

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Department of the Interior FY 2020 Budget Hearing
March 26, 2019

Questions for the Record – Department of the Interior

Questions from Ms. McCollum

Arctic National Wildlife Refuge

At the end of 2017 the Congress passed a tax cut bill. Title II of that bill was language directing the Secretary to open the Arctic National Wildlife Refuge to oil drilling. The bill mandated no less than two lease sales within 10 years, with each lease sale comprising no less than 400,000 acres. The professed reason for the sale was to raise \$1 billion over a 10-year period which would be used to offset the projected \$1.5 trillion cost of the tax cut. On December 15, 2017, the Congressional Budget Office produced a letter which scored the ANWR provision as raising \$1.1 billion of federal revenue over 10-years. CBO stated in the letter that \$500 million of the federal share – 46% of the total federal revenue – would come about from lease sales in fiscal year 2022. Because the CBO analysts rely on information and input from the Department when they create their scores, I would like to ask the following questions:

McCollum Q1: Will you provide an updated estimate of the revenues that will come about from the lease sales?

Answer: The President’s Budget estimates ANWR lease sales will generate \$2.2 billion in total revenues over the 10-year budget window, including both the Federal and State shares. It is too early to know precisely how many acres will be made available for leasing in total or in particular lease sales. Commercial parties will develop their bidding strategies and take into account multiple variables, including the terms and conditions imposed by BLM once its analysis under NEPA and other relevant statutes is complete. Actual bidding results may be higher or lower than this estimate.

McCollum Q2: How much has been spent by all Interior bureaus on the ANWR legislation since its enactment in December 2017?

Answer:

The BLM has spent an estimate of \$3.7 million on 1002 area related activities since the enactment of the Tax Cut and Jobs Act of 2017 (P.L. 115-97), which included the requirement that the BLM conduct oil and gas leasing activity within the 1002 area coastal plain.

The U.S. Fish and Wildlife Service dedicated \$1.2 million for research needs related to oil and gas development in the 1002 area of the Arctic National Wildlife Refuge.

The USGS has spent \$2.6 million on 1002 area related activity since FY 2017. These activities were funded from the Energy Resources Program.

Reprogramming

Even though Congress specifies in detail how it appropriates funds, adjustments may be necessary due to unforeseen circumstances. To account for this, Congress gives agencies some flexibility to shift funds, however, an agency's ability to do this is restricted by limiting provisions – also referred to as – “reprogramming guidelines”. Nearly all the Appropriations subcommittees carry reprogramming guidelines in the bill text. Agriculture, Commerce-Justice, Defense, Energy & Water, Financial Services, Labor HHS, State and Foreign Operations, VA/Military Construction and Transportation and Housing all carry bill text. Interior is an exception. Ours are in the explanatory statement. For the last few years, we've been working to transition them into the bill so there is consistency across the subcommittees. Throughout this process, we have asked the Department for drafting input so that we get it right, and to be frank, the Department has resisted this effort and has been uncooperative.

McCollum Q3: Why has the Department refused to provide technical assistance?

Answer: The Department met with the Subcommittee staff and discussed concerns about potential impacts to funds execution. We currently comply with the reprogramming guidelines and do not believe statutory language is necessary to ensure continued compliance. The Department did provide input on proposed changes to the reprogramming guidelines concerning organizational changes.

McCollum Q4: What makes the Department of the Interior unique from agencies funded by the nine other subcommittees that include reprogramming guidelines in their appropriations bills?

Answer: The Department adheres to the reprogramming guidelines currently and will continue to do so. We are available to discuss practical implementation questions and concerns at the Subcommittee's convenience.

McCollum Q5: Does the Department follow the current reprogramming guidelines?

Answer: Yes, the Department works in good faith to adhere to the Committee's reprogramming guidelines. Interior's Office of Budget issues Reprogramming Guidance to budget officers across the Department each year, submits quarterly reprogramming reports and formal reprogrammings, and requires formal assurance from agency budget officers that funds have been executed within Congressional control levels or any changes are consistent with reprogramming guidelines.

McCollum Q6: Did the Department follow the reprogramming guidelines during the shutdown?

Answer: Yes, funds were executed during the shutdown in conformance with the reprogramming guidelines. Carryover funding was used to support activities consistent with the appropriated purpose.

BIA Office Relocation

The reprogramming guidelines specifically apply to “closures, consolidations, and relocations of offices, facilities, and laboratories.” Proposed reprogrammings must be submitted to the Committee for approval. Yet, in calendar year 2018, several positions were moved from the D.C. headquarters to Albuquerque.

In February, Bureau of Indian Affairs confirmed that 35 positions in the Office of Trust Services are being relocated from the D.C. headquarters to Albuquerque and Lakewood, Colorado. In addition, several Bureau of Indian Education staff are being moved to Albuquerque.

McCollum Q7: How does the Department decide whether relocating staff positions from the Washington, D.C. headquarters to a regional office is subject to the reprogramming requirements specified in the appropriations bill. What is your threshold?

Answer: The Department reviews the reprogramming guidelines to consider whether the proposed change affects the current organization chart, and the extent to which facilities or functions are proposed for closure, consolidation and or relocation.

The changes proposed within the BIA impacted duty stations for some Trust Services employees but not the entirety of the Trust Services function. The BIA changed the mix of Trust Services employees in the Washington D.C., Lakewood CO, and Albuquerque locations.

Changes proposed in the Bureau of Indian Education would not move incumbent staff but would enable the BIE to more successfully recruit talented employees to fill several vacant positions. The BIE has had difficulty recruiting some staff in remote locations.

Ethics

This month, GAO released a report¹ on ethics procedures that found deficiencies at the Department of the Interior. GAO found that vacancies and staff turnover had negative effects on Interior’s ethics office. This office provides ethics services to employees at the Office of the Secretary, the Office of the Solicitor, and to all of Interior’s political appointees.

¹ “Federal Ethics Programs: Government-wide Political Appointee Data and Some Ethics Oversight Procedures at Interior and SBA Could be Improved” (GAO-19-249)

GAO found that, as of November, there was a staggering 29% vacancy rate.

McCollum Q8: The Department's response to GAO concurred with GAO's findings. What steps has the Department taken to prioritize filling these vacant positions?

Answer: Creating a strong ethical culture within Interior is one of the Secretary's highest priorities. By the end of FY 2019, we will have doubled the number of career ethics officials hired in the entire previous Administration. The Secretary has also directed the Ethics Office to begin consolidating Interior's disparate ethics functions into a comprehensive departmental program to create a better functioning and robust program. The Department submitted a reprogramming notice to the Committees on June 14, 2019.

According to your budget, in FY 2018 there were 587 full time equivalents working on ethics. Your proposed level for FY 2020 is significantly lower. In fact, the budget is requesting 196 fewer ethics officials than FY 2018. This means a workforce that is 33% smaller than 2 years ago.

McCollum Q9: How does this demonstrate a commitment to a culture of ethics?

Answer: The ethics staffing levels cited in the question are not familiar. As indicated in the FY 2020 Budget Justification for the Office of the Solicitor (page SOL 28), total direct Full Time Equivalent staffing was 7 at the end of FY 2018 and are projected to increase to 12 direct Full Time Equivalents in FY 2020. As of June 2019, the Departmental Ethics Office has 13 employees, and the remaining DOI components have 35 employees dedicated to ethics.

Last May, Acting Secretary Bernhardt directed the Department to develop a staffing plan to have one full-time ethics official for every 500 employees by fiscal year 2020. However, this contradicts Office of Government Ethics guidance, which states that there is no "right" ratio for the number of ethics staff per employee.

McCollum Q10: How did the Department develop that ratio?

Answer: The goal of hiring ethics counselors at a 500:1 ratio was set in 2018 as part of an aggressive effort to elevate the priority of the ethics program and address prior neglect of this important program across the Department.

As indicated in the GAO findings, the Department's various ethics programs have been understaffed for years, with one, or at most, a few full-time ethics officials for each Bureau or Office. Unfortunately, the Department's 70,000 employees became accustomed to not having effective and timely ethics counseling when it was requested, which in turn discouraged some of them from seeking ethics advice when needed. The under-staffing caused inconsistency in the quality of advice and ethics services within

and across the various Bureaus and Offices. The prior lack of focus on the Department's ethics program contributed to ethical lapses by our employees.

With a significantly higher number of ethics counselors to provide advice and counseling, DOI can provide quality ethics training and timely and accurate advice and counseling to its employees. Given the problems that arose because of a lack of focus on the ethics program, an aggressive approach to staffing the ethics program was warranted. As DOI moves forward on its plans to reform the ethics program, we believe more employees will use the services of ethics counselors. By the end of FY 2019, we will have doubled the number of career ethics officials hired in the previous Administration.

McCollum Q11: Will the Department reexamine this ratio now that the GAO report has documented that it does not conform to Office of Government Ethics guidance?

Answer: During the next few years, we will be able to reassess our staffing needs based on the collection of data of ethics services provided and adjust staffing as needed for future years.

Vacancies Act

In the Trump Administration's third year, there are still only 3 agency heads across the Department's 10 bureaus and offices that are confirmed or appointed by the Secretary. The Administration has never even submitted nominations for some of these positions.

The Federal Vacancies Reform Act sets limits for officials acting in positions that are vacant. However, the Department of the Interior seems to have found work arounds. For example, Susan Combs was nominated to be the Assistant Secretary of Policy, Management, and Budget in January 2018, but even though she was still awaiting confirmation in August, the Department decided to have Ms. Combs do the job anyway. For eight months, she has served as the Acting Assistant Secretary of Policy, Management, and Budget.

The Committee was surprised the Department took the position that it would be inappropriate for Ms. Combs to testify today because she has not yet been confirmed by the Senate.

McCollum Q12: How does the Department explain these conflicting actions?

Answer: At the time, Ms. Combs was actively involved in the Senate confirmation process. This was not a matter of legal authority.

McCollum Q13: What has been the effect of the lack of leadership across the bureaus?

Answer: Interior has been fortunate to have very talented and capable people currently exercising the authority of key leadership positions. This has enabled the Department to

deliver results and advance Administration priorities in the last two years. We continue to work hard to fill remaining key leadership positions.

Federal Lands Recreation Enhancement Act

The subcommittee's first hearing this Congress was with GAO to focus on our most fundamental responsibility, exercising Congress' power of the purse. During that hearing, I expressed my serious concerns about Acting Secretary Bernhardt's decision to direct the National Park Service to use its Federal Lands Recreation Enhancement Act fee revenues in place of the funding this subcommittee appropriates for operational activities during the government shutdown.

GAO explained how agencies must follow the Antideficiency Act and the Purpose Statute. After listening to the GAO testimony, several subcommittee members agreed GAO should review the Department's actions. Consequently, a request was made that the GAO provide a legal opinion.

McCollum Q14: The Department has several outstanding requests due to the subcommittee. Please provide:

- The details of spending during the shutdown.

Answer: Although we do not have a full tally of Federal Lands Recreation Enhancement Act (FLREA) spending during the shutdown, we expect the majority was obligated by the National Park Service (NPS) to support limited operations at the parks. The NPS is in the process of reviewing and finalizing expenses charged to balances of FLREA revenue at approximately 100 park units as part of the bureau's contingency plan to support basic visitor services during the partial government shutdown. The NPS expects this review to be complete and information available this summer, at which time it will be provided to the Committee.

The U.S. Fish and Wildlife Service obligated minimal FLREA funding, less than \$35,000, during the shutdown for activities at sites which would otherwise have been supported by FLREA revenue. Similarly, during the shutdown, the Bureau of Land Management (BLM) estimates it spent less than \$450,000 to support visitor use at BLM recreation areas, including trash pickup, emergency services, and law enforcement monitoring. This FLREA funding supported the same activities and recreation area sites regardless of a shutdown.

- Why the Department feels it was necessary to have the Acting Secretary personally review each project, even those already underway.
- How this delay impacted the timing of these projects, especially after so much time was lost due to the shutdown.
- The status of the FLREA projects.

Answer: The NPS reviewed over 1,500 projects to be funded from recreation fees in FY 2019 to ensure each project satisfies one of the six categories of expenditures allowed under the Federal Lands Recreation Enhancement Act (FLREA): facility repair, maintenance, and enhancement related to visitor enjoyment, access, and health and safety; visitor information and services; habitat restoration related to wildlife-dependent recreation; law enforcement related to public use and recreation; program operating or capital costs; and fee management agreements. The NPS then provided this list of projects to the then-Acting Secretary. The review caused no substantial delay. Almost all projects have already been approved to proceed with only 6% of projects require additional justification and review. The NPS and DOI will continue to conduct oversight for projects, as necessary.

Landscape Conservation Cooperatives

In the fiscal year 2019 omnibus, Congress provided \$12.5 million for the existing 22 Landscape Conservation Cooperatives. With that funding, Congress stipulated that, prior to making any changes to the program, Fish and Wildlife Service must:

- Officially present a description of those changes to this Committee, and
- Provide opportunity for public review and comment.

The Landscape Conservation Cooperatives program has been altered with many not receiving any Federal funding and nearly one-third of them no longer operating.

McCollum Q15: What is the status of the 22 Landscape Conservation Cooperatives?

Answer: In the report accompanying the 2018 appropriation, the Committee recognized “the different levels of partner support across the States” and directed the Service to reconsider how it handled its landscape conservation program. The Committee directed the Service “to focus funding where partnerships are strong.” In 2017, the Service engaged the States in a conversation about how landscape conservation would evolve. As a result of this work, the Service has pivoted its program to support landscape conservation priorities co-developed with the States.

The Landscape Conservation Cooperatives (LCCs) may, in some cases still operate, but with other organizations taking a lead role while the Service operates as a conservation partner. The FWS continues to support the LCC coordinator positions which continue to work with many of the same regional partners on landscape conservation projects.

The Service does not formally track the status of the LCCs, as they were and in some cases, continue as self-directed partnerships with their own governance structures. A

document is included with the response to the Committee that reflects the Service's understanding of the current status of each LCC. (See question 17)

McCollum Q16: How many LCC Coordinators and Science Coordinators is the Service currently funding? How much funding is the Service providing to the LCCs research agendas?

Answer: The Service is funding coordinator and science coordinator positions for a variety of collaborative landscape conservation efforts based on the co-development of priorities with States and other partners. While the Service no longer supports the formal function of LCCs, we still coordinate extensively with States and other external partners on shared landscape conservation goals. The Service has supported this change by providing \$8.4 million in field staff time and coordination with partners.

McCollum Q17: To what extent were Steering Committees consulted before realignments took place or was this a Service decision?

Answer: The Service has extensively consulted with States and other partners; however, LCC Steering Committees were not formally consulted. The Service informally consulted with many Steering Committee members on program changes and the evolution of landscape conservation.

The Service has been working through the Association of Fish & Wildlife Agencies (AFWA). In 2018, AFWA passed a resolution that reflected a shared vision for conservation at landscape scales and the need for agencies to work together and with landowners and non-governmental organizations. The Service has joined AFWA's member States and other organizations to implement the resolution's recommendations.

The Department provided a document to the Committee on April 2, 2019. Provide that document for the record.

Answer: See attached updated document.

The document stated that five LCCs were reconvened under new organizational structure and support.

McCollum Q18: How much federal funding has been provided to support these partnerships?

Answer: The Service supports several collaborations that have co-developed landscape conservation priorities by providing coordinators and project funds to some of these entities. No funding was provided directly to the reconvened LCCs in 2018. There are currently over 15 collaborative partnerships that continue to work on shared conservation priorities with our partners. The Service supports this effort with \$8.4 million, including the partnerships that are being led by external organizations.

This document also states that 12 LCCs have been aligned with collaborative landscape efforts.

McCollum Q19: Do those LCCs still exist and do they still have Steering Committees? How have research projects changed now that they are in broader partnerships? Does the funding go to the LCC or the broader partnership?

Answer: Some member organizations have chosen to collaborate with other entities and partners engaged in landscape conservation efforts such as Nature's Network, the Southeast Conservation Adaptation Strategy, and the Midwest Landscape Initiative. The Service utilizes staff and funding to support these efforts with a focus on working peer-to-peer with States and across the conservation community. While these partnerships continue to coordinate on shared conservation goals, they are no longer functioning as a Service-led LCCs and no longer utilize the associated Steering Committees. Research within these newly structured partnerships has shifted to shared priorities and science needs as developed with the States and other conservation partners.

McCollum Q20: What was the last fiscal year the LCCs currently exploring options for continued collaboration received any federal funding? Has there been any consultation or public review and comment regarding the future of these LCCs?

Answer: Fiscal year 2017 was the last year that the Service provided coordinators and project funding for all LCCs. The Service did not hold a formal public review and comment period, but has engaged stakeholders extensively since that time.

McCollum Q21: The document lists three LCCs as ceasing operations. Two of those LCCs were led by BLM. When did these LCCs cease to exist? How is BLM collaborating with the Service in landscape conservation in the absence of this forum?

Answer: The BLM supported one Landscape Conservation Cooperative (LCC), the Great Basin, and participated in others. The Great Basin LCC ceased operation in 2018. The BLM and Fish and Wildlife Service continue to coordinate and work with Great Basin partners who are involved in science application, technology, and robust science research at landscape scales.

McCollum Q22: Is the Department planning to formally notify the Committee of any changes to the program?

Answer: The Service provided three briefings for the Committee on this topic, two in 2018 and another in March of this year. As directed by language contained in the report accompanying the FY 2020 House Interior Appropriations bill, the Department will submit a reprogramming request to describe the changes to the program. The Service will continue to engage with the Committee and the landscape conservation community as the program evolves and is available for additional briefings at the Committee's request.

Land and Water Conservation Fund

The FY 2019 appropriation of \$435 million for the Land and Water Conservation Fund included \$301 million for the Department of the Interior. Unfortunately, the Administration's FY 2020 budget only includes \$32 million, and only about \$5 million of that is for actual projects.

Ironically, this budget proposal came within days of the President signing a bill to permanently reauthorize the Land and Water Conservation Fund.

For the last few years, Congress included a directive in appropriations bills requiring the land management agencies to send us a prioritized list of potential projects that could be funded should Congress choose to do so. That directive was again included with the FY 2019 appropriations bill.

McCollum Q23: What is the status of the Department's list, and when will the Committee receive it?

Answer: The Department provided the Congressionally directed list on May 2, 2019.

Conservation Funding for States and Tribes

The Cooperative Endangered Species Conservation Fund (CESCF) and the State and Tribal Wildlife Grants provide funding to States and Tribes, so they can be more active in species management and conservation. The FY 2020 budget eliminates funding for this Conservation Fund and the tribal wildlife grants. It also proposes to cut State Wildlife Grants in half.

McCollum Q24: What analysis have you done to determine the impact this funding reduction will have on the ability of States and Tribes to accomplish conservation activities and species management?

Answer: While the 2020 budget would reduce the number of collaborative projects and Habitat Conservation Plans supported through the Cooperative Endangered Species Conservation Fund and State and Tribal Wildlife Grants programs, the Service will continue to work with the States to support their species conservation efforts.

McCollum Q25: What conservation will not be accomplished without this funding?

Answer: The Cooperative Endangered Species Conservation Fund provides grant funding to States and Territories for species and habitat conservation actions on non-federal lands, but the Service has other programs to support the activities funded through this program. For example, the Service expects an increase in funding for the Federal Aid in Wildlife Restoration program for 2020. This will provide additional funding to States they can utilize for similar conservation activities.

McCollum Q26: How does this cut help keep species off of the endangered species list?

Answer: The budget request includes an increase of \$15.5 million in Endangered Species Recovery that will support conservation activities for listed species through development

of recovery plans, five-year status reviews, and rulemakings to downlist or delist species whose status has improved. Furthermore, the Service has many other programs that focus on conservation efforts to avoid listing species, such as the Partners for Fish and Wildlife Program. The budget request will enable the Service to focus efforts on conservation activities, in cooperation with States and the conservation community, to avoid listing and recover listed species.

Financial Assistance Actions (Grant Review)

Since 2017, the Department has imposed a review process of all grants and cooperative agreements over \$50,000. This has led to significant delays in disbursing funds. Grant recipients have faced uncertainty and have been forced to make difficult decisions.

For example, even though we Congressionally direct funding for the National Heritage Areas, the Department has included them in this review. As a consequence of this additional layer of bureaucracy, the Mormon Pioneer National Heritage Area in Utah lost \$525,000 in leveraged funds and the Northern Rio Grande National Heritage Area was forced to cancel its spring grants cycle.

In December 2017, a memo was issued notifying DOI offices of this new policy and that the Office of Policy, Management and Budget would be conducting the review.

McCollum Q27: In FY 2018, how many discretionary grants and agreements were reviewed by the Department? Of those, how many were denied and for what reasons?

Answer: It is estimated PMB reviewed approximately 3,200 grants and agreements in FY 2018. In addition, most awards were appropriately reviewed and approved at the bureau leadership and Assistant Secretary levels.

There were very few denials and if there were questions, the package was returned for more complete information on the deliverables associated with the funding. Denials only occurred where there was a serious concern for financial oversight. For example, denials occurred when the receiving organization was the subject of an Inspector General finding that they did not have the capacity to properly account for Federal funds. Some of these awards were approved after the organization addressed the Inspector General findings and provided assurance of their capacity to properly account for and oversee federal funds.

McCollum Q28: In FY 2018, what was the average length of time for grants and agreements to clear the review process?

Answer: Awards were submitted to PMB in groups or packets. For small packets of up to 20 they were turned around in a day or less. For larger packets of 20 to 100 awards, the review time averaged between 1 to 4 days.

McCollum Q29: What was the average length of time prior to implementation of this new review?

Answer: We do not have that information.

McCollum Q30: How many different stages of sign off are required for \$50,000, \$100,000 and \$150,000 grants and cooperative agreements? For example, does the Regional Director and Bureau Director have to sign off? Who, at the Department level, is required to review and approve? Are any programs, such as the annual funding for USGS Climate Science Centers, exempt from this review?

Answer: As part of the 2018 review process PMB worked closely with the bureaus and Assistant Secretaries to identify awards where it was appropriate to have the review occur at the bureau or Assistant Secretary level. As a result, many of the reviews were conducted by the leadership within the bureaus, which also helped to strengthen financial assistance oversight at the bureau level. Awards identified for the lower level review have clearly defined criteria and processes for determining awardees and award amounts. For example, cooperative agreements for Heritage Area partnerships and State and Tribal Wildlife formula grants, were reviewed at the bureau level. Based on the review process and the information that was gained, leadership within the bureaus met with PMB to revise the review process for 2019. We continue to streamline the review process.

Science Cuts

The Department is proposing to drastically reduce funding for science. The USGS motto is, “Science for a Changing World”, yet the Trump budget cuts the bureau by \$177 million dollars or 15%. Additionally, the budget proposes to

- Decrease the number of Climate Adaptation Science Centers from eight to three;
- Completely eliminate Fish and Wildlife’s Science Support funding (- \$17 million);
- Eliminate Joint Fire Science (-\$3 million); and
- Eliminate collaborative conservation forums like the Landscape Conservation Cooperatives in the Fish and Wildlife Service.

McCollum Q31: Why did the Department target science programs for cuts?

Answer: The Department did not target science for reductions. Across Interior, the budget prioritizes core operations, including ongoing support for the USGS’s essential earth and resource monitoring networks. With regard to science, specifically, the 2020 budget includes over \$750.0 million across Interior for research and development. The 2020 budget requests close to \$1.0 billion for the Survey which is a significant amount.

Reorganization

Overall the budget requests \$27 million for the reorganization, \$25 million of which is in the jurisdiction of the Interior subcommittee. And yet, nowhere in your budget justifications does it explain what the American taxpayers get for their money.

- You've cut mine cleanup in Appalachia by \$115 million.
 - \$25 million would go a long way toward cleaning up the residents' environment.
- You've cut \$169 million from Indian school construction.
 - \$25 million would probably replace two schools.

You claim things like efficiency, better organizational management, streamlining and yet you haven't provided a single sheet of paper with any economic analysis to this subcommittee

McCollum Q32: Absent any documented analysis, how do you justify this reorganization?

Answer: The Reorganization is necessary to modernize a Department that has not been comprehensively reorganized in many decades, and whose bureaus have evolved independently, resulting in significant lost opportunities for improved communication and programmatic coordination. Establishing the Unified Regions was an important first step to organize the Department's bureaus along watersheds while respecting State lines in all but a few instances.

Having common regional boundaries, 12 rather than the previous disparate 49, will simplify stakeholder and partner interaction with Interior's bureaus, especially on matters crossing several Interior bureaus. The unified regions also better position the Department to find efficiencies and more effective practices among shared administrative services. The Department has undertaken three third party assessments to determine where efficiencies and effectiveness of: IT, Procurement, and Human Resources might be improved. To date, final reports from the IT and Procurement assessments were received, and the Human Resources assessment is underway.

The IT assessment was delivered in mid-February and underwent extensive review and analysis within the Department. As part of the reorganization effort, in 2019, the Department is working to improve network and interoperability across the bureaus, integrate IT help-desk ticketing, and implement shared services solutions to advance strategic purchasing for IT across DOI. The goal is to deliver improved service, better value, and increased transparency and accountability regarding IT operations and processes at the Department.

With respect to the acquisition and procurement assessment, in early April, a report was delivered by the contractor which included a fairly detailed suggested roadmap. In 2019, the Department is addressing recommendations to standardize procurement practices and increase volume purchasing through "category management".

The implementation of well-designed shared services programs will be enormously beneficial for Interior operations.

Additionally, Interior is working to identify appropriate performance metrics and develop agency priority goals to evaluate the impact of actions taken to implement best practices as part of reorganization. With our long term objectives to modernize the Department and make business practices more efficient, effective, and lasting, continued assessment, evaluation, and adjustment will ensure the reorganization has a positive impact and returns value to the public.

BIA inclusion in Reorganization

McCollum Q33: Is the Bureau of Indian Affairs and/or the Bureau of Indian Education part of the proposed Department of the Interior reorganization?

Answer: Not at this time. Interior held six tribal listening sessions on the subject of reorganization in 2017, and 11 formal tribal consultation meetings on the unified regional boundary concept in 2018. As a result of these consultations, no changes to the current regional field structures of the Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), or the Office of the Special Trustee (OST) are proposed. As implementation of the reorganization progresses and takes shape, this may change. The decision to include the Indian Affairs bureaus in all or part of the DOI reorganization efforts, however, remains with the Tribes. Interior bureaus will continue to honor their responsibilities for tribal consultation and support for tribal programs under the unified regional boundaries. As reorganization proceeds, the Department values input from the Tribes and very much welcomes participation by BIA, BIE, and OST.

McCollum Q34: Are there any Bureau of Indian Affairs or Bureau of Indian Education regional or field offices currently co-located with other bureaus or agencies that are subject to the new reorganization proposal? If so, what will happen to BIA or BIE offices currently co-located with other Department offices that are proposed to be moved?

Answer: Indian Affairs offices and staff will not be relocated from their current locations and will continue to follow normal procedures if other bureaus and agencies are subject to the reorganization proposal. In general, office co-locations and the potential impact to other bureaus would be considered as part of the planning and analysis of any potential relocation.

At many Indian Affairs' locations, there are small parts of offices used by other Interior bureaus that work closely with Indian Affairs programs. If these bureaus relocated, the impact to Indian Affairs' space needs would be nominal. Indian Affairs' does have valuable programmatic collaborations with other Interior bureaus which must be maintained. For example, the Office of Trust Services and the Division of Energy and

Mineral Development, work collaboratively with the Bureau of Land Management on a daily basis in locations such as Lakewood, CO.

McCollum Q35: Given that native programs run across all the bureaus and agencies, not just the BIA, how will the reorganization affect collaboration on native programs if the other agencies and bureaus are moved farther away from the BIA offices?

Answer: We are not projecting any movement of bureau offices that would move them away from BIA offices. However, if elements of BLM and USGS headquarters move to a Western location, the senior management of these bureaus will actually be more accessible to concentrations of American Indian populations. The objectives of the reorganization are to bring Interior's resources closer to the entities we coordinate with and provide support and assistance to, including Tribes, BIA, BIE, and OST. By establishing unified regional boundaries, the reorganization should make it easier for Tribes to do business with Interior's other bureaus. We expect to see improvements in programmatic coordination, collaboration and responsiveness across Interior. The emphasis on increasing shared services should benefit all of Interior's bureaus. Structuring regional operations around common boundaries is not expected to move resources away from Indian Affairs' offices. The Department wishes to maintain conversation and consultation with the Tribes, BIA, BIE, and OST and welcomes their participation in reorganization as they deem appropriate or beneficial.

Climate Change – State of the Science

A team of more than 300 of the country's top scientists, both federal and non-federal, produced the Fourth National Climate Assessment which was released in November 2018. It was peer-reviewed by scientific experts and the public, and reviewed by 13 federal agencies, before being published. Many of those experts are from the Department of the Interior. The National Climate Assessment is **the** authoritative assessment of the causes of climate change and its expected impacts for the United States.

The report concludes the Earth's climate is now changing faster than at any point in the history of modern civilization, primarily because of human activities. The impacts of global climate change are already being felt in this country because of increasing greenhouse gas concentrations. This is evidenced by extreme heat, more intense droughts, devastating storms and flooding, and sea ice retreating, to mention a few.

The Climate Assessment concludes that:

“Global climate is changing rapidly compared to the pace of natural variations in climate that have occurred throughout Earth's history... observational evidence does not support any credible natural explanations for this amount of warming; instead, the evidence

consistently points to human activities, especially emissions of greenhouse or heat-trapping gases, as the dominant cause.”

McCollum Q36: Do you agree or disagree with this scientific assessment of the causes of climate change on our public lands?

Answer: We recognize that climate change is an active process that is occurring today. There are many variables that control the change process and it is the duty of the USGS with our science partners to dispassionately evaluate the quality and quantity of these variables as well as their vectors and magnitude. We are actively engaged in the critical assessments of change drivers, effects and risk characterization, to better define possible risk mitigation actions to respond to changes in our climate system.

Last year, Interior officials were caught attempting to censor a scientific assessment of the impacts of climate change on national parks. After a draft version of the censored report became public, Interior officials backed off their efforts to downplay the link between human activities and climate change.

McCollum Q37: How is the public interest served when Department officials undermine science or downplay the risks from climate change?

Answer: At the highest levels, the Department of the Interior enforces high standards of scientific integrity and does not tolerate any form of political interference in the conduct of its science.

Climate Change – Impacts

The Fourth National Climate Assessment outlines the interrelatedness of the impacts of climate change and our vulnerability to these risks. For example, wildfire trends in the western United States are influenced by rising temperatures and changing precipitation patterns, pest populations, and land management practices. Wildfires also damage our economy by increasing health care costs and replacing lost property, businesses, and production.

McCollum Q38: How is the Department examining these problems globally and incorporating habitat restoration, mitigation, and adaptation strategies into daily operations and land management decisions?

Answer: The Department of the Interior is aware of the impacts of weather, climate, and land management practices on wildfire risk and is engaged in multiple efforts to examine and utilize vital information both operationally and for longer-term land management planning. Factors that influence wildland fire have been considered in past interagency Quadrennial Fire Reviews, the National Cohesive Wildland Fire Management Strategy,

the National Fire Plan 10-Year Strategy and Implementation Plan and coarse-scale fire risk assessments.

Secretarial Order (SO) 3372 on reducing wildfire risk requires, among other things, that the Department of the Interior work with local stakeholders to update land management plans to incorporate the principles of active vegetation management to reduce wildfire risk. The Administration has proposed a suite of legislative reforms to help facilitate important management activities in this regard. The SO also requires all land management plan revisions include actions to facilitate wildfire prevention, suppression, and recovery planning, in addition to protective and mitigation measures that address water quality, flooding, and erosion. To achieve these objectives, a team of DOI experts will develop a strategy to ensure the principles of active management envisioned by the plans are integrated at a landscape scale.

McCollum Q39: Wildfires are increasingly encroaching on communities as was evident in recent fires. How is Interior working with State and local partners to address development near federal lands?

Answer: The Department recognizes the immediate need to reduce the risk of wildfire in areas adjacent to communities. More aggressive and strategic active vegetation management on DOI lands is critical to ensuring the safety of the public and our firefighters and the protection of natural and cultural resources, and the Administration has proposed a suite of legislative reforms to facilitate important management activities. Secretarial Order 3372 on reducing wildfire risk plays an important role in helping DOI address these challenges and requires the Department to work collaboratively with partners and local stakeholders to assess current resource conditions, needs and actions that are essential to enhancing DOI's ability to more effectively reduce wildfire risk.

As part of this effort, DOI is undertaking a local stakeholder-driven effort to develop a wildfire risk reduction model to help inform where the greatest wildfire risk potential exists and where resources could be most effectively targeted. Additionally, and in accordance with E.O. 13855 on Active Forest Management, the Department is developing and strengthening performance measures to better assess the efficacy of hazardous fuels spending in reducing wildfire risk. Also, Interior bureaus work collaboratively with local stakeholders to develop Community Wildfire Protection Plans which identify and prioritize areas for active vegetation management that protect people, communities and natural resources.

The Assessment studied the impact of climate change on ecosystems. It found:

“The resources and services that people depend on for their livelihoods, sustenance, protection, and well-being are jeopardized by the impacts of climate change on ecosystems.”

McCollum Q40: Does the Department acknowledge the risks posed by climate change to the American people?

Answer: The Department of the Interior acknowledges that the climate is changing and, as a result, must be thoughtful and take this into account in decision making related to the resources that we manage.

McCollum Q41: If it does, what steps is the Department taking in its operations and land management decisions to mitigate that risk. And if not, why not?

Answer: The Department of the Interior consistently considers potential impacts of climate change and other environmental variables and we are making continuous changes in our response to the changes as observed and forecasted.

Climate Change – Impacts on Tribes

The Assessment also evaluated the impacts of climate change on tribes and indigenous peoples. It found:

“Climate change threatens Indigenous peoples’ livelihoods and economies, including agriculture, hunting and gathering, fishing, forestry, energy, recreation, and tourism enterprises. Indigenous peoples’ economies rely on, but face institutional barriers to, their self-determined management of water, land, other natural resources, and infrastructure that will be impacted increasingly by changes in climate.”

McCollum Q42: One of those institutional barriers is the policies and programs of the Bureau of Indian Affairs. What steps are BIA and other bureaus within Interior taking to eliminate institutional barriers that prevent tribes from adapting to climate change impacts?

Answer: The Tribal Climate Resilience Program, housed in the BIA’s Office of Trust Services, was initiated in 2011 to help tribes and BIA Trust managers more effectively and efficiently achieve long-term program goals by mainstreaming considerations for extreme events and environmental trends that put BIA and tribal resources at risk. The BIA’s Tribal Climate Resilience Program has supported tribal requests for assistance since 2011, through planning and prevention of risks posed by extreme events and climate related harmful environmental trends that impact tribal communities. Sound planning and project design can minimize impacts and reduce the scale and scope of emergencies, infrastructure damage, and threats to human health, natural resources, sacred sites, and public safety.

One significant barrier across the Federal government noted by many Tribes is funding to implement adaptation plans. For the last two years, the Tribal Climate Resilience Program, has modified the annual award to support some implementation of developed plans in the Ocean and Coastal Management Planning Category. This allows coastal Tribes to explore mitigation options for areas that may be facing intensifying coastal erosion, flooding and permafrost degradation impacts. Supported activities include analysis, monitoring, relocation planning, development of emergency drills and exercises, implementation of related actions in existing plans, and design of expansion, protect-in-place, or relocation activities. Program funding does not support development, construction, or mobility of, critical infrastructure as those activities are the responsibility of other Federal and State partners.

Another well-known barrier is the lack of technical and economic capacity of many Tribes to deal with climate change impacts. The Tribal Climate Resilience Program has an award category to support tribal capacity-building for Tribes who have not received a previous planning award from the program. These awards allow Tribes to bring on part-time staff to focus on risk scoping efforts to support future proposals for larger amounts of funding.

The BIA has also funded seven tribal resilience liaisons through cooperative agreements with tribal organizations to help connect and leverage the information, data and expertise of the DOI Climate Adaptation Science Centers (CASC) and other Federal entities to the federally recognized tribes across the States they serve. In their first year and a half, the tribal resilience liaisons supported the development of 22 adaptation plans or vulnerability assessments, 8 tools, and over 50 tribal trainings.

To address the need for information-sharing, the BIA Tribal Climate Resilience Program led development of the National Climate Assessment (NCA4) Indigenous Peoples Resilience Actions interactive mapping application. The map remains a living application that will continue to be added to and included in the 5th National Climate Assessment to track progress nationally. This resource can help Tribes struggling with where to start, by identifying examples of actions already taken by others in their region. The application includes over 1,000 actions that tribal and non-tribal managers, decision-makers, and policy makers can look to for real-world examples and ideas on where to start and next steps along the path to adaptation planning and implementation for greater tribal resilience.

Climate Change – Fossil Fuels on Federal Lands

In November 2018, USGS issued a report, under Director Reilly, concluding that fossil fuel production on public lands contributes nearly 25% of all greenhouse gas emissions in the United States. For example, 57% of carbon dioxide emissions and 28% of methane emissions are from fossil fuel production in Wyoming.

McCollum Q43: BLM just conducted a lease sale in Wyoming last week. Prior to this sale, what analysis was done by the Department on how production on the leases offered would impact greenhouse gas emissions?

Answer: The BLM Wyoming lease sale in March 2019 was the subject of a robust analysis of the effect of greenhouse gases. As with all BLM NEPA related analysis, the applicable science evolves over time, and the process is reviewed and refined as appropriate.

Questions from Mr. Joyce

Great Lakes Restoration

The fiscal year 2020 budget proposes to reduce Great Lakes Restoration Initiative (GLRI) funding from \$300 million down to \$30 million. Although funding for this program resides within the Environmental Protection Agency's budget, it has been understood from the beginning that the funds are to be coordinated and shared with other agencies.

Joyce Q1: What are some examples of work that the Department is currently doing with GLRI funding that would not be continued in fiscal year 2020 if the proposed cut were to be enacted?

Answer:

The FY 2020 Budget amendments transmitted on May 13th resulted in a request of \$300 million for the Great Lakes Restoration Initiative. The Department of the Interior works closely with the Environmental Protection Agency (EPA) and other agencies to provide science and resource management to meet the GLRI Action Plan goals. The USGS provides much of the primary science support and monitoring for the GLRI by providing valuable information to inform restoration decision making for Federal, State, and Tribal partners. EPA and its Federal partners, including the Department of the Interior, are in the process of developing the GLRI Action Plan III, which will outline priorities and goals for the GLRI for 2020-2024.

Commercial Use Authorization Permits

In April 2018 the National Park Service (NPS) finalized two proposals to increase park entry fees, and standardize requirements and impose fees for Commercial Use Authorization (CUA) permits. I'm told that NPS did not conduct a formal or transparent process when formulating or finalizing these proposals. Further, although the CUA final plan is not set to go into effect until October 1, 2019, various parks have already started enforcing the new requirements, causing confusion and raising further concerns for the motorcoach, tour and travel industry.

Joyce Q2: Where do the park entry fee increase and the new CUA requirements stand, in terms of implementation by the NPS? Are individual parks implementing both of these proposals, and if so, are they being implemented uniformly?

Answer: The NPS currently has 112 units that charge an entrance fee. Of those, 33 are not yet aligned with the standardized fee schedule, which will be fully implemented by January 1, 2020. The CUA requirements for road-based tours still differ from park to park and will remain so until the NPS implements standard requirements for road-based tours. Some parks have already required CUAs to manage road-based commercial tours for a number of years. These parks will align their CUA requirements with the standardized program when it goes into effect.

Joyce Q3: What actions has the Department/NPS taken to work with the motorcoach, tour and travel industry, to address their concerns and alleviate unnecessary burdens?

Answer: CUAs are the appropriate permitting vehicle for most road-based commercial tour businesses operating on lands managed by the NPS. Starting in 2015, the NPS began outreach to industry groups with the intent to bring these commercial operations into the CUA program to comply with 36 C.F. R. § 5.3 and the National Park Service Concession Management Improvement Act of 1998. Feedback from CUA operators during development of the revised policy indicated that a key concern was to establish a common fee structure to ensure park-by-park fees were not different. The NPS met this request. In addition, to address concerns from operators and parks, the NPS issued a policy on February 26, 2019, to allow superintendents to request waivers to opt out of the requirement to issue road-based commercial tour CUAs or deviate from the standard fee structure to address certain circumstances. Additionally, to streamline the CUA process, the NPS plans to launch a servicewide CUA application and reporting website. As planned, the site would simplify the CUA process for operators by allowing a tour company to submit a single application for multiple parks and potentially could allow a single annual reporting process.

Joyce Q4: What outreach or training has NPS provided to the parks in support of implementation? Also, what outreach has NPS provided to the motorcoach, tour and travel industry to prepare them for the changes?

Answer: The NPS has promulgated guidance to the field, enhanced the NPS internal CUA website, and conducted servicewide webinars to educate NPS employees on the new road-based tour operator CUA requirements. Stakeholder engagement included a public comment period in advance of issuing the new road-based tour operator CUA fee requirements in August 2018. Since then, the NPS has continued to engage stakeholders by holding numerous virtual and in-person meetings with groups including the American Bus Association, the International Inboard Travel Association, the National Travel Association, the U.S. Tour Operators Association, and the Coalition of Tour and Motorcoach Associations. The NPS has also engaged on an ad hoc basis with individual operators, sent representatives to the National Travel Exchange in December 2018, posted notifications and detailed information on its public CUA website, and conducted two webinars with industry stakeholders this spring with over 400 attendees. The NPS also plans to hold additional industry webinars as the new CUA website rolls out and as other needs arise.

Joyce Q5: Does NPS plan on making additional changes to the park entry fee or CUA final plan? If so, should, at a minimum, the October 2019 date and any actions taken by individual

parks be suspended, until appropriate modifications to the plan are finalized – to provide stability for the industry?

Answer: The NPS has continued to engage with stakeholders to identify concerns and make appropriate adjustments such as the issuance of the waiver policy mentioned above. If necessary, the NPS will delay implementation of standard CUA requirements in order to address those concerns.

Question from Mr. Simpson

Invasive Species

Simpson Q1: Will the department continue funding the Safeguarding the West Initiative?

Answer: Yes. The FY 2020 President's Budget includes more than \$10 million to address invasive mussels as part of the initiative. The Safeguarding the West Initiative is composed of dozens of actions Interior bureaus are undertaking to prevent, contain, and control zebra and quagga mussels. Much of this work has been ongoing for years and will continue, pending appropriations.

Simpson Q2: Has the Department identified long-term funding for containment on the Lower Colorado which will ensure watercraft are cleaned, drained, and dried before leaving those waters for states like Idaho?

Answer: The Department's investment in efforts to address invasive species, such as containment efforts, is supported through annual appropriations, making it difficult to forecast long-term funding. However, Interior recognizes the importance of this issue and in recent years, the Department's investments have increased to support watercraft inspection and decontamination efforts on the Lower Colorado. Interior will continue to work with States and other partners on sustainable approaches to prevent, eradicate, and control invasive species, including invasive mussels, in the long-term.

The FY 2020 President's Budget requests an increase of \$1 million for the Bureau of Land Management to enhance efforts to contain the spread of invasive mussels from the Lower Colorado River to the rest of the West. In FY 2018 and 2019, the National Park Service, Bureau of Reclamation, and Bureau of Land Management directed additional resources to enhance watercraft inspection and decontamination at waterbodies where invasive mussels are present, including Glen Canyon National Recreation Area, Lake Mead National Recreation Area, and Lake Havasu. The U.S. Fish and Wildlife Service also provides annual grants, pending appropriations, to support implementation of the Quagga Zebra Mussel Action Plan. The grant program supports priority actions across the West, including watercraft inspection and decontamination. In addition, some State laws pertain to ensuring that watercraft are cleaned, drained, and dried. The National Park Service and the Bureau of Land Management have clarified their authority to cooperate with State regulatory and law enforcement officials in the enforcement of State invasive species control laws and ordinances.

Right of way bonding with BLM

I have heard concern from utility companies with concerns about the BLM's right of way bonding requirement proposed by the last Administration. This was proposed through an interim instruction memorandum.

Simpson Q3: Does BLM plan to move forward with this proposal?

Answer: The BLM became aware that bonding requirements for ROW grants or land use authorizations were not always applied consistently between field units. In order to address this inconsistency, the BLM analyzed a range of potential solutions for developing and implementing a more consistent approach to bonding policy for national ROW grants and leases or permits for authorized activities. An interim national policy in the form of an Instruction Memorandum (IM 2019-013) was issued in November 2018 that establishes clear, concise direction for ROW bonding. To address this issue more permanently, the BLM is considering potential revisions to existing regulations.

FLTFA

Simpson Q4: What is the current balance in the Federal Land Disposal Account? Please provide details on when the funds will be transferred into the Federal Land Disposal Account.

Answer: The BLM is in the process of having the four participating agencies (NPS, FWS, BLM, and USFS) sign the Memorandum of Understanding. Once this is completed, and we have completed appropriate sales, funds will be deposited and distributed to agencies.

BIA/BIE

I have heard that, since the shutdown ended, there have been delays in BIA's Pacific Northwest region in sending to tribes their base funding for the remainder of this year and that the region has not sent tribes' their FY19 contract support cost funding.

Simpson Q5: Is this true and is there a reason?

Answer: The distribution of the FY 2019 contract support cost funding was been delayed due to the unexpected departure of the Northwest Region's Level II Self-Determination Officer responsible for the regional distribution of contract support cost funding. The NW Region is in the process of advertising the Level II Self-Determination Officer position and concurrently receiving technical assistance from Self-Determination staff from other Regions to calculate contract support costs for each of the Tribes and make these funds available for tribal draw down as soon as possible. We are also identifying additional personnel resources that can be made available in the short term to assist the region.

Simpson Q6: When will BIA PNW send these funds to tribes as this unnecessary delay creates significant hardships for tribes?

Answer: The NW Region plans to distribute contract support costs to Tribes by June 2019. The NW Region will cross train additional staff in the contract support cost funding distribution process to create functional redundancy and reduce the likelihood of similar delays in the future.

[Attachment - McCollum Q17(a)]
Current Status of the Landscape Conservation Cooperatives
4/15/19

LCC	Status
Aleutian and Bering Sea Islands	Active and operating under the leadership of the Alaska Conservation Foundation under a new name – the “Aleutian Bering Sea Initiative.”
Arctic	No longer operational.
Appalachian	No longer operational. Some Steering Committee members are working collaboratively under the Nature’s Network and the Southeast Conservation Adaptation Strategy (SECAS).
California	Active and operating under the leadership of the California Department of Fish and Wildlife (CDFW) under a new name – the “California Landscape Conservation Partnership.”
Caribbean	No longer operational. Some Steering Committee members are working collaboratively under SECAS.
Desert	No longer operational. Some Steering Committee members continue to collaborate on landscape conservation designs.
Eastern Tallgrass Prairie and Big Rivers	No longer operational. Some Steering Committee members are working collaboratively under the Midwest Landscape Initiative (MLI).
Great Basin	No longer operational. The BLM Nevada State Office plans to create a position for a Nevada BLM State Office science coordinator. When hired, the Nevada State Office Science Coordinator will work closely with USFWS and USGS and with partners involved with science in the Great Basin.

Great Northern	No longer operational. Some Steering Committee members are working collaboratively with a number of landscape level conservation initiatives.
Great Plains	No longer operational. Some Steering Committee members are working collaboratively under SECAS.
Gulf Coast Prairie	No longer operational. Some Steering Committee members are working collaboratively under SECAS.
Gulf Coastal Plains and Ozarks	No longer operational. Some Steering Committee members are working collaboratively under SECAS and MLI.
North Atlantic	No longer operational. Some Steering Committee members are working collaboratively via Nature's Network.
North Pacific	Steering Committee members are in dialogue about continuing to operate as a partnership within a new fiscal and coordination structure.
Northwest Boreal	Active and operating under the leadership of the Wildlife Management Institute.
Pacific Islands	No longer operational.
Peninsular Florida	No longer operational. Some Steering Committee members are working collaboratively under SECAS.
Plains and Prairie Potholes	No longer operational. Some Steering Committee members are working collaboratively under the MLI.
South Atlantic	Steering Committee members continue to convene, but are also working collaboratively under SECAS.

Southern Rockies	No longer operational.
Upper Midwest and Great Lakes	No longer operational. Some Steering Committee members are working collaboratively under the MLI and a number of regional efforts, like the Great Lakes Coastal Assembly.
Western Alaska	Steering Committee members are in dialogue about continuing to operate as a partnership within a new fiscal and/or coordination structure.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUL 31 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed is a response to the follow-up question from the May 15, 2019, continuation of the oversight hearing on "The President's FY 2020 Budget Request for Indian Programs" and legislative hearing to receive testimony on S. 1211, the AUTOS Act before your Committee. This response was prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Senate Committee on Indian Affairs
Oversight Hearing on “The President’s FY 2020 Budget Request for Indian Programs” and
Legislative Hearing on S. 1211, the AUTOS Act
Questions to Principal Deputy Assistant Interior Secretary for Indian Affairs John Tahsuda III
May 15, 2019

Questions for Principal Deputy Assistant Interior Secretary for Indian Affairs John
Tahsuda III

Question: In 2015, MAP-21 zeroed out the Tribal Roads High Priority Roads program. The program was designed to assist Tribes with funding to repair critically important roads vital not only for access to reservations, but also to attract economic development. By ceasing all funding to the program, Tribes were forced to compete with local governments and municipalities for critical transportation dollars. Many tribes in remote regions of the country depended on the High Priority Roads Program and have been penalized for the last four years. Can you please explain what is being done to address the much needed repairs for high priority roads that serve as lifelines for many Tribes?

Response:

The High Priority Projects (“HPP”) Program was established in 2004 with the publication of 25 C.F.R. Part 170, a negotiated rule governing what was then known as the Indian Reservation Roads (“IRR”) Program.¹ Congress changed the name of the IRR to the “Tribal Transportation Program” (“TTP”) in 2012. The HPP program began in FY 2005 and concluded at the end of FY 2012 with the enactment of MAP-21.²

The HPP program was designated for tribes whose annual allocation was insufficient to complete its highest priority project, or by any tribe for an emergency/disaster project on any tribal transportation facility. It did not provide funding to all tribes, only to those tribes whose funding was generally less than \$1 million annually.

Funds for HPP were derived from 5% of the authorized IRR program amount, less mandated set-asides on the amount up to \$275 million, plus up to 12.5% of the IRR program amount over \$275 million. In FY 2012, the last year of the HPP program, approximately \$33 million was available.

When the HPP program was operating, approximately \$205 million was awarded to 280 Tribes. The table below shows the number of projects and distribution of funds awarded by Region:

¹ 69 Fed. Reg. 43090 (July 19, 2004); the provisions governing HPP program appeared at 25 C.F.R. §§ 170.205 – 214.

² See Section 1119 of MAP-21, creating 23 U.S.C. § 202 (b)(3)(A)(ii) – “Tribal high priority projects. — The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.”

Senate Committee on Indian Affairs

Oversight Hearing on “The President’s FY 2020 Budget Request for Indian Programs” and
 Legislative Hearing on S. 1211, the AUTOS Act

Questions to Principal Deputy Assistant Interior Secretary for Indian Affairs John Tahsuda III
 May 15, 2019

Region	No. of Projects	Amount Awarded	No. of Emergency /Disaster Projects
A-Great Plains	8	\$3,686,913	2
B-Southern Plains	23	\$21,460,361	2
C-Rocky Mountain	1	\$918,239	1
E-Alaska	126	\$94,712,725	1
F-Midwest	7	\$3,962,000	0
G-Eastern Oklahoma	1	\$1,000,000	0
H-Western	9	\$4,583,648	1
J-Pacific	56	\$38,832,367	2
M-Southwest	7	\$6,464,000	0
N-Navajo	0	\$0	0
P-Northwest	28	\$17,606,175	0
S-Eastern	14	\$12,020,423	0

Not all tribes received HPP program funding. Over the eight years the HPP program existed, 84% of the available funds and 88% of the awarded projects went to four (4) of the 12 BIA Regions.

Under the current authorization, the Fixing America’s Surface Transportation Act (“FAST Act”), P.L. 114-94 (December 4, 2015), the statutory TTP funding formula enacted under MAP-21 continued, including set-asides for projects that are critical to tribes that allows them to receive funding beyond their tribal shares. Examples of these set asides include: 2% of all TTP funds are made available to tribes for transportation planning (\$8.9 million in FY 2019); 3% of all TTP funds are made available to tribes for replacement and/or rehabilitation of deficient or unsafe bridges (\$13.4 million in FY 2019); and 2% of all funds are made available to tribes for priority safety projects (\$8.9 million in FY 2019). Additionally, \$110 million is included in the formula and specifically directed to increase share amounts to tribes who are projected to receive less of a tribal share than the amount they received in FY 2011.

The Emergency Relief for Federally Owned (“ERFO”) roads program is funded separately through the Federal Highway Administration, Office of Federal Lands Highway, and it provides relief funds for emergency/disaster projects that qualify when applied for by tribes. In FY 2018, Tribes received \$15.4 million from the ERFO account.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUL - 3 2019

The Honorable Jared Huffman
Chairman
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Chairman Huffman:

Enclosed are responses prepared by the United States Geological Survey to questions submitted following the Subcommittee's May 16, 2019, oversight hearing on "Examining the President's Fiscal Year 2020 Budget Proposal for the U.S. Bureau of Reclamation and U.S. Geological Survey."

Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and Legislative Affairs

Enclosure

cc: The Honorable Tom McClintock
Ranking Member

Questions for the Record by Democratic Members

Questions from Representative Neguse:

1. We have received concerns from Colorado's second district regarding the restructuring of the USGS Water Mission Area. What are you doing to respond to employees who feel disenfranchised or ignored as a result of the restructuring process?

On October 1, 2017, the Water Resources Mission Area (WMA) implemented an organizational restructure using the USGS Water Science Strategy (<https://pubs.usgs.gov/circ/1383g/circ1383-G.pdf>) as the foundation. The organizational restructure was implemented to align all WMA units around the core science functions needed to drive us towards the strategic vision, while at the same time help the WMA sustain its core functions. WMA senior leadership continues to work with its managers and supervisors to align staff expertise with WMA science priorities. WMA staff are encouraged to join and participate in science planning efforts and engage in project proposal development where their experience and expertise can be leveraged. In 2018, WMA offices and divisions developed 5-year strategic plans, during which staff in these offices and divisions were engaged in the planning process and given the opportunity to contribute to the development of strategic goals.

2. What opportunities for comments or feedback have been offered to WMA scientists and how have you responded to their comments?

There are several ways that WMA scientists have the opportunity to provide comments or feedback to WMA Senior Leadership. WMA senior leadership actively encourages staff to participate in the annual Federal Employee Viewpoint Survey (FEVS). WMA Offices and Divisions hold all-hands meetings and listening sessions to promote awareness and receive feedback on issues of concern. The WMA also holds weekly management team calls; the minutes of those calls are promptly posted on the WMA internal website along with other announcements (e.g., workforce news, informative blogs, budget tables). All WMA staff have the opportunity to read this information and provide comments; comments received are addressed promptly with various mechanisms depending on the nature of the comment. Finally, the WMA management maintains an open-door policy where staff have the ability to contact WMA senior leadership at any time.

3. The USGS in Boulder located on the east campus of the University of Colorado has had a long history of supporting graduate students, post-doctoral associates, and early career scientists, especially students and graduates of the University of Colorado and the Colorado School of Mines. These positions are commonly funded by research grants

from federal agencies, including USGS. I understand that the USGS Water Mission Area chose to terminate or reassign some of these positions. Why did the WMA terminate those positions?

The WMA is focusing its science portfolio to support priorities regarding next generation water observing, water prediction, integrated assessments of water availability, and delivery of water information. Addressing these priorities will inform major water issues facing the Nation such as drought, floods, and clean water for ecological and societal uses. Workforce decisions such as hiring and terminating staff are based on project needs that directly support these priorities. As projects are completed, graduate students, postdoctoral associates, and early career scientists occupying TERM or Temporary positions either (1) are transitioned to other projects, (2) have their appointment ended upon completion of their term, or (3) converted to a permanent position if they occupied a student pathways position. Action on any one of these options is dependent on the employee's expertise relative to project needs and funding availability.

4. Why is NAWQA (National Water Quality Assessment) being terminated?

In 1991, Congress established the National Water-Quality Assessment (NAWQA) Project to address where, when, why, and how the Nation's water quality has changed, or is likely to change in the future, in response to human activities and natural factors. Appropriated funding for NAWQA has been stagnant for years, leading to a net loss in real dollars for data collection, analysis, modeling, and research. The NAWQA Project is completing key products from its third decadal cycle by the end of 2021. The WMA will transition the NAWQA Project to continue and enhance water-quality work within current science priorities: (1) National Water Information System (NWIS) Modernization; (2) Next Generation Water Observing System (NGWOS); (3) Water Prediction Work Program (2WP); and (4) Integrated Water Availability Assessments (IWAAs). These WMA priorities have received strong support and funding increases from Congress (the recently passed FY19 appropriation bill contained a \$7M increase for NGWOS activities and \$1M increase in cooperative matching funds to support IWAAs).

5. The "National Water Quality Program" is slated to take the place of NAWQA. What is the plan for this program and who will review it? Will any practicing scientists in the USGS review it?

The National Water-Quality Assessment (NAWQA) Project is funded by the National Water Quality Program (NWQP). However, as proposed in the 2020 President's Budget, the USGS plans to undergo a budget restructure to align activities funded by the three main WMA funding programs (Groundwater and Streamflow Information Program,

Water Availability and Use Science Program, and NWQP) into two new consolidated funding programs: (1) Water Resources Availability Program (WRAP) and (2) Water Observing Systems Program (WOSP) to achieve integrated observation, understanding, prediction, and delivery of water science and information to the Nation. Under this plan, the NWQP water-quality monitoring activities would be moved into WOSP whereas the NWQP water-quality assessment, modeling, and forecasting activities would be moved into WRAP. USGS WMA scientists are participating on teams to develop work plans for monitoring, assessment, modeling, and prediction activities that support the four WMA science priorities (NWIS Modernization, NGWOS, 2WP, IWAAs) funded by WOSP and WRAP.

Questions from Representative Sablan:

1. I understand that there is a Saipan Groundwater Availability Study currently underway and that USGS is working with our Commonwealth Utilities Corporation. This study, I am told, will provide an update to work done by the USGS in 2003. Can you provide more details and a timeline for the study and discuss preliminary findings or observations resulting from the work?

In April 2018, the USGS initiated a 2-year \$300,000 study to update the understanding of fresh groundwater availability on Saipan and provide information for the sustainable management of the limited groundwater resources on the island. The Commonwealth Utilities Corporation (CUC), in conjunction with the Office of the Governor, requested funding from the Department of the Interior Office of Insular Affairs (OIA) Technical Assistance Program for this study. In June 2017, a \$300,000 grant was awarded by the OIA to the Office of the Governor to enter into a cooperative agreement with the USGS.

The objectives of this study include having the USGS: (1) consult with the CUC management and water division staff to become familiar with current water supply quantity and quality issues; (2) provide on-site technical assistance and training in groundwater field methods to CUC Water Division personnel; (3) collect updated groundwater data (including salinity profiles to define the thickness of the freshwater lenses) from the existing network of 14 monitor wells constructed by the CUC and the USGS; (4) conduct a workshop on the preliminary study results and island hydrology as it pertains to Saipan for the CUC, the Bureau of Environmental and Coastal Quality (BECQ), and other interested Commonwealth of Northern Mariana Islands (CNMI) agencies, and (5) compile, analyze, and publish the results in an interpretative report documenting the current understanding of fresh groundwater resources and any changes since the groundwater resources study published by the USGS in 2003 (Carruth, 2003).

Since April 2018, the USGS has collected water levels and salinity profiles from existing deep-monitor wells to determine the thickness of fresh groundwater during wet and dry season conditions. The USGS also met with the CUC management and water division staff to become familiar with current water supply quantity and quality issues. In addition, the USGS provided on-site demonstration of groundwater field methods to CUC Water Division personnel. Finally, the USGS compiled groundwater withdrawal and chloride-concentration data for production wells on Saipan. These data will be used to assess the status of groundwater resources on Saipan. Preliminary findings will be presented to CUC management and the Mariana Islands Water Operator Association on June 5, 2019.

2. Please provide information on the streamgage program and other water data collection programs that the USGS operates in the Northern Marianas. There seem to be many inactive water-data-collection sites. Please address why these sites are no longer active, what information they collected, how it was used, and whether that data is now available from other sources?

Since 1969, the USGS Pacific Islands Water Science Center has periodically collected water data in the CNMI. USGS water data are available online via in the National Water Information System (NWISWeb) database. From 1989 to 2003, the USGS conducted a groundwater exploration and assessment program in the CNMI, which was funded in cooperation with the CUC. The objective of this program was to determine areas favorable for the development of groundwater on the islands of Saipan, Tinian, and Rota through a program of test drilling, observation well installation, aquifer testing, and construction of groundwater models. Technical assistance by USGS personnel stationed in the CNMI was a significant part of the program. The program also included the collection of rainfall, groundwater and surface water data from a network of about 30 sites on Saipan. The USGS had to discontinue this program when the CUC could no longer afford the services of the USGS and the USGS lacked enough cooperative matching funds. Links to access data from active and inactive sites are provided below. The USGS is in the process our updating our website to make this information more easily discoverable.

- Groundwater active sites:
<https://maps.waterdata.usgs.gov/mapper/export/?bbox=145.249,14.741,146.581,15.375&scodes=211&fformat=1>
- Groundwater inactive sites:
<https://maps.waterdata.usgs.gov/mapper/export/?bbox=145.249,14.741,146.581,15.375&scodes=201&fformat=1>

- Surface-water inactive sites:
<https://maps.waterdata.usgs.gov/mapper/export/?bbox=144.468,14.123,147.132,15.392&scodes=101&fformat=1>
- Spring inactive sites:
<https://maps.waterdata.usgs.gov/mapper/export/?bbox=145.36,14.952,146.026,15.269&scodes=301&fformat=1>
- Precipitation inactive sites:
<https://maps.waterdata.usgs.gov/mapper/export/?bbox=145.249,14.741,146.581,15.375&scodes=401&fformat=1>

Question from Representative Van Drew:

1. I'm glad you mentioned the Next Generation Integrated Water Observing System, or NextGen, in your testimony. As you discussed, NextGen is designed to pair a network of enhanced streamgages and water models to create better water forecasts for an entire watershed and you've started in my backyard with the Delaware River Basin. NextGen is supported by state and local water managers across the country.
 - a. I am very interested in the NextGen System Pilot as an important tool in helping us create better water predictions long-term. What findings have come out of NextGen so far, and what additional information do you expect to learn from the pilot program in the near future?

The USGS began receiving appropriated funding for the Next Generation Water Observing System (NGWOS) in 2018. There have been several activities from the NGWOS's pilot program in the Delaware River Basin (DRB) that will lead to better understanding and prediction of water resources in the watershed.

First, the USGS installed 17 new streamgages in the DRB to address key monitoring gaps that will help improve the quantification of the amount of water in headwater and tributary streams and tracking of the salt front in the mainstem. Second, the USGS has been modernizing the infrastructure across the NGWOS DRB sites. This included: (1) installing two-way communication to enable remote operation and troubleshooting of monitoring equipment; (2) creating cellular and satellite redundancy to improve situational awareness by ensuring data are delivered during critical streamflow periods; (3) investing in webcams and plug-in water-quality sensor capabilities at selected sites to provide additional information during floods, droughts and events related to water-quality issues, and (4) expanding real time temperature and specific conductance monitoring to provide timely information needed by multiple stakeholders to better track the

salinity front on the mainstem and track water conditions for recreational activities and fisheries management. Third, the USGS initiated a network optimization analysis to integrate existing, discontinued, and pending data collection and identify monitoring gaps to guide selection of new and enhanced water monitoring activities. Fourth, the USGS has invested in improving the USGS IT water-data infrastructure needed to support robust and reliable water monitoring systems. The modernization of the National Water Information System (NWIS) will maximize data integrity, reliability and accessibility while simplifying and enhancing data delivery to the general public. The USGS expects to learn more by continuing to expand the monitoring network in 2019. The USGS will deploy a dense network of new streamgages with new technologies in small watersheds to improve the accuracy of hydrologic and ecologic models. In addition, the USGS will enhance monitoring and understanding of upstream water diversions for public water supply and conduct better tracking of the salt front along the mainstem of the Delaware River using new monitoring technologies.

- b. How can what we learn from the NextGen System Pilot be translated to other water basins?

The USGS is using the NGWOS pilot in the DRB as a testbed for new technologies, stakeholder engagement, and leveraging the private sector to help the USGS innovate new monitoring and telemetry techniques. By conducting the NGWOS DRB pilot, the USGS has confirmed that it is not necessary or feasible to develop a NGWOS with high data density everywhere. A more practical strategy is to develop intensive networks in medium sized watersheds (on the order of 10,000 – 20,000 square miles; i.e. DRB) that are representative of larger water-resource regions, and augment the existing streamgage network elsewhere in the region with modest enhancements. This suite of intensely monitored NGWOS watersheds, in combination with enhanced streamgage network and other relevant data sets, can then be used to refine advanced models in those watersheds, and to characterize prediction uncertainty of those models – a critical component for decision-making. These refined models can then be applied to provide reliable water information and forecasts in other watersheds and at a national scale.

- c. Do you believe the NextGen Pilot will significantly improve our understanding of near- and long-term risks from floods and droughts?

The NGWOS Pilot in the DRB will significantly improve our understanding of near- and long-term risks from floods and droughts. Water-quantity and quality

data will be served through a modernized USGS data infrastructure and will be directly coupled to advanced modeling tools to provide state-of-the-art predictions of water quantity and quality through the USGS Water Prediction Work Program. The enhanced observational data and model predictions will also support integrated assessments of water availability in surface water and groundwater, which in turn will inform water resource management decisions related to risks associated with floods and droughts as well as other climatic and anthropogenic factors.

**U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
BIE School Construction Hearing
July 24 2019**

Questions for the record -- School Construction Hearing

Questions from Ms. McCollum

Site Assessment Pilot Program

McCollum Q1: How will the pilot comport with or differ from the 2011 Negotiated Rulemaking Committee report on the allocation of construction funds? Please provide a detailed description of the site assessment pilot program, including whether the Government Accountability Office (GAO) has indicated that the assessments include data that meets the comprehensive needs assessment requirements recommended by GAO in 2017.

Response: The Site Assessment and Capital Investment Pilot Program (Pilot Program) is in alignment with the recommendations within the 2011 Negotiated Rulemaking Committee (NRC) report.¹ The overall assessment for each site includes the same areas of consideration outlined in the NRC report; specifically: 1) size of the school; 2) school enrollment; 3) age of the school; 4) condition of the school; 5) environmental factors; and 6) school isolation.² The requirements for each site are determined through a comprehensive site assessment conducted in coordination with the school. This coordinated effort replaces the application process outlined in the NRC report.

The Pilot Program selected the 10 schools with the highest Facility Condition Index (FCI) based on Indian Affairs Facilities Management System (IA-FMS). Beginning in October of 2019, and annually thereafter, 10-20 additional schools will be selected using the eligibility criteria stated in the NRC report³. The new annual assessment list will exclude those schools that are currently being addressed (replacements and/or major renovation) and those already in the assessment process.

Facilities Condition Index Submissions

In the past, GAO expressed concern about the data submitted to the Facilities Condition Index capturing the true condition of each school, as not all tribes were submitting data, didn't have the training to submit the data, or were capturing and characterizing school conditions differently.

¹ In December of 2011, the NRC produced its final report, Broken Promises, Broken Schools: Report of the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee.

² Ibid. p. 33.

³ Ibid. p.35.

McCollum Q2: How has this been addressed and how confident are you that the data in the Facilities Condition Index is comprehensive and accurate? What quality control mechanisms are in place for the data on the Facilities Condition Index?

Response: The FCI itself is an industry standard metric to express the cost of needed repairs against the value of an asset. The total cost of needed repairs and total value of assets at a site (school) can be combined to create a site FCI. The IA-FMS is the system of record for recording all deferred maintenance requirements for IA funded assets. Users (IA and non-IA) are required to receive initial user training in order to obtain user access. IA provides initial user and refresher classroom training regularly at locations throughout Indian Country.

IA has conducted an extensive review of older (> 5-years old) deferred maintenance items in IA-FMS to identify relevant entries, duplicate entries, completed entries not shown as closed, and entries where the repair was addressed as part of different effort. Where appropriate, outdated or incomplete scope and cost data for individual entries was updated. Each review was completed at the local level by site personnel. The initial review included over 35,000 items (FY 2012 and prior). The result is a more accurate database. IA-FMS deferred maintenance items that are greater than 5 years old are now reviewed annually. In FY 2019, after the initial effort, less than 700 total deferred maintenance items required review.

As an additional quality control measure, Facilities Condition Assessments (FCA) are conducted by an independent contractor for each IA funded asset on a 3 year cycle. The FCA is intended to validate the current identified discrepancies, identify new discrepancies, and assess the condition and expected remaining useful life of facilities major systems (e.g., roof, HVAC, boilers, fire support systems, etc.). The FCA program reduces the burden on individuals at the school locations and also helps to ensure consistency and accuracy in the overall national facilities management program.

McCollum Q3: How are individuals with tribal nations authorized to submit information to the Facilities Condition and Facilities Management databases?

Response: The IA-FMS is the system of record for recording all deferred maintenance and other facilities management program activities. Any Tribal or Federal school employee is eligible to attend any training course regardless of location. At the completion of IA-FMS training, attendees are issued a username and password to access the system and report deficiencies. Once a user has an active account in IA-FMS, they are assigned “roles” based on their required function. Users from Tribes or schools that have an active IA-FMS account are able to monitor, enter, update, and manage their facilities programs for the assets within their area of responsibility.

Comprehensive Needs Assessment

In fiscal years 2016 and 2017, Congress directed BIA to prepare a needs assessment modeled on the Department of Defense Education Activity and report to Congress with specific information.

Additionally, in 2017, the Government Accountability Office (GAO) recommended that BIA prepare a comprehensive needs assessment.

McCollum Q4: What is the status of a comprehensive needs assessment for each facility and the report as directed by this Committee and the assessment recommended by GAO?

Response: Indian Affairs (IA) is executing the Pilot Program that will generate a site level improvement recommendation for schools eligible for replacement. The Pilot Program (and subsequent Program) will result in a comprehensive assessment over the next 3-4 years of each Bureau of Indian Education funded-school that meets the replacement criteria, as defined in the 2011 NRC report.⁴ The cumulative results of those site assessments will provide the detailed assessments that have been requested. IA intends to provide the requested needs assessment as a series of interim reports. The interim updates will be provided until all schools have been assessed that meet the NRC report's criteria 1 and 2. The first interim report is expected to be provided in the second quarter of FY 2020.

Best Practices

McCollum Q5: Congress has appropriated substantial sums to BIA to address the school facility needs in Indian Country. What best practices has the Indian Affairs learned over the last few years on how to resolve disputes, speed up construction, or on other issues?

Response: Indian Affairs has formalized procedures that respect Tribal Sovereignty and Self-Determination and result in consensus agreements with schools, Tribes, and IA for new construction projects. This process includes collaborative planning that results in a space allocation agreement signed by all parties. Development of this process has greatly decreased disputes and also helped control project costs and delays.

Additionally, IA migrated from a design-bid-build approach to design-build. This industry recognized approach has reduced costs of school construction by roughly 40 percent. In addition, time to replace a school has dropped by 50 percent post-planning phase. IA also created a national level contract to provide site supervision and construction administration services to funded construction projects and standardized contract language for detailed planning and schematic design development services. These two changes have added consistency throughout the program and further decreased delays and associated costs.

Technical Assistance

McCollum Q6: GAO recommended that BIA provide technical assistance to tribes on administering school construction process. This recommendation has not been closed out. Please

⁴ In December of 2011, the Negotiated Rulemaking Committee produced its final report, Broken Promises, Broken Schools: Report of the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee.

explain why the recommendation is still open as well as any processes in place to ensure timely technical assistance is provided to tribes when requested?

Response: The Office of Facilities, Property, and Safety Management (OFPSM) Division of Facilities Management and Construction (DFMC) regularly offers initial user and refresher classroom training at locations throughout Indian Country. Additionally, Indian Affairs conducted 25 online webinars to users on multiple subjects through the year. The Bureau of Indian Education provides a Summer Training Program that includes a discussion of the facilities management program, who the points of contact are, resources available, and reinforces the need for each school to have an active facilities maintenance program and personnel who are trained and have access in the Indian Affairs Facilities Management System. Indian Affairs, through OFPSM, is implementing multiple processes in FY 2020, such as standardized construction agreements and templates for Regional Facility Managers to use in the execution of regional managed grant projects to improve oversight and technical assistance in support of tribally managed construction projects. The purpose of the templates is to provide a framework for technical assistance. Once there is sufficient data to demonstrate success, IA will initiate closure of this GAO recommendation.

McCollum Q7: Regardless of whether a tribe requests technical assistance, GAO indicated that Indian Affairs should conduct periodic reviews over the tribal administration of school construction processes. How often does Indian Affairs conduct periodic reviews over tribal construction contracts?

Response: Indian Affairs conducts performance verification of tribal construction contracts primarily through contract negotiations and subsequent project monitoring. Prior to releasing any funds IA negotiates the specific reporting procedures Tribes must comply with to remain in contract compliance. These reports are typically done on a 2-week basis when projects begin construction and on a monthly basis during planning.

IA also includes in its contracts the right to attend any Tribal subcontract evaluation and award proceedings and requires prior submission of subcontract solicitations, evaluations, and award letters. Lastly, IA structures contracts to require Tribes to demonstrate fulfillment of specific milestone performance requirements in order to gain access to funds for the completion of the next milestone tasks. IA performs routine site visits and compliance checks throughout the life of their agreements.

Questions from Mr. Joyce

Opioids

It is heartbreaking to see the scale of the opioid epidemic in Ohio and across the nation. Indian Country has been particularly hard hit by this crisis. As a former prosecutor, I believe that we must increase our efforts to go after the dealers who are selling these deadly drugs in our communities and to ensure better coordination between Federal, State, local, and Tribal law enforcement.

Joyce Q1: How do jurisdictional complexities and resulting challenges to prosecution continue to make American Indian and Alaska Native communities disproportionately vulnerable to infiltration by drug cartels?

Response: The jurisdictional complexity of Indian Country is a barrier for some tribal law enforcement agencies. There is much confusion among tribal, state, and local government law enforcement agencies regarding jurisdiction, both geographic and personal. Wrong doers take advantage of this confusion by crossing onto tribal land, as jurisdiction fluctuates dependent upon who does what crime and where. Hiring additional BIA Drug Agents working specifically on drug related crimes and having the Federal authority to enforce the law for both native and non-natives violating drug statutes on the reservation has been very successful.

The Administration's fiscal year 2020 budget proposal includes additional resources to hire and equip more drug enforcement agents and to expand Department of the Interior Opioid Task Force operations. The first year of the task force saw multiple undercover operations, resulting in millions of dollars' worth of illegal drugs seized and hundreds of arrests.

Joyce Q2: How would the proposed establishment of Mobile Enforcement Teams allow the Bureau of Indian Affairs to strengthen enforcement capabilities and better address the opioid crisis throughout Indian Country?

Response: BIA Mobile Enforcement Teams (MET) have been very successful at addressing illegal narcotic activity on reservations. METs are a force multiplier as they are able to focus specifically on drug related activity affecting tribal communities. METs are designed to gather intelligence, develop informants and identify criminal drug enterprises operating in Indian Country. This effort has already derived substantial drug related intelligence and has been successful in the prosecution of drug and alcohol related crimes on numerous reservations.

I introduced legislation to support first responders carrying and administering naloxone, which is a prescription drug used to rapidly reverse an opioid overdose.

Joyce Q3: Does the Bureau of Indian Affairs support efforts to equip first responders with naloxone, and, if so, how does the fiscal year 2020 budget request reflect this support?

Response: BIA supports efforts to equip all Indian Country first responders with naloxone kits. The FY 2020 budget request continues collaborative efforts between BIA and the Indian Health Service to help supply law enforcement officers in Indian communities with access to naloxone, as well as training on its administration.

Tribal Courts

The U.S. Commission on Civil Rights reports that Tribal court funding is insufficient to allow for the hiring of key personnel such as prosecutors, public defenders, and probation officers. The

Bureau of Indian Affairs budget to support 196 Tribal courts is roughly \$31 million, which works out to about \$160,000 per court. Some Tribes try to bridge the funding gap by competing for grants from the Department of Justice and are forced to eliminate positions when grants expire. Some Tribes ask staff to take on dual roles, such as law enforcement officers at three New Mexico pueblos who also served as prosecutors despite not having any legal training.

Joyce Q4: What is the Federal Government's fiduciary responsibility to fund Tribal courts, and, does the Federal Government have an obligation to do more than it is currently doing?

Response: Pursuant to BIA's authority under 25 U.S.C. § 3601 et seq., the Tribal Justice Support Act, the BIA Office of Tribal Justice Support (TJS) was established to further the development, operation, and enhancement of tribal justice systems and BIA Courts of Indian Offenses. Specifically, 25 U.S.C. § 3611 tasks TJS with three primary functions: (1) schedule and coordinate independent tribal court reviews and complete these reviews annually; (2) schedule training and technical assistance to Tribes and tribal organizations focusing on setting up and empowering tribal courts; and (3) study and conduct research on tribal justice systems.

The FY 2020 President's Request includes \$22.3 million for the Office of Tribal Justice Support to fulfill TJS statutory responsibilities, as well as \$30.8 million for operational funding distributed directly to hundreds of tribal justice systems and seven Courts of Indian Offenses throughout Indian country.

Public Safety & Justice Facilities Replacement

This subcommittee restored the public safety and justice facilities replacement program to \$18 million in fiscal years 2018 and 2019. We did this in response to the Department of Justice (DOJ) scaling back and soon thereafter eliminating its construction grants. In fact, DOJ's Coordinated Tribal Assistance Grants program no longer allows for construction grants. It is therefore disappointing to see the Bureau of Indian Affairs (BIA) program proposed for elimination as well.

Joyce Q5: Remind us of the Federal Government's fiduciary responsibility to replace public safety and justice facilities in Indian Country, and how the Federal Government proposes to do so in fiscal year 2020.

Response: Indian Affairs' construction general authorization, contained within 25 U.S.C. § 13 (The Snyder Act of November 2, 1921), is the basic authority under which the Secretary provides services, including construction of facilities, to support operating programs to Federally recognized Tribes. This Act also provides for the enlargement, extension, improvement, and repair of the buildings and grounds of existing plants and projects. In addition, most major projects have their own specific authorizations.

The FY 2020 request includes \$4.1 million to continue addressing high priority critical life and safety deficiencies and other facility needs through the Public Safety and Justice (PS&J) Facilities Improvement and Repair program. In addition, BIA has established

protocols in response to changing local inmate populations and detention facility capacities to the extent practicable. This enables the BIA to utilize commercial contracts with tribal and county facilities as a component of an efficient approach to meeting the needs of inmate and detainee populations.

Joyce Q6: How is BIA interpreting and executing the fiscal year 2019 appropriation guidance, which was not limited solely to detention facilities as it was in fiscal year 2018?

Response: We share the Congressional goal to ensure resources are applied to PS&J Facilities where the need is greatest, and in a manner that makes sense programmatically and financially. We understand that the intent of the appropriation report language is to ensure funding of the highest priority public safety facility projects. At this time, the current state of many detention facilities across Indian Country elevates them to the highest priority for replacement and repair to ensure a safe and humane environment for Indian Country inmates.

Law Enforcement Officers

We are hearing from Tribes about the high rate of turnover for Bureau of Indian Affairs (BIA) and Tribal law enforcement officers. Officers are hired and trained for a couple of years, and then recruited away by other Departments offering better salaries and benefits.

Joyce Q7: Does the BIA have the same hiring and salary authorities as other Federal agencies hiring police officers, and, if not, can you please highlight how the BIA is at a disadvantage?

Response: BIA generally has the same hiring and salary authorities as other Federal agencies hiring police officers with the addition that BIA is required to comply with Indian Preference statutes. Issues related to recruitment and retention of BIA law enforcement officers issues arise for a variety of reasons: 1) the Indian Preference requirement often challenges BIA from getting an adequate or appropriate pool of candidates, 2) the rural and remote locations of the positions limits applicants, and 3) BIA and Tribal public safety positions are on an average one to two salary grades below other Federal law enforcement programs. External recruitment for law enforcement remains a high priority. Work to improve officer recruitment and retention is ongoing.

Ten years ago—almost to the day—this subcommittee held a hearing on law enforcement issues in Indian Country. The BIA reported that its funding at the time met only 42 percent of need for law enforcement personnel in Indian Country.

Joyce Q8: What is the current estimate of the percent of need met for law enforcement personnel in Indian Country?

Response: The Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2016, transmitted to Congress in June 2018, provides an estimate of total annual costs to operate appropriately-sized, fully staffed law enforcement programs in every tribal community. Excluding

Public Law 83-280 (PL 280) States, where Indian reservations are under the criminal jurisdiction of State and local law enforcement, BIA appropriations meet 36 percent of estimated law enforcement program costs. The percentage drops to 22 percent when including PL 280 jurisdictions.

Energy

In an April 12, 2019 letter to Secretary Bernhardt, the Government Accountability Office (GAO) called attention to high priority open recommended actions for Interior to take to improve Department operations. One recommendation is to improve the Bureau of Indian Affairs' management of energy development on Indian lands. GAO recommends that Interior develop a documented process to track its review and response times to improve efficiency and transparency. Effective energy development programs help Tribes use and conserve natural resources and provide for greater revenue and job creation.

Joyce Q9: How does the fiscal year 2020 budget proposal address GAO's concerns and better assist Tribes in the management, development, and protection of Indian natural resource assets?

Response: The 2020 Budget proposal addresses tribal concerns and provides the BIA the opportunity to improve internal controls, provide system enhancements, track processes, and work with our Federal partners to align resources all in support of efficient and transparent energy development in Indian Country.

The GAO acknowledges BIA has developed TAAMS enhancements to document the submittal and approval dates of energy related documents. The system updates allow BIA to input data for various steps in the review process for oil and gas leases and agreements, communitization agreements and other energy related documents. In June 2019, BIA, Office of Trust Services met with the GAO to demonstrate the OTS Strategic Workforce Plan to address GAO Recommendation 17-43, Rec. 8.

Transparency

One of the complaints we often hear from Tribes is that they are kept in the dark about how funding is calculated and allocated. In January, the Government Accountability Office recommended that Indian Affairs develop a process so that all regional and agency offices consistently provide Tribes with documentation on calculations and methodologies to identify resources available to administer a program using a self-determination contract. The Department of the Interior agreed.

Joyce Q10: When does Indian Affairs plan to develop and publish updated procedures to respond to tribal inquiries regarding available resources?

Response: Indian Affairs is currently developing a consolidated reference for funding allocation and calculation methodologies in order to more efficiently and accurately allocate funding to Tribes and address GAO recommendations. The current target date

for completion of this effort is December 2019, however, we expect to begin using model efforts earlier to inform management actions.

Joyce Q11: For appropriations that are distributed by formula, is it reasonable to expect that all such formulas—and the data that feed into them—are published online for all Tribes to see?

Response: Indian Affairs is exploring the best delivery mechanisms for communicating distribution formulas, with online access as one of the options.

School Construction – Leasing Program

In prior years, we discussed the backlog in construction for Bureau of Indian Education schools and the need for the Department, this Committee and Tribes to come up with ideas to stimulate construction of new school facilities in Indian Country. Last year, this Committee provided funding of up to \$2 million for a demonstration project for the first school construction/lease buy project at the Department. I understand that construction for the first project is well underway at the Gila River Indian Community's Gila Crossing school.

Joyce Q12: What is the status of that project and is this a model that can be used throughout Indian Country?

Response: The Gila Crossing school project is complete. The Gila River Indian Community anticipates opening the school in time to support the upcoming School Year 2019-2020.

Lessons learned from this demonstration project will inform procedures for future P.L. 93-638 Section 105(l) lease requests.

Joyce Q13: Is the Department requesting funding for this program in fiscal year 2020?

Response: The 2020 budget submission did not include additional funding for this program. The 2019 appropriation bill was passed too late to be taken into account for formulation of the FY 2020 request, and any costs related to 105(l) leases were too uncertain. Indian Affairs will work with Tribes to meet legal requirements related to 105(l) leases.

Cold Cases

I understand that the Bureau of Indian Affairs (BIA) has launched an initiative to focus on violence in Indian Country and target significant and rising criminal justice issues plaguing Native American communities, particularly Native women.

Joyce Q14: How much funding is in BIA's budget for fiscal year 2020 and how do you plan to coordinate a broad group of Federal and Tribal stakeholders across Indian Country to address these issues, particularly unsolved cold cases?

Response: Within available funding and in coordination with other agencies, Indian Affairs is taking a holistic approach to develop a multi-disciplinary task force to address cold cases, missing and murdered Native Americans and violent crimes throughout Indian Country.