist (12 positions)	GM-13/ GS-13	795,400	0	Positions created to accommodate employees whose positions were abolished during a reorganization. Three of 7 supervisors questioned the prescribed duties for 6 of the 12 positions.

(continued)

**Appendix V
GAO Concerns Regarding Twenty-Two Newly
Created FWS Positions**

Position	Grade	Cost ^a		Problem noted
		Annual salary/ benefits	Relocation	
Questionable Supervisory Relationships:				
Special Assistant to the Director (2 positions)	GM-14	132,600	0	Supervisory relationships for Schedule C appointees were not clear and therefore may not have been consistent with OPM's position authorizations for significant periods of time.
Total cost		\$1,598,700	\$57,000	

^aExcept for one position no longer authorized, we calculated these costs using 1989 salary rates and cost factors for retirement, insurance, Medicare, and other benefits as shown in Office of Management and Budget Circular No. A-76. FWS supplied data showing relocation costs (real estate expenses, travel, and transportation) for incumbents who moved to new permanent duty stations to accept newly created positions.

^bThis position is no longer authorized and therefore we did not include the estimated salary and benefit costs in the total. On the basis of salary and benefit rates in effect at the beginning of the 1-year assignment, we estimate these costs totaled about \$95,200. All other positions were still authorized and filled as of August 1989.

^cIn addition to the relocation cost for the special assistant's IPA assignment in Mobile, Alabama, \$13,000, FWS paid for his relocation from Alaska to Washington, D. C. According to FWS, the cost of this relocation totaled \$79,000.

Questionable Assignments to Nonfederal Organizations

The IPA authorizes federal agencies to assign employees temporarily to eligible nonfederal organizations for work of mutual concern and benefit. The act also allows federal agencies to arrange for these assignments with or without reimbursement and provides various protections for federal employees regarding pay, tenure, and position while on IPA assignments.¹ Guidance in OPM's Federal Personnel Manual says that cost sharing between the federal agency and the nonfederal organization should be consistent with the relative benefits that each organization expects to accrue and that the borrowing organization is usually the principal beneficiary of the assignment. If factors other than, or in addition to, relative benefits are used, the reasons must be clearly explained in the assignment agreement.²

Deputy assistant director for fish and wildlife enhancement As required by Interior policy, Mr. Dunkle said that FWS requested Interior's approval of a 2-year IPA assignment for a senior executive, the deputy assistant director for fish and wildlife enhancement, to the American Fisheries Society. FWS officials gave us a proposed IPA assignment agreement that provided for the assignment as a detail and that the employee

¹Public Law 91-648, Jan. 5, 1971, 84 Stat. 1909, as amended (codified at 5 U.S.C. 3371-3376 [1982]).

²Federal Personnel Manual, Ch. 334, 1-5.e.(1) and (3) (Inst. 310, Dec. 1, 1983).

had signed on August 19, 1987. The agreement also provided for the signatures of Mr. Dunkle and the Society's executive director. However, Mr. Dunkle said that Interior did not approve the request for the IPA assignment; documentation was not available to explain why.

As shown in letters dated October 26, 1987, from Mr. Dunkle to the deputy assistant director and the Society's executive director, Mr. Dunkle expanded the responsibilities of the executive's existing position to include functions that had been included in the proposed IPA assignment. From about November 1987 through October 1988, the executive worked full time at the Society's offices in Bethesda, MD, and under the Society's supervision. The senior executive's supervisors at FWS said they had not assigned her any work while she was at the Society, and her official position description did not mention any work at the Society. FWS paid all of her salary and benefit costs.

Mr. Dunkle, in essence, arranged an IPA-type detail without the controls and protections provided by the act, its implementing regulations, and OPM guidance. Mr. Dunkle lacked the authority to unilaterally make this assignment and, without Interior's authorization of the assignment under the IPA, FWS appropriations should not have been used to pay the executive's salary and benefits while she worked at the Society. The costs for the salary and fringe benefits for the assignment totaled about \$95,200. There were no relocation costs involved with this assignment.

Special assistant for Alaskan issues The position was approved and filled after the incumbent who had headed FWS' regional office in Alaska requested a transfer from that office. He was in the position of special assistant to the FWS director from June 1987 to August 1988. According to FWS officials, the special assistant worked on Alaskan issues in Interior's office of the Assistant Secretary for Fish and Wildlife and Parks. In August 1988, after the Assistant Secretary in that office received Interior's approval in April 1988, the special assistant began a 2-year IPA assignment with the Alabama Chapter of the Coastal Conservation Association in Mobile, AL. OPM approved the Association as an eligible IPA participant in January 1988.

The special assistant, who was about 6 years away from optional retirement when the assignment was made, said that he arranged the IPA assignment. Several top-level FWS officials, including the acting director, said the assignment was made in anticipation of the special assistant's

retirement. OPM guidance says that the IPA program is not to be used to assign employees to places of anticipated retirement.³

In addition, Interior acknowledged that the Association would share in the benefits, but FWS is paying all salary and benefit costs. The assignment agreement, however, did not indicate that any factors other than relative benefits were used to determine how costs would be shared.

In light of the relationship of this assignment to top-level FWS officials' comments about the senior executive's retirement and OPM's guidance on sharing costs, we believe this assignment does not comply with IPA requirements and question whether FWS appropriations should be used to pay 100 percent of the executive's salary and benefits. The costs for the salaries and fringe benefits, and the relocation costs for the assignment totaled about \$114,800 as of August 1989.

Questionable SES Appointment

In March 1989, Mr. Dunkle was reassigned from the position of FWS director to the position of Director of the Fort Collins Research Center in Colorado. The Fort Collins director position had been upgraded to SES level in July 1987. It was filled by a senior executive until May 1988, when Mr. Dunkle assigned the executive to a national office position. From that date until March 1989, Interior and FWS had not attempted to fill the Fort Collins position on a permanent basis, and during this period, it had been filled by nine acting directors.

Mr. Dunkle's reassignment was made under SES limited emergency appointment authority. Such appointments may be made to meet a bona fide, unanticipated, urgent need; cannot exceed 18 months; and must be approved in advance by OPM (5 U.S.C. 3394 & 3132 (a)(6) [1982]). OPM approved Mr. Dunkle's limited emergency appointment. It did so on the basis of Interior's statement that because of rapidly changing events in FWS, it could not anticipate the urgency and the immediate need to fill the position. Other than this, FWS, Interior, and OPM were unable to explain the basis for the limited emergency appointment in terms of a bona fide, unanticipated, urgent need. Responsible OPM officials told us that OPM had also approved these types of appointments during presidential transitions to accommodate departing political appointees.

In our opinion, the justification supporting the appointment does not sufficiently identify the events creating a bona fide, unanticipated,

³Federal Personnel Manual, Ch. 334, 1-4.f. (Inst. 310. Dec. 1, 1983).

urgent need for this appointment. Therefore, we question whether Mr. Dunkle's appointment meets the statutory requirements for such appointments.

Need for Certain Special Assistant Positions Questioned

As of August 1989, two senior executives occupied special assistant positions at FWS that we believe are questionable and need to be reevaluated. We reviewed the assistants' position descriptions and related documentation and obtained the views of five top officials in FWS' national office on the need for the two positions. The five officials were the acting director, who had been Interior's Deputy Assistant Secretary for Fish and Wildlife and Parks since January 1986; the deputy director-line;⁴ and the three assistant directors having responsibility for directing Service activities.

Special assistant for fisheries According to the position description, the assistant's major duties are to represent the director at meetings held by fisheries committees and organizations; prepare fisheries management plans and regulations; and advise the FWS director and Interior officials on national fisheries policies, programs, and procedures. The incumbent was eligible for retirement when reassigned to the position, shortly after it was approved. He is stationed at an FWS facility in Gainesville, FL, a location he selected.

FWS officials said the special assistant serves on various fisheries committees and confers with FWS national officials. They furnished all documentation they had available, which indicated that the special assistant had attended five meetings held by fisheries organizations in about 10 months. One of the officials said the special assistant had not developed plans and regulations mentioned in the position description. Although stating that the position was needed, FWS' acting director said the position needed goals and accountability; the deputy director-line said the position should be reevaluated; and the assistant director for fisheries believed the duties could be handled through existing positions. The two other FWS officials did not know if the position was needed.

On the basis of our review of the documentation supporting the establishment of the position and the officials' comments, it is unclear whether this position is needed. Accordingly, we believe the position needs to be reevaluated. The costs for the salaries and fringe benefits,

⁴FWS also has a deputy director-staff position. However, the official in that position was assigned in January 1989, after the special assistant positions were created.

and the relocation costs for the assignment totaled about \$135,800 as of August 1989.

Special assistant for contaminants In January 1989, Mr. Dunkle removed the Portland regional director who had refused to accept assignment to this position because, among other reasons given by the regional director, it duplicated 46 existing Interior and FWS positions that deal with the contaminant problem. A second executive, detailed to the position that same month, said the position lacked sufficient responsibilities to justify it. The incumbent also furnished documentation prepared by various FWS officials, including assistant directors and regional directors, who said the position as described would overlap and conflict with existing responsibilities of other FWS positions.

In interviews with us, the acting director and deputy director-line said FWS needed the position to deal with a contaminant problem. One assistant director believed the duties and responsibilities of this position could be handled through other existing FWS positions. Although two assistant directors were unsure of the need, one said that the job could be handled within the existing organization while the other said he was uncertain if the job required someone full time.

On the basis of our review of the documentation supporting the establishment of the position and because of the varying opinions among FWS' top officials regarding this position, it is unclear (1) whether this position is needed and (2) if it is needed, how the duties and responsibilities of the position relate to other FWS positions. Accordingly, we believe that the continuance of the position warrants evaluation and, if it is continued, its relationship to other FWS positions needs to be clarified. The costs for the salary and fringe benefits for the assignment totaled about \$99,000. There were no relocation costs involved with this assignment.

Undefined and Incorrectly Defined Regional Positions

After Mr. Dunkle removed the Portland regional director from that position, he removed two of his GM-15 assistants as well. Since October 1988, one of the two had been assigned to a new position in the Portland region and reported to an FWS official in Minneapolis, MN. However, the employee, together with his supervisor in Minneapolis, believed that the approved position description required considerable revision. For example, both the employee and supervisor believed the position description should be revised to require that the incumbent report to the regional director in Portland, where the incumbent is located, rather than to a

FWS official in Minneapolis. This was based on the supervisor's understanding that the position description should reflect about 75 percent of the duties on activities in the region and about 25 percent on activities related to the Minneapolis office.

In January 1989, the other assistant took a new position of associate regional director in the Portland region at a grade level lower than his previous grade. According to the position description, his duties were primarily to advise and assist the regional director and do various special projects as assigned. An FWS evaluation team reviewed the position and recommended in February 1989 that the position description be rewritten to reflect new duties because it did not contain sufficient work assignments related to day-to-day activities. FWS had not developed new descriptions for this position, or the position discussed above, as of August 1989.

In the third case, an employee returned from a limited term SES special assistant-to-the-director position to a GM-15 regional position of program officer in March 1989. The program officer position had been established in April 1987. It had been occupied by the current incumbent from June 1987 to October 1987, when he received a limited term SES appointment as special assistant-to-the-director. According to FWS officials, during the 17 months from October 1987 to March 1989, the program officer position had remained vacant and FWS had not attempted to fill it. FWS did not have an accurate description of the position as of August 1989. The approved description was inaccurate because it showed, for example, that the incumbent would supervise FWS' finance center and engineering center in Denver, whereas an FWS national official responsible for the two centers said the employee was not responsible for supervising the two centers. According to the employee, since March 1989, his actual duties have included overseeing an FWS construction contracting office and certain other offices in Denver, developing a training program, and working on special projects such as the planned relocation of the FWS Boston regional office. FWS officials were reviewing a new position description for the incumbent in August 1989.

Although we recognize that position descriptions may not always be up to date, we believe they should be as current as possible. Accurate descriptions are needed for, among other purposes, establishing an employee's grade and pay. In the above cases, the duties and responsibilities of the incumbents were not clearly defined even though the positions had been occupied for up to 10 months. Also, we believe the

discrepancies between the incumbents' position descriptions and the jobs they were doing, including their reporting relationships, were significant.

In addition to the above three positions, in August 1988, Mr. Dunkle directed the regional offices to create new grade 13 senior biologist positions. According to Mr. Dunkle, the purpose of creating the positions was to place certain incumbents whose positions as zone supervisors were being abolished as a result of a regional reorganization. The former director's August 1988 directive and other FWS documentation establishing the new positions did not identify an organizational need for the positions or the incumbents' duties and responsibilities.

In response, the regional offices created 12 senior biologist positions and filled them with former zone supervisors. Four of the regional officials we interviewed who had supervisory responsibility for the senior biologists believed that 6 of the 12 positions were needed. However, 3 supervisors for the other 6 positions said that the positions were either not needed or did not represent the best use of FWS resources. Three of the 12 incumbents were handling duties, full and part time, in other areas as of August 1989.

In light of the purpose for which the 12 positions were created, together with the varied views and uses of the position, we believe the positions require examination as to whether they should continue and, if so, what the duties and responsibilities should be. If incumbents are doing other jobs, they could perhaps be more properly assigned to those positions.

Certain Schedule C Supervisory Relationships Questionable

During Mr. Dunkle's tenure, OPM approved Schedule C positions of special and confidential assistants to the FWS director. The establishment of Schedule C positions, which are excepted from federal competitive service, must be specifically authorized by OPM. In deciding whether to provide authorizations, OPM's approval process includes consideration to whether proposed positions will involve policy determinations or close and confidential working relationships with a key official. A key official can be a presidential appointee, another Schedule C appointee, or an SES appointee occupying a noncareer or general position. OPM guidance says that Schedule C appointees may not report to or through officials in the competitive service and that a close and confidential relationship will not exist unless the appointees are subject to the immediate supervision of a key official. The guidance also states that OPM must approve, in advance, changes in the approved reporting relationships.

Two Schedule C positions created during Mr. Dunkle's tenure were still authorized and filled as of August 1989. OPM had authorized these two positions on the basis that the assistants would have a close and confidential working relationship with the director, deputy director, and other high ranking departmental officials. Organizationally, the positions were assigned to the director's immediate office and the director or his deputy signed the assistants' performance ratings. Both assistants said they worked for the director and their duties involved the legislative services area. But, according to the Assistant Director for External Affairs, responsible for the Office of Legislative Services, one assistant worked under the daily supervision of a GM-15 career employee in the competitive service for 8 months and the other for 35 months, the entire length of her appointment. He added, however, that the director assigned them projects and they reported to the director. Given the nature of these daily supervisory relationships, we question whether FWS complied with OPM's criteria that in order for a close and confidential relationship to exist, the appointees must be subject to the immediate supervision of the key official.

In addition to special/confidential assistant positions approved during Mr. Dunkle's tenure, a Schedule C position was authorized before his directorship and, according to a FWS official, was still occupied in August 1989. Although OPM authorized the position as confidential assistant to the FWS director in January 1985, the incumbent said his duties included working at the White House and, since January 1989, for an Interior assistant secretary. We believe that the assignment of duties and the supervisory relationship for the above assistant was contrary to OPM's specific authorization of the position for the periods mentioned.

Objectives, Scope, and Methodology

Our objectives were to (1) determine the number of SES, special assistant, and confidential assistant positions created during the directorship of the former director and his recent predecessors; (2) determine the purposes and costs of the positions created under the former director, including high-level positions at certain FWS regional offices; (3) ascertain whether these new positions and the people in them contributed to FWS' efficiency, effectiveness, and professionalism; and (4) determine whether the process for establishing selected positions during the former director's tenure followed relevant, OPM regulations and guidance, and Interior instructions.

To identify the number of SES positions established during the former director's tenure, we used an OPM list of SES positions created at FWS from the start of the SES (July 1979) through April 17, 1989. The list included the date the position was created and the position title. We also used the list for a second purpose; the titles allowed us to determine if any of the positions were for the job of special assistant-to-the-director.

To further identify confidential and special assistant positions, we reviewed Interior's monthly rosters of Schedule C appointments. We reviewed available rosters covering the period from June 1986 through April 1989. The reports show the dates the appointments were made and the Interior unit making the appointment. We then verified the completeness and accuracy of our identifications with computerized records from OPM.

We identified the number of SES, special assistant, and confidential assistant positions established during the tenure of the former director's two immediate predecessors. One directed FWS from about October 1973 to January 1981 and the other was the director from about November 1981 to September 1985. (Periods of time between directors were filled by acting directors.) We used the OPM list of SES positions to identify those created during each predecessor's tenure and to determine if any were for the job of special assistant-to-the-director.

We also used Interior's Schedule C reports and similar reports from OPM that, together, provided an inventory of such appointments back to 1976. For each appointment that we identified, we reviewed OPM's file on the related position to make certain that the appointment was for special or confidential assistant-to-the-director.

The Subcommittee asked us to identify and analyze a significant sample of the high-level positions established at three FWS regions: Boston, Denver, and Portland. We identified two positions (senior biologist and associate manager) at the grade 13 and 14 levels to examine. These positions were part of an FWS-wide reorganization, thus making our analysis impact all regions. The reorganization was made at the direction of the former director. We also identified three positions (deputy director, western operations, North American waterfowl management plan; associate regional director; and program officer) at the grade 14 and 15 levels. The Subcommittee agreed with this sample.

To ascertain the purposes of the positions created under the former director and the contributions of people who filled them, we reviewed selected position descriptions and supporting justifications and performance appraisals of persons in the positions. We interviewed 27 FWS officials in Washington and the three FWS regions to obtain views on the need for positions and the practice followed in creating and filling them. These officials also provided views on whether the new positions contributed to FWS' efficiency, effectiveness, and professionalism. The officials included the acting director, FWS Senior Executives in Washington, the regional directors (including the former regional director in Portland), and their various assistants in the three regions. We also interviewed the former director.

To determine position cost, we reviewed requests for and notifications of personnel actions that showed grades and salaries of persons filling the new positions. We did this for all special and confidential assistants and for 22 other newly created positions that concerned us. We estimated the cost of fringe benefits associated with these positions using cost factors in effect for retirement, insurance, Medicare, and other employee benefits shown in Office of Management and Budget Circular No. A-76 for the relevant periods of time. We also obtained cost data from travel records where positions involved permanent changes of duty stations. We determined whether the process FWS followed in establishing the positions was in accordance with law, regulation, and instructions by determining whether required approvals were obtained for personnel actions and whether the actions were consistent with requirements.

At OPM, we obtained reports and records to identify or verify positions created during the subject tenures, determined whether FWS obtained OPM's approvals for Schedule C positions, and received comments from OPM on certain FWS personnel practices.

Appendix VI
Objectives, Scope, and Methodology

Our work was done between February 1989 and August 1989 in Washington, DC, and at FWS offices in Boston, Denver, and Portland. We followed generally accepted government auditing standards. The Department of the Interior, OPM, and Mr. Dunkle provided written comments on a draft of this report. These comments are presented and evaluated in appendixes VII, VIII, and IX.

Comments From the Department of the Interior

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

November 2, 1989

Mr. James Duffus, III
Director, Natural Resources
Management Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Duffus:

Transmitted herein are the comments of the Department of the Interior regarding draft report B-235438, Personnel Practices, Personnel Management Issues at the U.S. Fish and Wildlife Service. Our comments on the specific recommendations of the draft report are included as enclosure (1), and a copy of the current U.S. Fish and Wildlife Service organizational chart is provided as enclosure (2).

Now on p. 1.

On page 2 of the draft report in the first paragraph of the section entitled Results in Brief, it is misleading to draw so positive a conclusion regarding comparison with prior Directors. As indicated in Appendix III, no data was available for the initial period of Director Greenwalt's tenure. It is ordinarily during the early part of such service that initial excepted service appointments are made by political appointees. Further, there is no data indicated to determine if Director Greenwalt created positions under the Executive Assignment System prior to July 1979. To say that Director Dunkle's number of positions created is more than double that of his two most immediate predecessors is not substantiated by factual information. We strongly recommend that the last clause of sentence 2 be deleted.

See comment 1.

In the first full paragraph on page 4 of the draft report, the role of the Qualifications Review Board (QRB) is discussed. For purposes of clarification, the QRB must approve the managerial qualifications of candidates only before they are first appointed to career Senior Executive Service (SES) positions or after completion of agency Senior Executive Service Candidate Development Programs.

Now on p. 3.

See comment 2.

On page 5 of the draft report in the first paragraph of the section entitled Number of Special and Confidential Assistants, the record indicates that there are no complete data available to indicate that Director Greenwalt created any special and/or confidential assistants. Although Appendix III is noted to inform the reader of the lack of data from October 1973 to March 1976, this fact is ignored in this paragraph as well as in the paragraph on page 2 as described above.

Now on p. 4.

See comment 3.

Now on p. 1.

Appendix VII
Comments From the Department of
the Interior

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Now on pp. 4 and 21.

On page 6 of the draft report in paragraph 2 of the section entitled Questionable Assignments to Nonfederal Organizations, while the citations noted are accurate, they do not express the flexibility contained in FPM Chapter 334, subchapter 1-5, when read in its entirety. Chapter 334.1-5e(1), is provided as guidance and includes exceptions and other circumstances under which different arrangements may be made. Cost sharing on a relative benefits basis is the most common method utilized, but alternatives exist depending upon factors relevant to the non-Federal organization. Flexibility is included so that Federal agencies may make use of it where they deem warranted to accommodate the specific characteristics of individual assignments.

See comment 4.

Now on pp. 5 and 22.

On page 7 of the draft report in paragraph 4, regarding the uncertainty expressed about the use of Fish and Wildlife Service appropriations to pay for the salary and benefits of the Deputy Assistant Director - Fish and Wildlife Enhancement while performing assigned, related functions with the American Fisheries Society, we assert that no impropriety exists from an appropriation use standpoint. Under the provisions of 16 USC 661 and 16 USC 742f(a)(4), the Fish and Wildlife Service is authorized to provide assistance and cooperate with private organizations in such endeavors. We conclude, then, that since the action was legal, the use of Fish and Wildlife Service appropriations was permitted.

See comment 5.

Now on pp. 5, 22, and 23.

On page 8 of the draft report in paragraph 2 of the section entitled Special Assistant for Alaska Issues, the employee's official personnel records indicate that he is not eligible for optional retirement until October 3, 1994, more than 2 years after his assignment would expire were it extended to the maximum time limit of 4 years. As he is covered under the provisions of the Civil Service Retirement System, he must have a combination of age 55 with 30 years of service or age 60 with 20 years of service in order to retire optionally. Accordingly, the statement in sentence 1 that he "was near retirement eligibility age when the assignment was made" is misleading. Additionally, the sentence regarding Office of Personnel Management (OPM) guidance and the accompanying footnote, (6), does not apply to this case. Our above comments regarding determination of Intergovernmental Personnel Act assignment costs are also applicable here. Further, as there is no relationship to the employee's optional retirement eligibility, no basis remains for the retention of the last sentence of paragraph 2.

See comment 6.

See comment 7.

See comment 8.

Now on pp. 5 and 23.

On page 9 of the draft report in paragraph 2 of the section entitled Questionable SES Appointment, the request submitted by the Fish and Wildlife Service was for a limited-term appointment. During the close-out session conducted by the General Accounting Office staff, the evaluators were informed by the Department's Director of Personnel that Interior changed the appointment type

See comment 9.

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on advice of OPM. Your interpretation of the requirements and use of the limited-emergency appointment authority is excessively rigid and inflexible. Your characterization leads the reader to believe that agencies and OPM have no discretion in its use. Although OPM is best able to respond to this point, your narrow interpretation is not consistent with OPM's efforts to assist agencies in responding to sensitive staffing needs.

Now on pp. 6, 25, and 26.

On page 12 of the draft report in paragraph 2 of the section entitled Undefined and Incorrectly Defined Regional Positions, the example used to illustrate the need for a revised position description is not valid. Employees are assigned supervisors based on organizational alignment not on geographical location. The position in question was established as part of the organization located in Minneapolis, Minnesota, and properly reported to the head of that organization. The determination to organizationally locate the position in the Minneapolis organization was made by Fish and Wildlife Service management as is its prerogative. The employee depicted in this paragraph optionally retired on September 2, 1989.

See comment 10.

In the section of the draft beginning with the last paragraph on page 13 and continuing through two paragraphs on page 14, the suggestion that the establishment of 12 senior biologist positions to accommodate former zone supervisors was unwarranted reflects a lack of understanding of the need to retain employees of the Fish and Wildlife Service. The alternative action would have been to effect a reduction-in-force action involving 12 Fish and Wildlife Service biologists. The Fish and Wildlife Service expects Regional Directors to reevaluate their needs on a continuing basis and assign available people as warranted.

Now on pp. 6 and 27.

See comment 11.

On pages 14-16 in the section entitled Certain Schedule C Working Relationships Questionable, the OPM guidance as stated in paragraph 1 is incomplete. Schedule C employees may report to Presidential Appointees, other Schedule C employees, or Senior Executive Service members in positions designated as general (as opposed to designation as career reserved). In the cases of two Schedule C employees mentioned in paragraph 2, records show that both received performance ratings from the Director or the Deputy Director acting in his stead. These officials took performance appraisal action in the capacity of immediate supervisor. Schedule C employees are organizationally assigned to the Director's immediate office, and only the Director determines the general assignments they carry out on his behalf throughout the Fish and Wildlife Service organization. The Schedule C employee mentioned in paragraph 3 was detailed to the White House on a reimbursable basis as required for periods exceeding 180 days during a fiscal year. Upon his return to the Fish and Wildlife Service, he was detailed to the Office of the Assistant Secretary for Fish and Wildlife and Parks. He has since resigned and left the Federal service.

Now on pp. 7, 27, and 28.

See comment 12.

See comment 13.

See comment 14.

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Now on pp. 7, 8, and 9.

See comment 15.

See comment 16.

Now on p. 18.

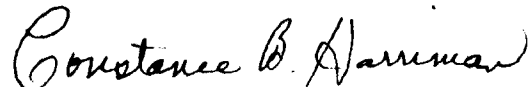
See comment 17.

On page 16 of the draft report in the section entitled Changes Affected Staff Negatively, the report recounts personal views of 27 employees. The reader is encouraged to believe that, with the exception of the Fish and Wildlife Service reorganization in 1986, personnel decisions were taken for questionable purposes. The employees interviewed are entitled to hold their personal opinions regarding these actions. In the last paragraph of this section, concern is expressed regarding the attraction and retention of "good" (which we interpret as well qualified) people in the SES. The 18 SES members cited were reassigned a total of 23 times as follows: 13 associated with the 1986 reorganization, 7 to positions higher in the organization, and 3 to fill new positions. The use of the term "many reassignments" is misleading to the reader as the majority were directly related to the Service reorganization and involved little more than a change in title. The Fish and Wildlife Service believes its SES members are well qualified, and no mass exodus, as implied, has occurred or is foreseen.

On page 26, Appendix III, the above comments regarding page 2 of the draft report are applicable to the comparison chart and notes c, d, and e. Note b indicates that Schedule A appointments are used to fill "positions of special assistant to the director." Schedule A appointments are not routinely used, as stated, to fill such positions. In the one case where this authority was used, the employee was originally appointed under Schedule C authority, but was converted to Schedule A when it was determined that she was eligible as a severely handicapped individual (Schedule A, Reg. 213.3102(u)). This was the only instance where Schedule A authority was used to fill a position of this sort.

We appreciate the opportunity to provide these comments, and trust that they will be of assistance in preparing the final report.

Sincerely,



Constance B. Harriman
Assistant Secretary for Fish
and Wildlife and Parks

See comment 18.

Enclosures

Appendix VII
Comments From the Department of
the Interior

Comments on the Recommendations of the GAO Draft Report
Personnel Management Issues at the
U.S. Fish and Wildlife Service
B-235438

Recommendations to the Secretary of the Interior

Paragraph 1

Recommendation: That the Secretary review the Assignment of the senior executive to the Coastal Conservation Association in Alabama to ensure that salary and benefit costs are shared appropriately and the assignment conforms with the Intergovernmental Personnel Act and related OPM regulations. If improper, we recommend that the Secretary determine whether remedial steps, such as amending the agreement with the Association to more accurately reflect cost sharing, are appropriate.

Response: In light of the comments we have provided on the page 6 text of the draft report, we believe this action was properly taken. A subsequent review has confirmed regulatory compliance.

Recommendation: That the Secretary determine whether the assignment to the American Fisheries Society and the use of FWS appropriated funds to pay any or all of the executive's salary and benefit costs during the assignment were proper. If improper, we recommend that the Secretary determine whether remedial steps such as recovering funds from the Society, or the former director, are appropriate.

Response: Our comments on the page 7 text of the draft report demonstrate that the Fish and Wildlife Service action was within the scope of governing guidelines and that further review is unnecessary.

Paragraph 2

Recommendation: (1) That the Secretary instruct the Director of FWS to review existing special assistant positions to determine whether they are necessary to accomplish FWS' mission and, if so, are defined properly.

Response: A review of existing special assistant positions is underway and final determinations are expected to be made within 60 days.

Enclosure (1)

Now on pp. 4 and 21.
See comment 19.

Now on pp. 5 and 22.
See comment 20.

See comment 21.

**Appendix VII
Comments From the Department of
the Interior**

Recommendation: (2) That the Secretary instruct the Director of FWS to ensure that the actual duties and responsibilities of the positions and approved descriptions agree.

Response: It is not unusual to experience broadening scope and duties in newly established positions. Further, it is unrealistic to expect managers to anticipate every conceivable duty or project that could possibly be included in a new position established at the senior level, nor is there a requirement that every specific duty or project be included in a position description. Managers are not expected to redescribe positions unless actual duties that evolve are no longer generally described in the position description of record. It is the routine practice of Fish and Wildlife Service managers to maintain position descriptions in an up-to-date manner.

See comment 22.

Recommendation: (3) That the Secretary instruct the Director of FWS to determine whether the regional senior biologist positions make the best use of FWS' resources.

Response: Our comments on the text of pages 13 and 14 of the draft report provide that Fish and Wildlife Service Regional Directors will continuously assess the needs of the Service within their Regions and allocate resources accordingly. We will, however, instruct the Regional Directors to pay special attention to the senior biologist positions.

Now on pp. 6 and 27.

See comment 23.

Recommendation: (4) That the Secretary instruct the Director of FWS to ensure that Schedule C appointees' actual duties and supervisors are the same as those approved by OPM.

Response: Our comments on the text of pages 14-16 of the draft report demonstrate that Fish and Wildlife Service Schedule C positions are in compliance with guidelines.

Now on pp. 7, 27, and 28.

See comment 24.

Recommendation: When changes in the duties and supervisory or reporting relationships of Schedule C appointees must be made, we recommend that the Secretary instruct the Director to request approval from OPM of the changes, as required in OPM guidance.

Response: Approvals will be requested from the Office of Personnel Management for changes in Schedule C positions when required by regulatory guidance.

See comment 25.

Enclosure (1)

The following are GAO's supplemental comments on the Department of the Interior letter dated November 2, 1989.

GAO Comments

1. Report has been revised on page 1 to eliminate comparison to Mr. Greenwalt's tenure.
2. Report has been revised on page 3 to clarify the Qualification Review Board's approval authority.
3. Report has been revised on page 4 to clarify that data were not available for a portion of Mr. Greenwalt's tenure.
4. Information has been added to the report on page 21 to show that agencies, with specific justification, may share costs on other than a relative benefits basis.
5. While the provisions of 16 U.S.C. 661 and 742f(a)(4) provide general authority for the Secretary of the Interior to carry out the FWS mission, including assisting and cooperating with other organizations, we do not believe these provisions cover assignments to nonfederal organizations for extended periods of time. Instead, Congress provided specific authority for such assignments in the IPA. (For information on the legislative history of the IPA and its overall use by federal agencies, see Intergovernmental Personnel Act of 1970: Intergovernmental Purpose No Longer Emphasized [GAO/GGD-89-95, June 1989].) The former director tried to get the Executive Resources Board to approve the assignment as a detail under the IPA. He then made, in essence, an IPA-type detail without having obtained required Interior approval and without the controls and protections provided by the act, its implementing regulations, and OPM guidance. Interior policy requires the assignment of any FWS senior executive outside the Department for any length of time to be approved in advance by Interior's Executive Resources Board.
6. Report has been revised on page 22 to clarify when the employee is eligible to retire.
7. We revised the report to show that agencies must clearly explain in assignment agreements if factors other than, or in addition to, relative benefits are used as a basis to share costs. The assignment agreement for the Special Assistant for Alaskan issues did not indicate that other factors were used. Rather, the agreement and supporting documents indicate that the benefits to FWS and the nonfederal organization were

the basis for the assignment. Yet, costs were not shared according to the benefits that each organization would derive from the assignment.

8. We have clarified the retirement eligibility date of the special assistant on page 22 of the report. The comments regarding the special assistant's retirement plans were provided by FWS officials, namely the acting director, a regional director, and a former regional director.

9. We do not believe that a limited term or a limited emergency appointment authority was appropriate for assigning the former FWS director to the director position at the Fort Collins Research Center. Limited term appointments may be made when the position is not a continuing one. This does not appear to be the case with the position of Director of the Fort Collins Research Center. Limited emergency appointments may be made to meet a bona fide, unanticipated, urgent need. FWS did not show what events created such a need. In fact, the Fort Collins position had been vacant for about 10 months during which time FWS did not attempt to fill the position on a permanent basis.

10. Interior's comments address the geographical problem which was identified by the employee and his supervisor. Other examples of what they thought needed to be revised in the position description included funding, major duties, and scope and effect of the position. Interior did not comment on discrepancies in the associate regional director and the program officer positions that had been occupied for several months.

11. We do not question the overall need for senior biologist positions in FWS. Rather, our basic concern is that some of the incumbents of certain positions were not being used in their assigned positions, and some supervisors did not believe the positions were needed or represented the best use of FWS resources. FWS could possibly identify other positions which better fit the needs of the organization and assign the employees to these positions. If such positions cannot be identified, a reduction-in-force action is an alternative.

12. Report has been revised on pages 7, 27, and 28 to clarify OPM's guidance on reporting relationships of Schedule C employees.

13. We agree that, on paper, the assistants were organizationally assigned to the director's immediate office and that he or the deputy director signed their ratings. But, in reality, based on interviews with the special assistants and an FWS official, the special assistants, for significant periods of time, worked in another office and were supervised

on a daily basis by a GM-15 career employee in the competitive service. Given the nature of these daily supervisory relationships, we question whether FWS complied with OPM's criteria for approving Schedule C positions.

14. The confidential assistant did not work in the position of confidential assistant to the director that OPM approved. As we note on pages 7 and 28 although he worked in other positions including one at the White House, OPM approved the position on the basis of its confidential relationship with the former FWS director. We earlier reported on the detailing of Schedule C employees to the White House and commented on the inappropriate use of the Schedule C hiring authority for this purpose. (For more information, see Personnel Practices: Detailing of Federal Employees to the White House [GAO/GGD-87-102BR, July 1987] and Personnel Practices: Federal Employees Detailed From DOD to the White House [GAO/GGD-88-33, March 1988].)

15. Our comments are based on interviews with 27 top-level officials at FWS, including the acting director, deputy director-line, most assistant directors, selected regional directors, and other selected regional officials, at the SES, GM-15, and GM-14 level. As requested by the Subcommittee, we summarized both their positive and negative views on Mr. Dunkle's management practices. Twenty-two of these officials had concerns about certain of those practices.

16. We have revised the report on pages 8 and 9 to reconcile our data with FWS' data. Our analysis, however, still shows that the majority of the reassignments were made to existing positions and not to positions resulting from the reorganization. We have also revised the report on page 8 to show that the executives' concerns dealt more with attracting well-qualified people to the SES than with losing people.

17. Report has been revised on page 18 to clarify FWS' use of one Schedule A special assistant.

18. One enclosure, a FWS organizational chart provided by Interior, was not used in this report. Rather, we included an FWS organizational chart which included all SES positions as of August 1989.

19. Interior said the assignment of the FWS senior executive to the Coastal Conservation Association in Alabama was proper because OPM's guidance permits IPA assignment costs to be shared by federal and nonfederal organizations for reasons other than the relative benefits to

each. While we agree with Interior's interpretation of the guidance, the guidance also provides that, if a basis other than relative benefits is used, the assignment agreement must show the other factors that were used. The agreement in question did not indicate that a basis other than relative benefits was used. Rather, correspondence supporting the assignment indicates that the Association would benefit from the assignment. Based on OPM guidance, if the Association is benefiting from the assignment, it should share some portion of the assignment cost.

20. Interior said the former director acted with proper authority under 16 U.S.C. 661 and 742f(a)(4) when assigning a senior executive to the American Fisheries Society. These statutory provisions provide Interior with general authority to protect fish and wildlife, including assisting and cooperating with other organizations in carrying out this mission.

We do not believe these basic authorities should be used to assign employees to nonfederal organizations for extended periods of time. Rather, Congress enacted the IPA to authorize such assignments, and we believe FWS should have followed the IPA and its implementing OPM regulations and guidance in assigning the senior executive to the American Fisheries Society. Moreover, in the act making appropriations for fiscal year 1988, Congress specifically precluded Interior from using any funds to detail any employee to an organization unless the detail was in accordance with OPM regulations (Public Law No. 100-202, 101 Stat. 1329, 1329-235 [1987]). This provision appeared for the first time in Interior's fiscal year 1985 appropriation. The legislative history of the provision indicates that the House Committee on Appropriations also directed Interior to submit a report to the Committee each month, by agency, on employees detailed outside the agency. The reports include (1) the employee's name, title, and grade; (2) the name of the organization to which assigned or detailed, (3) the purpose of the action; (4) the planned duration; and (5) whether the assignment or detail is reimbursable or nonreimbursable. (H.R. Rep. No. 886, 98th Cong., 2d Sess. 63 [1984].)

We believe the former director acted without proper authority in making the above assignment and that the assignment was a detail. In addition, had he executed an IPA assignment agreement with the American Fisheries Society as dictated by OPM regulation and guidance, the Society may have properly assumed a portion of the assignment cost commensurate with the benefits it derived. In short, the government probably lost money, and Interior needs to make sure that, in the future, assignments of this type conform with the IPA and related OPM guidance.

21. Interior agreed to review existing special assistant positions and determine within 60 days whether the positions are necessary to accomplish FWS' mission, and if so, whether they are properly defined.

22. Interior did not specifically address the three positions we identified as being inaccurately defined. Rather, Interior said that duties and responsibilities of newly created positions evolve over time and that managers are not expected to update the descriptions unless they generally do not reflect the actual duties. We agree that position descriptions cannot always be current. However, the three positions in question had been occupied for periods ranging up to 10 months, and various FWS officials questioned the accuracy of the descriptions of record. The discrepancies described by these officials were significant, and unless FWS has complete and accurate descriptions, it cannot be sure that the duties and responsibilities are classified properly and that pay is appropriate.

23. Interior agreed with the thrust of our recommendation that FWS determine whether the regional biologist positions represent the best use of FWS resources.

24. Interior said Schedule C special assistants' duties and reporting relationships complied with guidelines. It said the assistants were organizationally assigned to the former directors' immediate office, and the assistants carried out general assignments on the former director's behalf. Available documentation supports Interior's comments regarding the general relationships between the former director and the special assistants. However, according to a FWS official, for significant periods of time, the assistants worked in the legislative services area and were actually supervised by a GM-15 official in the competitive service. Both assistants confirmed that they had worked in the legislative services area. Given the nature of these daily supervisory relationships, we question whether FWS complied with OPM's criteria for approving Schedule C positions.

25. Interior agreed that it would request approval from OPM when changes occur in Schedule C positions as required in the future.

Comments From the Office of Personnel Management



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D. C. 20415

NOV 13 1989

Mr. Bernard L. Ungar
Director, Federal Human Resource
Management Issues
U. S. General Accounting Office
Washington, D. C. 20401

Dear Mr. Ungar:

This responds to a recommendation made in the GAO Draft Report on Personnel Management Issues in the U.S. Fish and Wildlife Service (page 20) that OPM review the propriety of a limited emergency appointment authority granted for the appointment of Mr. Frank Dunkle.

The justification submitted by the Department of the Interior with the request for a limited emergency appointment authority stated: "Because of the rapidly changing events related to the Fish and Wildlife Service, we could not anticipate the urgency and immediate need to fill this position at this time." A bona fide emergency may be based upon whether an organization can function effectively for a period of time without a particular position. In this case, filling the Director of the Fort Collins Research Center, the key Center position, through a limited emergency appointment during the transition period appeared valid.

I have therefore determined that the authority granted for the limited emergency appointment of Mr. Dunkle is appropriate and will continue until the 18 month expiration date or when Mr. Dunkle leaves the position, whichever occurs first.

Sincerely,

A handwritten signature in cursive script, appearing to read "Constance Berry Newman".

Constance Berry Newman
Director

Now on p. 10.

See Comment 1.

GAO Comments

1. OPM said that the limited emergency appointment of Mr. Dunkle to the Fort Collins position appeared valid. It said a bona fide emergency may be based upon whether an organization can function effectively for a period of time without a particular position. It is unclear, however, how or whether the vacancy at Fort Collins had resulted in a bona fide, unanticipated, urgent need. To the contrary, information gathered during our review shows that the position at Fort Collins had been filled by nine acting directors from May 1988 to March 1989, during which time Interior and FWS had not tried to fill it on a permanent basis.

We are also troubled by OPM's comments made during our review that the limited emergency appointment authority had been used to accommodate departing political appointees during the Presidential transition. We question whether this is a proper use of the authority, unless the facts indicate that an emergency exists. Thus, we expanded our recommendation to cover use of this authority beyond the circumstances surrounding Mr. Dunkle's appointment.

Comments From the Former Director of the U.S. Fish and Wildlife Service



United States Department of the Interior

FISH AND WILDLIFE SERVICE
NATIONAL ECOLOGY RESEARCH CENTER
4512 McMurray Avenue
Fort Collins, Colorado 80525-3400
Commercial 303-226-9398
FTS 323-5398



October 31, 1989

U.S. General Accounting Office
Attn: Mr. James Campbell
Assistant Director
General Government Division
441 G Street NW, Room #3150
Washington, D.C. 20548

Dear Mr. Campbell:

Thank you for the opportunity to comment on the Draft Report requested by Chairman Studts to review personnel policies and actions by me during my tenure as Director of the Fish and Wildlife Service.

The allegations made in the GAO report cannot be separated from the environment in which I found myself as I assumed leadership of the U.S. Fish and Wildlife Service on May 7, 1986. Therefore, I would like to take a few moments to clarify the situation that existed in the Service and that led to my initiation of significant management and personnel changes in that agency.

An important area of consideration not reviewed or noted by your investigators in this report is that portion of the law that states: "the Director, who shall be subject to the supervision of the Assistant Secretary for Fish and Wildlife." The Assistant Secretaries during Director Jantzen's tenure and the Assistant Secretaries during my tenure required discussion and approval of all new positions, transfers, and promotions. Hence, personnel actions that were recommended involving all GS/GM/14's through Senior Executive positions were discussed with and approved by the Assistant Secretary. Most GS/GM-15 actions required attention and approval by Department personnel; in addition, all types of actions for Senior Executive consideration required Departmental and in most instances OPM approval. Thus, it would be impossible for me to have taken whimsical, hasty, or improper actions.

See page 3.

Appendix IX
Comments From the Former Director of the
U.S Fish and Wildlife Service

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See comment 1.

The Service had operated under a Program Management System from 1973-1986 whereby seven separate bodies within the Service had program management authority over all Service functions, which resulted in the lack of ability of the Service to meet the deadlines or needs of permit issuing and management of the resources and thus there was much criticism of the Service. One of my primary objectives as Director was to abolish this system and replace it with a line-staff organization, which I successfully accomplished. This action was widely recognized as a needed improvement to the Service; it was well received by most of the over 7000 Service employees within the agency, as noted in the GAO report. However, change is not without repercussion in any organization. Individuals that previously had program management power lost that power, and the status quo was upset within the agency—a needed change that was resented by some of those that lost their power. In order to implement a change of this magnitude, I needed substantial short-term assistance from individuals that supported and understood the line-staff management system, and needed to find new positions for others to best make use of their management capabilities.

See comment 1.

The abolishment of the Program Management System resulted in the abolishment of 57 unnecessary paper shuffling and staff positions in the Washington Office, which saved \$4.2 million of Service resource management funds. These positions and some of the individuals were transferred to the field. The Service did not receive Reduction in Force authority, so in some cases special concessions were made to ensure that the change from the Program Management to line-staff organization occurred as smoothly as possible.

See comment 1.

The major organizational change noted above was recognized both inside and outside the Service as a positive and needed action. However, the GAO report fails to recognize the significance of this reorganization as it relates to the personnel actions being questioned in the report. For example, the Program Managers had their special staff assistants, but these positions are not considered in the tabular data and analysis provided in the GAO report.

See comment 2.

The GAO report contains a surprising lack of factual information, and a confusing and conflicting presentation of the little information available. Since the investigators could find little factual information, they resorted to speculation, and subsequently treat this speculation as though it was factual. This is evidenced by the excessive use of phrases such as "it appears," "it would appear," "we believe" and other presumptuous statements that provide little information but promotes a very biased attitude. In an effort to be unbiased, the report should clearly separate speculation from fact, and deal only with factual information. Opinions, both of the investigators and those interviewed, have little relevance to the allegation that personnel practices initiated during my administration were illegal or improper.

Appendix IX
Comments From the Former Director of the
U.S Fish and Wildlife Service

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See comment 3.

For the record, all the actions investigated in the GAO report were, in fact, legal and proper. All were approved by either a Personnel Specialist in the Service, or by officials at the Department level. Therefore, if improprieties are properly determined, then the GAO report should focus on correcting these practices at the Department of Interior or Office of Personnel Management levels.

See comment 4.

The tremendous negative bias of this report is evidenced further in the method used to obtain the speculative information. Uniform and unbiased information was not obtained. Rather than random interviews, selective interviews were held with only 27 of the 7000 Service employees, most of whom were negatively impacted by the change from the Program Management to line-staff; many of the individuals interviewed did not support this management change and therefore provided the negative information desired by the investigators. In addition, the types of questions asked, the tone of the questioner, and the environment in which the interviews were held did bias to the information received. Likewise, the method in which the responses were recorded and the selection of information on which to base the report increased the possibility of misrepresentation and misinterpretation of employee perceptions.

See comment 5.

Of great concern to me are the numerous examples where, even in the absence of evidence of impropriety, or when the GAO investigators admit that the evidence is unclear, the GAO investigators imply or conclude that I acted improperly. In every instance where Federal regulations or congressional authorities were discussed, the GAO investigators chose to interpret those documents in the most restrictive manner, even though alternative interpretations are used by others. Several of the alleged improper actions were not taken by me; for example, their questioning of the Senior Executive Appointment to Ft. Collins was initiated at the Department level, and the 12 Senior Biologist positions were totally under the purview of the respective Regional Directors (Appendix V). The entire discussion on page 9 of the Draft Report is unrelated to my actions, yet it remains as part of the report. Those sections that do not relate to my actions should be deleted from the document.

Now on pp. 5 and 23.

See comment 6.

The purpose of a GAO report should be to shed light on certain issues. Unfortunately, the subject report does just the opposite. In section after section the investigators state that "it is unclear" (Page 8, last line; Page 11, 1st paragraph; Page 12, 1st line), "we believe" (page 11 1st paragraph) or "we question" (page 6, 2nd paragraph; page 10, 3rd line), "in our opinion" (page 10 line 1), "we believe are questionable" (page 10, 2nd paragraph), and so on throughout the document. If these sections of the report cannot provide factual data or reach unbiased conclusions, they should be deleted. If the GAO investigators cannot reach a conclusion after their review of the legislation and documents, of what value is this information in the report except to unfairly bias the reader? These judgmental opinions by the GAO investigators are inappropriate and unwarranted. In each case where the conclusion is unclear, the GAO investigators assume guilt on my part and this is grossly unfair.

Appendix IX
Comments From the Former Director of the
U.S Fish and Wildlife Service

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See comment 7.

Additional detailed responses to the allegations are contained in the attachments. However, I will summarize by stating that the preparers of the report:

- failed to understand or consider the impact that a major reorganization has on personnel actions;
- failed to find any body of factual data to substantiate their allegations of improper personnel actions;
- made extensive use of speculation and perceptions in lieu of factual information; and
- therefore have drawn incorrect and inappropriate conclusions in most instances.

After reading your draft report, I can only conclude that the GAO investigators have found nothing of substance and, failing to find anything of substance, have instead focused on speculative journalism. I sincerely hope that you will remove the speculation and opinion from your report, and address only factual information related to those personnel actions that factual information concludes were illegal and that were initiated by me. Further, please restrict your comments to those actions for which I was the responsible official. Perhaps with these revisions, your report will be more accurate and more meaningful.

Sincerely,



Frank Dunkle

Attachments:

- 1 742b. USFWS (b) Establishment of Director
- 2 Official Chart of USFWS
- 3 Recommended Substitution for GAO Appendix II
- 4 Recommended Substitution for GAO Appendix III
- 5 Comments on Appendix IV

See comment 8.

The following are GAO's supplemental comments on the Former Director of the U.S. Fish and Wildlife Service's letter dated October 31, 1989.

GAO Comments

1. We agree that the 1986 FWS national office reorganization was a significant change. According to the FWS officials we interviewed, the change was generally well received in FWS, and we recognize this at various places in the report. At the same time, many of the 22 positions of concern to us and many of the personnel practices of concern to various top-level FWS officials were unrelated to the national office reorganization. In fact, only 1 of the 22 positions resulted from that reorganization.
2. We based our report both on a review of testimonial evidence and pertinent supporting documentation. Where testimonial evidence was the best evidence available and therefore was used, it represents the views of FWS' top-level officials, including the acting director, deputy and assistant directors, and various regional directors and their assistants. We did, nonetheless, appropriately qualify our observations and conclusions to make them consistent with the evidence available and to recognize that the creation of new positions is a matter of discretion of an agency head, subject to relevant laws, regulations, and guidance.
3. Although we generally agree that most of Mr. Dunkle's personnel actions were legal and within his discretion as an agency head, we do not agree that the assignment of a senior executive to a nonfederal organization received required Interior approval. In addition, the assignment was made without the controls and protections set forth in the IPA, its implementing regulations and OPM guidance. Also, we question certain assignments of Schedule C political appointees who were supervised daily by a career employee.
4. Our comments are based on interviews with 27 top-level officials at FWS, including the acting director, deputy director-line, most assistant directors, selected regional directors, and other selected regional officials at the SES, GM-15 and GM-14 level. As requested by the Subcommittee, we summarized both their positive and negative views on Mr. Dunkle's management practices. Twenty-two of these officials had concerns about certain of those practices.
5. On the basis of evidence we gathered, we do question the propriety of certain actions taken during Mr. Dunkle's tenure. We agree that Mr. Dunkle's appointment to the Fort Collins position was initiated by Interior and approved by OPM. We do not agree, however, that the regional

directors initiated the action to establish senior biologist positions. Rather, Mr. Dunkle specifically directed, in August 1988, that the regional directors create senior biologist positions to accommodate those individuals who would not be selected for associate manager positions, as we state on pages 6 and 27 of the report.

6. See our comment 3 above. Also, the pages cited by Mr. Dunkle have changed and can now be found in appendix V.

7. On the basis of evidence we gathered and for the reasons given in our comments 1 through 6 above, we disagree with Mr. Dunkle's summary comments.

8. We have not included the attachments to Mr. Dunkle's letter in our report. Attachments 1 through 3 provided information already included, in different form, in the report. Attachment 4, a suggested comparison of special/confidential assistant positions created by Mr. Dunkle and his two immediate predecessors, excluded all new SES positions resulting from the 1986 national office reorganization. While we agree that the total number of positions did not increase, we believe these positions should be included because they were newly created and because we have included similar positions for the previous two FWS directors. Attachment 5 provides Mr. Dunkle's detailed comments on the 22 positions of concern to us. Mr. Dunkle's comments are similar to those made by Interior, which are evaluated in appendix VII. In addition, he provided reasons for creating certain positions and the procedures he followed in doing so, which we recognize at the appropriate places in our report.

Major Contributors to This Report

**General Government
Division, Washington,
D.C.**

James T. Campbell, Assistant Director, Federal Human Resource
Management Issues
James J. Grace, Evaluator-in-Charge
Carrie Watkins, Evaluator
Don D. Allison, Personnel Specialist
Nellie Shamlin, Secretary

**Office of the General
Counsel, Washington,
D.C.**

Jill Sayre, Attorney-Adviser

Seattle Regional Office

Aurelio P. Simon, Regional Assignment Manager

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