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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-137063

MAR 21 1966

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Dear Senator Cotton:

Reference is made to your letter of January 19, 1966, questioning the propriety of certain expenditures by the Department of the Interior in the propagation and conservation of the Hawaiian nene goose. Also, you asked to be furnished information concerning the amount expended, per goose, by the Federal Government and by the State of Hawaii.

In enacting Public Law 85-891, approved September 2, 1958, 72 Stat. 1712, referred to in your letter, the Congress recognized the fact that there then existed less than 50 rare Hawaiian nene geese in the wild state in the Territory of Hawaii and that such species of native waterfowl was threatened with extinction. As a consequence, the Congress authorized to be appropriated to the Secretary of the Interior the sum of \$15,000 per annum for a period of five years to be used to promote a program of research, propagation, and management necessary to effect the restoration of that species in its natural habitat.

You point out that the Department of the Interior, through the Bureau of Sport Fisheries and Wildlife, sought, obtained, and obligated additional appropriations of \$15,000 in fiscal years 1965 and 1966 to continue the program authorized by Public Law 85-891. You question the propriety of expenditures for such purposes in fiscal years 1965 and 1966 inasmuch as the authority contained in Public Law 85-891 expired with the close of fiscal year 1964 on June 30, 1964.

Even though the authority contained in Public Law 85-891 had expired, there appears no legal basis to now question expenditures made by the Department of the Interior for this purpose during fiscal years 1965 and 1966 inasmuch as funds had been requested for such purpose by the Department and such funds in the amount of \$15,000 for each of the two fiscal years involved were appropriated by the Congress under the appropriation "Management and Investigation of Resources."

Also, we note that hearings on a bill, H.R. 505, which would have extended the authority of Public Law 85-891 were held before the House Subcommittee on Fisheries and Wildlife Conservation, of the Committee on Merchant Marine and Fisheries during May 1965. During the course of those hearings, representatives of the Department of the Interior stated that enactment of H.R. 505 was not necessary inasmuch as sufficient authority to carry out the program for conservation of the nene

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goose is contained in the Fish and Wildlife Act of 1956, as amended, 16 U.S.C. 742, et seq., and in the Migratory Bird Conservation Act, as amended, 16 U.S.C. 715, et seq.

In explaining why the Department favored enactment of Public Law 85-891 in 1958 but did not recommend in 1965 that the authority contained therein be extended, Assistant Secretary of the Interior, Stanley A. Cain, advised us that--

"* * * In 1957, the territory of Hawaii requested this Department to provide technical and financial assistance in propagating in captivity this species of migratory birds. Prior to this date, it was the general policy of this Department to conserve and protect migratory birds and other wildlife through the acquisition of habitat and resting areas and through management of the various wildlife species and through investigations. As a matter of policy only, this Department, in 1957, did not favor propagation in captivity as a means of managing wildlife. We did not, however, lack authority for such management work. Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) directed the Secretary of the Interior to--

* * * * *

"(5) take such steps as may be required for the development, management, advancement, conservation, and protection of wildlife resources through research, acquisition of refuge lands, development of existing facilities, and other means." (Underlining added.)

* * * * *

"A number of bills, however, were introduced in Congress in 1957 to direct the Secretary to carry out a research and propagation program for the nene goose. This Department favored enactment, because it was then decided that an expression of congressional policy relative to the use of Federal funds for propagating waterfowl in cap-
tivity was desirable. As we indicated above, prior to this time the Department, as a matter of policy did
not favor this method of managing waterfowl, but it was recognized that this approach seemed to be the only promising method to increase the number of the nene goose.

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"A bill was enacted in 1958 (72 Stat. 1712) directing the Secretary to carry out a 5-year program in relation to the nene goose. The statute expired in 1964. Bills were introduced in the 88th and the first session of the 89th Congresses to extend the program an additional 5 years and to increase the annual appropriation ceiling from \$15,000 to \$25,000. In our report * * * to the Senate Committee on Commerce and the Merchant Marine and Fisheries Committee of the House of Representatives, we said:

"We believe that the only feasible and ultimate solution to the permanent conservation of this species is to establish an appropriate refuge. The nene is included within the category of birds (anatidae) covered by the Migratory Bird Treaties. Accordingly, adequate authority exists under the Migratory Bird Conservation Act to establish a refuge when needed. Also, the Fish and Wildlife Act of 1956 authorizes the Secretary to establish such a refuge and to conduct a program of research, propagation, and management of wildlife, including the nene. During this fiscal year, and after the expiration of the 1958 Act, \$15,000 was appropriated and obligated to carry out such a program. The same amount is included in the President's budget for fiscal year 1966.

"We think that specific legislation to continue this program an additional five years is unnecessary. We therefore recommend against the enactment of S. 791 [H.R. 505]."

"Hearings were held last year on H.R. 505 by the then Committee Chairman, T.A. Thompson. It was emphasized that the Department had adequate authority to carry out this program without any dollar limitations. The Committee did not question the Department's position relative to the need for this bill, but, on the contrary, urged the Department to continue to carry out this program to increase this rare species.

"We are continuing this highly desirable program. Fifteen thousand dollars has been obligated in fiscal years 1965 and 1966 and an additional amount is requested for fiscal year 1967."

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In view of the authority referred to by the Department of the Interior, particularly that contained in section 7 of the Fish and Wildlife Act of 1956, 16 U.S.C. 742(f), and the fact that the Congress, subsequent to the expiration of Public Law 85-391, has approved requests by the Department of the Interior for funds to continue the nene goose conservation program, we see no basis to question the legality of expenditures made for such purpose.

Information obtained from the Bureau of Sport Fisheries and Wildlife concerning the cost of the program and the average cost per goose is as follows:

Prior to fiscal year 1960, the nene restoration project had been carried out by the Territory of Hawaii. At June 30, 1958, there were 39 nene geese in the captive flock which were reared by the Territory of Hawaii. During fiscal year 1959 the Bureau of Sport Fisheries and Wildlife allocated \$3,000 from the National Wildlife Refuge funds (16 U.S.C. 715a) for the purpose of implementing a restoration program and \$450 in funds available under the Pittman-Robertson Act (16 U.S.C. 669). In addition, the Territory of Hawaii spent \$3,150 for the nene goose project for a total of about \$11,600.

On the basis of the authority contained in Public Law 85-391, the Bureau of Sport Fisheries and Wildlife spent \$15,000 annually during fiscal years 1960 through 1964 from the appropriation for "Management and Investigation of Resources." In addition, the Bureau gave the State about \$450 annually from funds available under the Pittman-Robertson Act for a sum total of \$77,250 over the five-year period. During the same period, the State of Hawaii contributed \$16,147. The following tabulation shows the amounts spent by the Federal Government and by the State of Hawaii during the five-year period on two separate bases, (1) average cost per goose reared in captivity and (2) average cost per goose released to its natural habitat:

	Total amount spent	Number of geese reared (note a)	Average cost per goose reared (note b)	Number of geese released (note a)	Average cost per goose released (note b)
Federal	\$77,250	186	\$415	147	\$525
State	16,146	186	87	147	110
Combined	<u>\$93,397</u>	186	<u>\$502</u>	147	<u>\$635</u>

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a/ The total geese reared do not include the flock of 54 geese which were reared and in captivity at the beginning of the five-year period. The difference in the number of geese reared and the number released represents primarily an increase in the number of geese retained in captivity for breeding purposes, and for further research studies.

b/ The average cost per goose is a calculated amount because the Bureau's records do not show the amounts specifically applicable to rear and release the same geese to its habitat. The total Federal and State costs consist of amounts spent for research, propagation, conservation, and management of the same restoration program.

In addition to the foregoing, Bureau records show that during the five-year period, the State of Hawaii received contributions of about \$9,450 from private organizations for the same restoration project. During the same period, the State had obtained and transported 69 same geese from England and five same geese from the State of Connecticut. The Bureau's Chief, Division of Wildlife Research, advised us that the State paid costs associated with these 74 same geese from funds contributed by private organizations.

Bureau records show that during fiscal years 1965 and 1966 the same restoration program was being maintained at about the same financial level as compared to the prior five-year period. Available information shows that in fiscal year 1965 the Federal and State agencies spent about \$15,450 and \$9,491, respectively, for a combined total of \$24,941 for the same restoration program. During fiscal year 1965, there were 41 geese reared and 49 geese released to their natural habitat.

Review of the Bureau records did not disclose the increase in the number of wild geese that can be attributed to the release of geese which were reared in captivity under this program.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States

The Honorable Morris Cotton
United States Senate

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