



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 29 2020

The Honorable Raul Grijalva
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva:

Enclosed are responses to the follow-up questions received by the Department of the Interior following the appearance of Assistant Secretary of the Interior for Policy, Management and Budget Susan Combs at the March 4, 2020, hearing before your Committee on the Department's FY 2021 budget request.

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

Sincerely,

Cole Rojewski
Director
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Rob Bishop
Ranking Member

Questions from Rep. Clay

1. **Assistant Secretary Combs, recently, there has been news articles regarding non-Native individuals acting as if they were tribes - just so they can receive federal minority contracts intended for the members of federally recognized tribes.**
 - a. **How is your Department and the Bureau of Indian Affairs (BIA) handling the issue of federal contractor fraud?**
 - b. **Has BIA created interagency recommendations to identify fraudulent non-Native individuals or conducted any oversight on the tribal certification process for other agencies?**

Response: Generally, the Department of the Interior and the Bureau of Indian Affairs have put in place internal controls for program financial audits of contractors and grantees. Your question appears to reference news articles related to a Small Business Administration program. That program has its own criteria and requirements that are implemented by the SBA. Eligibility criteria for that program is found in 13 C.F.R. 124.

2. **In reading your Department's budget proposal, I noticed that you had several topics in the BIA's Law Enforcement Special Initiatives including: the Task Force on Murdered and Missing American Indians and Alaska Natives, funding to address the opioid crisis and the victim/witness assistance program. I believe that all these initiatives are important and should receive standalone programmatic funding without a special initiative. These are essential programs that allow BIA Law Enforcement the ability to actively combat bigger issues in Indian Country, with that said:**
 - a. **Will your Department consider expanding the BIA's Law Enforcement Special Initiatives to include combating bad actors attempting to take advantage of the federal minority contractor program meant to promote economic development for tribal members?**

Response: The BIA's Law Enforcement Special Initiatives program provides resources for initiatives that involve law enforcement in high priority and high crime areas, victim and witness services, data collection, and radio communication. The 2021 budget proposes to invest \$3 million for Law Enforcement Special Initiatives to better support the goals of the Operation Lady Justice Task Force on Missing and Murdered American Indians and Alaska Natives, a priority for the Administration.

Questions from Rep. Cox

1. How does this budget support Americans living without safe drinking water?

Response: The FY 2021 budget request for the Bureau of Reclamation has \$30.3 million for ongoing authorized rural water projects. This includes \$8.1 million for construction and \$22.2 million for operation and maintenance of projects to deliver potable water to certain rural communities.

2. Given the scientific consensus that climate change will alter hydrology in ways that create new challenges for aging water infrastructure, what is Interior doing to specifically plan to make sure our existing infrastructure is resilient to the impacts of climate change?

Response: The Department is committed to following the laws that Congress has enacted. Departmental bureaus carry out authorized responsibilities using the best science. For example, as part of its core mission the Bureau of Reclamation maintains the water delivery infrastructure providing 20% of western water supplies. This responsibility includes proper planning.

3. Will you commit to ensuring the Department of the Interior appropriately plans for climate resiliency in water management?

Response: The Department is committed to follow the laws Congress has enacted for our water management responsibilities.

4. Referring to changes made to DOI Ethics Guide, how does using the less descriptive and less inclusive term “sex” clarify to employees that they are protected from discrimination based on their gender identity and sexual orientation? Wouldn’t including “sexual orientation” and “gender” explicitly be clearer and more inclusive?

Response: The Department and Secretary Bernhardt are committed to protecting the rights of all employees, including the Department’s LGBT employees. The changes to the Ethics Guide reflect a return to consistency with Executive Order 12674, signed by President Bush in 1989; federal ethics regulations, found at 5 C.F.R. Part 2635.101; and the language you reference in Title VII of the Civil Rights Act.

5. Will this revised language be used in any other policies or guidance?

Response: There are no current plans to do so.

6. What other measures has Interior undertaken to ensure no employee is unfairly discriminated against based on their gender or sexual orientation?

Response: Secretary Bernhardt has made it clear that discriminatory and harassing conduct will not be tolerated. Under his leadership the Department has taken significant actions that have transformed workplace culture, including the issuance in March 2018 of PB 18-01, Prevention and Elimination of Harassing Conduct. This important personnel bulletin is designed to address harassing conduct at the earliest possible stage before it becomes harassment within the meaning of the anti-discrimination law. The Department's Culture Transformation website includes a list of actions taken to prevent and respond to harassing conduct from January 2017- October 2019. Since October we have continued make important changes that show the Department's consistent commitment to create real and lasting change. Highlights of these recent activities include:

- In November 2019, the Department began offering 72 sessions of free, in-person, four-hour *Bystander Intervention and Inter-generational Sensitivity* training. Many of the training sessions comprised original material.
- In February 2020, we developed and implemented a Department-wide review process to ensure investigation reports contain the necessary information and evidence required for bureau decision makers to make comprehensive decisions.
- In March 2020, we secured a Blanket Purchase Agreement and issued procedures to bureaus on how to engage the services of an external investigator, ensuring investigation costs are fair and equitable and these financial impacts were considered. We also established protocols to actively monitor bureau progress in addressing sexual harassment and other harassing conduct trends.
- And just this month, in response to requests for additional training sessions, we procured an additional 40 sessions of virtual, instructor-led, bystander intervention and inter-generational sensitivity training.

These accomplishments, coupled with additional actions that we plan in the coming months, illustrate the sustained and committed effort in permanently and positively transforming the Department's workplace culture.

Questions from Rep. Gallego

- 1. Your budget requests \$2.5 billion for the Park Service's main Operations account. That's a \$57 million decrease. Among many other things like visitor services and deferred maintenance, this account pays for law enforcement activities. We know that Interior is already taking law enforcement officers from our understaffed parks and deploying them to the border. Is any of the Park Service's law enforcement funding in the Park Protection account being used to facilitate or on activities related to construction of the President's border wall? If so, how much?**
- 2. Interior requested a more than 50% cut to the Park Service's Construction account. Are any of those funds being used to facilitate or on activities related to construction of the President's border wall on public lands? If so, how much?**

Response to Questions 1 and 2: The Department supports President Trump's commitment to secure our Nation's borders and has a long history of cooperation with the U.S. Border Patrol and the Department of Homeland Security to do so. In addition to protecting our national security, construction of border barriers, by reducing or eliminating impacts from illegal entry, will help us maintain the character of the lands and resources under the Department's management that may otherwise be lost.

The NPS manages 361 miles of the international southern border with Mexico, along with 67 miles of Gulf of Mexico shoreline near this border and works with the Border Patrol and DHS to balance access, resource management, and public and employee safety. This includes facilitating the construction of the border barriers by DHS and the Department of Defense. This facilitation, whether with law enforcement personnel or other personnel, is incidental to other duties and is not separately tracked. NPS construction funds are not used to construct these barriers.

- 3. Interior requested a 10% decrease for BLM's main Management of Lands and Resources account. This account pays for law enforcement and other resource protection activities - for example, protecting priceless areas of places like Bears Ears from vandalism. Are any funds from that Resource Protection and Maintenance account being used to facilitate or on activities related to construction of the President's border wall? If so, how much?**
- 4. Are any funds from the Realty and Ownership Management account being used to facilitate the additional transfer of lands from BLM to the Department of Defense? If so, how much?**
- 5. Interior proposed cutting BLM's Transportation and Facilities Maintenance account by over 25%. Are any of these funds being used to facilitate or on activities related to construction of the President's border wall? If so, how much?**

Response to Questions 3, 4, and 5: The Department supports President Trump’s commitment to secure our Nation’s borders and has a long history of cooperation with the U.S. Border Patrol and the Department of Homeland Security to do so. In addition to protecting our national security, construction of border barriers, by reducing or eliminating impacts from illegal entry, will help us maintain the character of these lands and resources under the Department’s management that may otherwise be lost. The BLM manages nearly 200 miles along the southern border and works with the Border Patrol and DHS to balance access, resource management, and public and employee safety. This includes facilitating the construction of the border barriers by DHS and the Department of Defense. This facilitation, whether with law enforcement personnel or other personnel, is incidental to other duties and is not separately tracked.

With respect to realty, in response to a series of applications for Emergency Withdrawal submitted by the U.S. Department of the Army, Secretary Bernhardt announced in September 2019, the emergency transfer of administrative jurisdiction of approximately 560 acres of Federal lands to the Army to build roughly 70 miles of border barriers. The Public Land Orders temporarily transferring jurisdiction of the land to the Army will be for a period of three years for border security purposes. No additional applications are pending with the Department at this time.

- 6. To your knowledge, are any other Park Service or BLM funds being used to facilitate or on activities related to construction of the President’s border wall? If so, which accounts are they coming from?**

Response: See the responses to the previous questions.

- 7. Your budget requests a 65% cut to the Historic Preservation Fund, including an over 50% cut to Tribal historic preservation. Last year, the National Park Service proposed a rule that would very severely limit State and Tribal input into the Historic preservation process, as well as eliminate the appeals process to the Keeper for potentially eligible properties. Is this proposed budget cut a reflection of NPS’s expectation that its proposed rule will significantly reduce the number of properties nominated and listed for Historic Preservation? If not, what was the justification behind this cut?**

Response: No. The NPS budget proposal continues to prioritize taking care of the lands and resources we oversee, expanding access to those areas for public recreation and enjoyment, and investing to improve the visitor experience at our sites. Funding focuses on delivering our direct mission activities.

Question from Rep. Neguse

1. **Please provide an explanation of why only five Colorado State University (“CSU”) agreements are listed in the Financial Assistance Clearance System (“FACS”) as denied, out of over 700 agreements. These projects were requested by the USGS, and it is CSU’s understanding that USGS remains very interested in having the university complete the requested tasks and continue working with extended partners to achieve common outcomes and deliverables of research to directly aid in conservation and management actions. CSU has not received any explanation as to why these projects were denied. It is CSU’s understanding that the decision that prevented USGS from moving those allocations to the university stems from somewhere within Bureau of Land Management, but the university has not received any response to their multiple inquiries about the denials, learning only of the definitive denial from the online FAC system. Given the proximity in timing to CSU withdrawing from a study on ovariectomies in wild horses and the heretofore strong relationship between CSU and the granters, there is concern that these denials are tied to the university's previous research participation decisions of which BLM disapproved.**
 - a. **Are these denials related to CSU withdrawing from the study on the use of ovariectomies within wild horse herds? If not, please provide a thorough explanation for these denials.**

Response: The Department has provided guidance to bureaus to improve the process for managing discretionary financial assistance programs, to strengthen grants review and reduce paperwork, and to better manage the risks associated with awards of taxpayer money. In the case of any grant denial, the Department has found that the proposal or entity has not met the standards for ensuring protection of the public interest.

Questions from Ranking Member Bishop

- 1. Please provide the Committee with the status of the Crow Tribe's water rights settlement projects, including the project facilities for which design work is completed, and Reclamation's anticipated construction schedule for the projects, since Reclamation has taken over the engineering and contracting functions for the projects under the terms of its September 6, 2019 Memorandum of Agreement with the Crow Tribe.**

Response: Reclamation has not taken over the engineering and contracting functions for the Crow Water Rights Settlement projects. The September 6, 2019 Memorandum of Agreement provides a framework that requires the Crow Tribe and Reclamation to communicate and cooperate in all phases of project work. The Tribe has retained two consulting engineers, one each for the Crow Irrigation Project and the Municipal, Rural, and Industrial Water System (MR&I). These consultant engineers are performing design functions in accordance with task orders issued by the Tribe with Reclamation's concurrence. Although the option now exists for Reclamation to perform the contracting functions if requested, at this time the plan is for the Tribe's contracting office to perform the contracting functions.

There are multiple projects being designed or, in some cases, redesigned due to concerns about cost-effectiveness and Operations and Maintenance requirements. The current plan agreed to by the Tribe and Reclamation is to have three to five irrigation projects designed and ready to bid before October 2020. Additionally, preliminary design work, including site selection, is starting for an office building for the Crow Tribal water department as well as for the MR&I raw water intake structure and the MR&I water treatment plant. The target date for completed plans for the office building is September 2020, while the completed designs for the raw water intake structure and water treatment plant are likely 12 to 18 months out.

- 2. Are there non-federal contractors, including engineering firms, that are owed money for work on the Crow Tribe's water settlement projects? Is this affecting the design work or other work which the Tribe and Reclamation can use to move forward on these projects? If so, how does the Department intend to work with the Tribe to resolve this issue.**

Response: There are currently several vendors and contractors that have stated they are owed money by the Tribe. Their contracts are with the Tribe and it is the Tribe's responsibility to initiate and support any payment requests. Reclamation has attempted to assist contractors and vendors previously retained by the Tribe to the extent it is allowed and prudent, and Reclamation will continue to offer technical assistance and support to the Tribe. These claims are not currently delaying work.

3. **The 2010 Settlement Act allows the Crow Tribe's water projects to be indexed for inflation based on certain construction indices. How much have the authorization ceilings on these projects risen since FY 2016, the last year for which there was a signed Annual Funding Agreement? Is there, or will there be, an AFA for Fiscal Year 2020? If so, please provide the Committee with a copy of that AFA.**

Response: Information on the authorization ceilings is included below. Regarding an AFA, Reclamation does expect that there will be an AFA for FY 2020. In October of 2019, a Master Task Order Agreement (MTOA) was signed and amended into the CIP and MR&I P.L. 93-638 contracts. The MTOA allows the Crow Tribe and Reclamation to negotiate task orders that outline the responsibilities and deliverables for both the Crow Tribe and Reclamation for individual or related items of work.

FY 2016

1. CIP Mandatory Indexed Ceiling:\$88,914,000
2. CIP Discretionary Indexed Ceiling:\$69,391,000
3. MR&I Mandatory Indexed Ceiling:\$176,368,000
4. MR&I Discretionary Indexed Ceiling:\$121,299,000

FY 2017

1. CIP Mandatory Indexed Ceiling:\$89,379,000
2. CIP Discretionary Indexed Ceiling:\$69,606,000
3. MR&I Mandatory Indexed Ceiling:\$177,309,000
4. MR&I Discretionary Indexed Ceiling:\$121,837,000

FY 2018

1. CIP Mandatory Indexed Ceiling:\$90,773,000
2. CIP Discretionary Indexed Ceiling:\$70,469,000
3. MR&I Mandatory Indexed Ceiling:\$180,132,000
4. MR&I Discretionary Indexed Ceiling:\$123,702,000

FY 2019

1. CIP Mandatory Indexed Ceiling:\$92,400,000
2. CIP Discretionary Indexed Ceiling:\$71,074,000
3. MR&I Mandatory Indexed Ceiling:\$183,426,000
4. MR&I Discretionary Indexed Ceiling:\$125,827,000

Net Change in Indexing from FY 2016 – FY 2019

1. CIP Mandatory Indexed Ceiling:\$3,486,000
2. CIP Discretionary Indexed Ceiling:\$1,683,000
3. MR&I Mandatory Indexed Ceiling:\$7,058,000
4. MR&I Discretionary Indexed Ceiling:\$4,528,000

Total Indexing Accrued FY 2016 – FY 2019 = \$16,755,000

4. **The administration has proposed the Public Lands Infrastructure Fund, citing about \$18 billion in deferred maintenance. Is the Bureau of Reclamation included in this figure?**
 - a. **If Yes, why is the Bureau of Reclamation not included among the recipients of this Fund?**
 - b. **If No, what was the rationale behind excluding Reclamation facilities?**

Response: The Bureau of Reclamation is not included in the President's proposed Public Lands Infrastructure Fund. Many maintenance activities across Reclamation are directly funded by revenues, water and power customers or other federal agencies. The Department is focused on improving Reclamation's asset management and maintaining aging infrastructure to ensure continued reliable delivery of water and power and has proposed funding to address these issues.

Questions from Rep. Fulcher

- 1. Ms. Combs. I wanted to ensure the Department is aware of an important project in my home state of Idaho. Specifically, P4, a subsidiary of Bayer, is working with the Bureau of Land Management, Environmental Protection Agency, and Department of Justice to finalize a consent decree that would allow for the remediation of Ballard Mine pursuant to the Comprehensive Environmental Cleanup Act. Ballard Mine, which is located north of Soda Springs in Caribou County, was operated from 1951 to 1969. P4 would like to reclaim the affected area in accordance with modern best practices. In conjunction with this work, it would like to remove approximately 4 million tons of phosphate ore that remains on site and is within the footprint of the reclamation project. I am interested in seeing this project move forward, can you provide me with an anticipated timeline? Thank you.**

Response: The Ballard mine is on private and State lands; there is no BLM surface-managed public land at the site. P4 Production is the primary responsible party for funding and implementing all activities at the site and the BLM supports the Environmental Protection Agency by providing historical mining and other records and some staff review of Superfund process reports. The Department would defer to the EPA on the timeline to finalize a consent decree. The BLM's timeline for subsequent leasing of phosphate ore within the footprint of the remediation project is dependent upon the EPA process.

Questions from Rep. Gonzalez-Colon

1. **Parks and public lands under the U.S. Department of the Interior’s jurisdiction are vital to Puerto Rico’s tourism and recreation economy. The San Juan National Historic Site, a National Park Service unit and world heritage site that includes important 16th century fortifications from the Spanish colonial era, generates more than \$100 million in economic activity for the Island each year. In 2016, more than 1.4 million people visited the park, spurring more than \$85 million in visitor spending. The Fish and Wildlife Service’s 5 National Wildlife Refuges in Puerto Rico are also important economic engines for our communities. According to the Service, nearly 338,000 visitors had a quality outdoor experience at one of the Island’s refuges in 2018. However, these benefits are threatened if we fail to address the deferred maintenance backlog, which totals over \$40.1 million in the San Juan National Historic Site and over \$7.2 million across Puerto Rico’s National Wildlife Refuges.**
 - a. **Could you discuss how the FY 2021 budget request seeks to address the deferred maintenance backlog across the National Park Service and the U.S. Fish and Wildlife Service?**

Response: In addition to ensuring strong operational and cyclic maintenance of our treasured parks and refuges, the Department’s budget includes \$6.5 billion over 5 years for a Public Lands Infrastructure Fund to address the maintenance backlog in national parks, wildlife refuges, public lands and BIE schools. Legislation has been introduced in both the House and the Senate to establish this fund and, along with fully and permanently funding the Land and Water Conservation Fund. The President has called on Congress to enact this important legislation to address these unacceptable backlogs. The Department stands ready to work with Congress to enact this important legislation.

2. **I now want to turn to the FY 2021 budget request for the U.S. Geological Survey. In Puerto Rico, we know first-hand how valuable this agency's work is. USGS, in conjunction with the Puerto Rico Seismic Network, provided life-saving information and data following the earthquakes that impacted the southwestern region of the Island earlier this year. I am therefore interested in learning more about how the FY 2021 budget request supports USGS's Earthquake Hazards program.**
 - a. **In particular, how would the request prioritize and strengthen the Nation's earthquake monitoring and reporting capabilities?**
 - b. **How does it support the Advanced National Seismic System and the several regional seismic networks operated across the country, such as the Puerto Rico Seismic Network?**

Response to a and b: The 2021 budget request supports monitoring the Nation's earthquakes via the Advanced National Seismic System and through support of several regional seismic networks operated by university partners; providing 24x7 reporting on domestic and global earthquakes; delivering rapid earthquake impact and situational awareness products to support emergency

response; and developing improved methods for continued improvement in the quality and timeliness of real-time earthquake information. In 2021, the USGS will continue, in cooperation with its partners, to operate and maintain the ShakeAlert system based on the ShakeAlert Earthquake Early Warning Implementation Plan for the West Coast, which was revised in 2018. In 2021, the USGS expects to provide universities, state geological surveys, and private institutions with over \$12.5 million in earthquake hazards applied research grants and cooperative agreements.

- 3. It is my understanding that some of the Fish and Wildlife Service's facilities in Cabo Rojo, Puerto Rico were impacted and damaged by the seismic activity in the region.**
 - a. Could you please provide my office an assessment of damages and whether the facilities are structurally sound? What actions will the Service pursue to address any damages?**

Response: The FWS's Division of Engineering carries out seismic risk assessments of FWS assets. Several buildings at Cabo Rojo National Wildlife Refuge have been visually screened under this program and that review has identified several buildings that require additional evaluation.

- 4. I would also like to inquire about the status of the masonry preservation program at the San Juan National Historic Site. Specifically, on June 11, 2018, the Puerto Rico State Historic Preservation Office sent a letter to the Superintendent of the park seeking clarification on the status of about 40 to 60 expert masons whose jobs were at risk of being eliminated. Last year during a Committee hearing, I brought this issue to Secretary Bernhardt's attention. He mentioned that he would be signing an order to allow the use of recreational fees to address certain employees, including the masons at the San Juan National Historic Site.**
 - a. I therefore would like to request an update on the status of this order. Has it been issued? If so, how would it specifically impact the masonry program at the San Juan National Historic Site?**

Response: In May 2019 Secretary Bernhardt approved the NPS' request to allow park superintendents to utilize Federal Lands Recreation Enhancement Act (FLREA) funds to hire permanent employees engaged in FLREA related work. After receiving approval to move forward, San Juan National Historical Site is currently working to use FLREA funds to pay for up to 26 Mason Worker positions at the site to keep these positions from being eliminated.

- 5. The U.S. Fish and Wildlife Service, through the Partners for Fish and Wildlife Program, has been a leader in restoring shaded coffee plantations in Puerto Rico, providing benefits to both wildlife and the Island's coffee industry.**
- a. How does the FY 2021 budget request support initiatives such as this one? Is the Service still prioritizing this work in Puerto Rico?**

Response: The FY 2021 budget focuses on DOI priorities, which includes support to deliver voluntary restoration and enhancement projects. At the requested FY 2021 funding level, the Partners for Fish and Wildlife Program will restore and enhance approximately 36,287 wetland acres, 222,027 upland acres, 653 riparian miles, and 121 fish passage structures. These accomplishments will advance voluntary conservation on private lands and support a number of high priority efforts. The public-private partnerships forged through these agreements will enhance relationships and build trust with local communities, including those in Puerto Rico.

- 6. In 2009, Congress authorized the Department of the Interior to conduct a special resource study to determine whether Fort San Geronimo, which is on the eastern side of Old San Juan, should be added to the San Juan National Historic Site.**
- a. Could you discuss the status of this study and when the Department, and specifically the National Park Service, expects to finalize and publish its findings? I note that it has been 10 years since Congress authorized this study and it is urgent that we explore every avenue to protect this fortification.**

Response: The study was transmitted to Congress on April 1, 2020, and can be found here: <https://parkplanning.nps.gov/document.cfm?parkID=522&projectID=32695&documentID=1026>
15.

Questions from Rep. Radewagen

- 1. Ms. Combs, what efforts is DOI taking, either on their own or in conjunction with the other agencies, to improve healthcare in the territories and protect us from health threats like the recent measles and Coronavirus outbreaks?**

Response: The Department's efforts focus on community water system improvement, tuberculosis eradication, measles prevention, and healthcare infrastructure. This includes, for example, investments to combat non-communicable and communicable diseases impacting the Pacific and Caribbean such as obesity, diabetes, measles, and tuberculosis. OIA is also participating in several Federal working groups monitoring health issues in the Insular territories. In 2019, OIA invested in assessments of aging hospital facilities in American Samoa and Guam, using results to make determinations on improving or replacing facilities. OIA also contracted with HHF Planners through the U.S. Army Corps of Engineers for an insular health facility maintenance initiative. A team of medical professionals will assess the facility maintenance status and requirements for Insular hospitals in the Territories and Freely Associated States.

- 2. Considering the territories' limited resources and healthcare infrastructure, how do potential health threats factor into your budgeting decisions?**

Response: OIA works with territorial governments and other government agencies to be proactive and responsive as health threats arise. For example, this year OIA started a hospital maintenance initiative aimed at improving the longer-term healthcare infrastructure of the territories. In addition to funds provided under American Samoa Operations, OIA has invested approximately \$12 million in grants for training, equipment, renovations, and operations of the LBJ hospital since 2014, and \$700,000 in the Faga'ula Primary Care Center since 2015. Recently, OIA has also responded to specific health threats like measles and Lymphatic Filariasis in American Samoa, providing \$490,000 and \$350,000, respectively. OIA has funded similar healthcare infrastructure, and related requests for other territories.

- 3. OJA has indicated that American Samoa has met two of three conditions to remove their designation as a high-risk grantee, but that the designation "will remain until ASG has developed and implemented sufficient internal controls for compliance with fiscal reforms." What exactly does this entail, and approximately how far along is the territory from meeting this requirement?**

Response: ASG was declared a high-risk grantee at the recommendation of the DOI's Office of Inspector General, which determined that the severity of the lack of ASG's internal controls to prevent the misuse of public funds and long-standing unresolved audit findings warranted such a designation. The removal of the high-risk designation is dependent upon ASG's: (1) completion of required annual single audits with acceptable audit opinions, (2) achieving a balanced budget for two consecutive years without consideration of nonrecurring revenue sources such as insurance settlements, and (3) substantial compliance with the conditions of the Memorandum Of Agreement and the Fiscal Reform Plan that is designed to bring the ASG annual operating

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expenses into balance with projected revenues for the years 2003 and beyond as required under Public Law 106-113 (H.R. 2466) Part 5, Section 125(b)(3).

OIA's reviews of ASG's progress determined that conditions (1) and (2) are resolved. However, condition (3) has not been satisfied. Although ASG has greatly improved its financial accounting processes and compliance with Federal grant awards, material issues preventing ASG from receiving an unmodified opinion from independent auditors continue to be reported. These include incorrect and untimely accounting treatment of revenues and expenditures due to an insufficient number of qualified and experienced personnel within ASG offices responsible for financial analysis, and noncompliance with Federal grant requirements for activities such as procurement, expenditure documentation, reporting, and safe keeping due to inadequate processes for management and oversight. It is anticipated that with ASG's current and planned improvements, sufficient progress will be evident in ASG's Single Audit of FYs 2019 or 2020 for OIA to remove the high-risk designation.

- 4. Part of OIA's justification for suggesting cuts to the ASG Operations Account is to "promote self-sufficiency" for the territory. What, in your estimation, is the largest obstacle to the self-sufficiency of American Samoa and the other territories, and how do you account for it when forming your budget?**

Response: Economic diversity is the number one obstacle for American Samoa and other territories, due in large part to geographic isolation. OIA accounts for this in its budget by providing technical assistance and funding infrastructure projects related to economic development, such as reducing energy costs, fiber optic connectivity, port improvements, and renovations to tourist districts. Through its Energizing Insular Communities grant program, OIA provides funding for the highest priority projects identified in the U.S. territories' energy plans, including more efficient traditional generation and transmission, photovoltaic, wind, and geothermal development projects. OIA also funds projects to improve tourism and to diversify territorial economies, like port improvements and the Hawaiki Cable project.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 19 2020

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Murkowski:

Enclosed are responses to the follow-up questions received by Secretary of the Interior David Bernhardt following his appearance before your Committee at the March 10, 2020, hearing on the Department's FY 2021 budget request.

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

Sincerely,

Cole Rojewski
Director, Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Joe Manchin
Ranking Member

**Committee on Energy and Natural Resources
Hearing on FY 2021 Budget Request
March 10, 2020 Hearing**

Questions from Chairman Murkowski

Question 1. What is the Department of the Interior doing to implement the National Volcano Early Warning System Act, which was included in the John D. Dingell Jr. Conservation, Management and Recreation Act?

Response: The 5-year implementation plan for the new system is being used to establish Advisory and Interagency Coordination Committees, and partnerships will be broadened to leverage resources from key stakeholders and end users. New digital telemetry at converted Alaska monitoring stations can now accommodate multiple types of ground sensors that will improve the quality of the networks and forecasts of hazardous activity, as required for implementation of NVEWS. In addition, the U.S. Geological Survey is continuing development of the lahar detection system, which will lead to improved monitoring in accordance with NVEWS standards for Mt. Rainier, a very-high-threat volcano.

Question 2. Last fall, the U.S. Geological Survey released an update of the National Seismic Hazard Model, but Alaska was not included. Why was Alaska left out of the update and when does Interior plan to update the model for Alaska?

Response: The 2020 appropriation for USGS partially supported the FY 2020 President's budget request of \$2.65 million to update the National Seismic Hazard Model, including Alaska. The 2021 budget request continues funding to ensure that the next update of the National Seismic Hazard Model will include Alaska.

Question 3. When does the USGS plan to expand the earthquake early warning system, ShakeAlert, to Alaska?

Response: In 2021, the USGS will continue, in cooperation with states and other partners, to operate and maintain the ShakeAlert system based on the ShakeAlert Earthquake Early Warning Implementation Plan for the West Coast, which was revised in 2018.

Question 4: What work is USGS doing on landslides in Alaska, particularly in the Southeast part of the state?

Response: The 2021 budget supports a variety of program activities in Alaska, including conducting field, laboratory, and modeling studies of landslide initiation and mobility processes in cooperation with federal, state, academic, and private sector partners to develop, test, and advance systems for landslide monitoring, hazard assessment, and forecasting. USGS is also focused on providing post-wildfire debris-flow hazard assessments for major wildfires to Burned Area Emergency Response teams, state geological surveys, federal, state, and local emergency management, and the public. Additionally, the bureau is collecting

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observations, conducting studies, and testing methods and models to expand the NOAA and USGS partnership for post-wildfire debris-flow early warning beyond the prototype area in southern California to other parts of the Western United States.

Question 5. Does the budget proposal to hire full-time wildland firefighters mean the Department will be hiring more Alaska Native Village Crews in numbers that reverse their decline?

Response: DOI's proposal will provide increased permanent employment opportunities for all temporary personnel, including members of the Alaska Native Village Crews. The proposal is intended to create a more permanent wildland fire workforce that is better aligned to address the challenges associated with wildfire activity and more aggressively reduce wildfire risk by increasing active vegetation management during periods of low fire activity. It would provide for up to an additional 600 FTEs, through a combination of converting existing career seasonal and temporary term employees and new hires, and will result in a more stable, professional and permanent wildland fire workforce and better address the threats from wildfires.

Question 6. In light of the decision by the Department of the Interior last year to ground its entire Unmanned Aircraft Systems (UAS) fleet, have any or will any of the bureaus' drone operator training sessions be canceled or postponed this year? If so, how many training sessions, under which bureaus, and at what locations?

Response: Department of the Interior employees who want to participate in UAS training for emergency operations and for training that meets or maintains FAA-approved certification requirements can complete a waiver form and, if approved, may continue to receive training.

Question 7. Is the Department issuing waivers for bureaus to operate UAS for pre-planned hazardous fuels projects, like controlled burns? If so, how many waivers have been issued, under which bureaus, and at what locations?

Response: Waivers are not required for UAS emergency missions or UAS health and human safety missions. Fighting wildland fire, performing measures to help prevent wildland fire or protect health and human safety and prevent property damage are authorized purposes to operate under the Department's 48-hour rule, which requires an agency to report the details of an emergency or health and human safety UAS mission to the Department within 48 hours of completion.

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Questions from Sen. Manchin

Question. I know that your Department has been taking the issue of sexual harassment and assault very seriously, which is important because this is a very serious issue. Can you tell us some of the most effective reforms that you have implemented across the Department to date? Are there any additional legislative authorities that could assist you in decreasing incidents of sexual harassment and assault in the Department?

Response: The Department is committed to providing a work environment free of discrimination and harassment and is implementing a multi-faceted harassment prevention and response strategy. The Department has taken steps to address sexual harassment and provide a safe work environment by conducting surveys, issuing policy (including Personnel Bulletin 18-01), conducting investigations into sexual harassment allegations, requiring training, establishing an advisory hotline, and developing a tracking system. We have created a Workplace Culture Transformation Advisory Council to advance comprehensive culture change. In 2020, the Council is sponsoring 72 in-person training sessions and developing online training for all DOI employees focused on preventing harassing conduct and increasing respect, sensitivity, and inclusion in the workplace. The Department also recently assigned an experienced leader in the Senior Executive Service with personnel experience to serve as the Superintendent of Grand Canyon National Park and we expect that individual to resolve longstanding issues at the park.

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Questions from Sen. Wyden

Question 1. Despite direction from Congress, the Bureau of Land Management continues to reconsider renewing fire funding agreements with the Oregon Department of Forestry. Western Oregon has some of the most complex public lands in the country -- the checkerboard ownership pattern of O&C lands creates over 14,000 miles of jurisdictional boundaries between federal, tribal, state, county and privately owned timberlands. This nightmare scenario for land management requires seamless efforts for fire protection, and for over 100 years, the federal government has worked cooperatively with the state of Oregon for fire protection on the O&C lands. In the fiscal year 2020 Interior funding bill, Congress stated that:

“A departure from the existing agreements with O-D-F to provide fire protection services would neither be in the interest of lands managed by B-L-M in western Oregon, nor the significant interspersed communities and timberlands adjacent to those federal lands.”

Will you commit to continuing BLM’s long standing wildfire protection agreements with the Oregon Department of Forestry?

Response: No.

Question 2. Mr. Secretary, the Coos Bay Wagon Road grant lands are located in two counties in my state – Coos and Douglas Counties. These lands derive from a 1939 law that established a program for making in-lieu of tax payments to these counties based on an appraisal of the land and timber contained within these lands. Unfortunately, the way the Department has been making these payments has resulted in these counties getting less money than they should otherwise be getting. One reason for this seems to be the Department’s refusal to convene a panel that the 1939 law requires be convened every 10 years – the last time this panel was convened was in 1991.

Coos and Douglas Counties have made numerous requests over the years to the Department to convene this committee – these requests have been ignored. The Oregon Congressional delegation has also encouraged the Department to convene this committee, most recently in a letter I sent to you, along with my colleagues, back in November of 2019.

Coos County felt they had no other choice but to file a lawsuit to compel the Department to convene this important committee so that the counties can finally get what is owed to them.

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I understand the Department is finally taking steps to convene this committee. Can you tell me where the Department is in that process and provide the timeline going forward?

Response: I do not have any personal knowledge of this matter, but I am sure that the BLM will provide you with the most updated information.

Question 3. Last month I sent a letter urging your department to prioritize funding for the important and collaborative work happening on the ground in Malheur County and the Owyhee. The Bureau of Land Management provides important information to the people in my state so they can make effective and workable plans for land management. Yet, your budget cuts BLM by 10 percent. The Owyhee is an area that deserves protection. Last year I introduced legislation to designate wilderness, while also giving ranchers some flexibility in grazing on rangelands. Funding is needed to make these arrangements work for all the parties involved. All of the local and regional stakeholders in the area identified common ground and a shared vision for a healthy landscape.

Will you commit to working with me on this bill to help accomplish the years of work that Oregonians in Malheur County put in?

Response: The Department provides technical assistance to any member of Congress, if requested.

Question 4. Mr. Secretary, the Department of the Interior's Freedom of Information Act policies have been all over the board during the Trump Administration. Last year, D-O-I proposed a Freedom of Information Act policy that would restrict public access to DOI's records and delay the processing of FOIA requests in violation of the letter and spirit of the law. While I acknowledge that the final D-O-I FOIA policy is considerably different than what you had initially proposed, the Department has yet to respond to over 200 outstanding FOIA requests, and staff has been directed to wait until journalists and good government activists cue before releasing the documents.

Do you commit to having your agency respond to all FOIA requests over 6 months old and provide the requested documents -- without a political review process -- within the next 3 months?

Response: It is our obligation to comply with all laws enacted by Congress, including FOIA.

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Questions from Sen. Risch

Question 1. I come from a state where 2 out of every 3 acres are managed by the Federal Government, creating various challenges for my constituents. With this in mind, any new federal acquisition in states like Idaho, where the federal estate is already overwhelming, must be given extremely careful consideration.

In the budget request released just last month, similar concerns were expressed by reducing LWCF land acquisition funding by over 90%. With this in mind, if LWCF were to be permanently funded at the full \$900 million, how can we be assured that the federal estate will not continuously expand in the Western states and the land that it does own will not continue to accrue backlog? Given these concerns, should policy changes be considered before removing the annual oversight from Congressional appropriators?

Response: The President asked Congress to send him a bill that fully and permanently funds the Land and Water Conservation Fund and restores our national parks and other public lands and Bureau of Indian Education schools. The enactment of such legislation would be historic and would allow Interior to better care for the lands we manage and also ensure States will receive significant funding under the LWCF to carry out local efforts important to them.

Question 2. We greatly appreciate your efforts to streamline processes and work with local communities. One example is the work the Bureau of Reclamation is doing to implement the Title Transfer legislation that I led last Congress. Would it be possible to get a fuller brief on that progress?

Response: On March 23, 2020, the Bureau of Reclamation released its final guidelines to streamline the transfer of eligible Reclamation facilities to local ownership. This Administration's title transfer process embodies the President's goals of streamlining bureaucratic processes and making our government more efficient and accountable. We look forward to continuing our work with local water users to reduce title transfer costs, stimulate infrastructure investment through local ownership with the bottom-line goal of making this streamlined approach a major success.

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Questions from Sen. Cantwell

Question 1. The final environmental impact statement (EIS) issued by your agency on drilling in Section 1002 of the Arctic National Wildlife Refuge choose the most impactful, most destructive, and least protective alternative for the Coastal Plain oil and gas leasing program. According to a February 27, 2020 study published in the journal PLOS One, the surveillance technology used by the petroleum industry to find polar bear dens is unreliable and shown to miss 55% of known dens.

Will you commit to requiring a 1-mile protective buffer around polar bear dens for any oil and gas exploration or development activities in Section 1002 of the Arctic National Wildlife Refuge and commit to requiring the use of a surveillance technology that accurately identifies den sites?

Response: No, such an action would be arbitrary at this time.

Question 2. When drilling in Section 1002 of the Arctic National Wildlife Refuge was authorization in the Tax Act, it was touted as generating close to one billion dollars in revenue.

Will you commit to setting minimum bids for ANWR leases at the value necessary to generate the revenues promised in the Tax Act? Will you cancel the lease sale if the federal government does not receive at least \$100 million from the sale?

Response: Such an action would be arbitrary at this time. The Tax Cuts and Jobs Act of 2017 mandated that the Department establish an oil and gas program on the coastal plain and requires that the Bureau of Land Management hold at least two lease sales by December 22, 2024, with the first sale to take place by December 22, 2021. As indicated at the hearing, the significant resource potential and the rights that Congress has attached to potential leases is extraordinary and will be a significant consideration in any lease sale.

Question 3. The San Juan Islands National Monument is one of the state's crown jewels. When the monument was created in 2013, the designation required the creation of a Management Advisory Committee (MAC), to work with the Bureau of Land Management (BLM) to develop a locally-driven management plan for the monument. Due to delays in appointing committee members, the MAC has not been able to reach a quorum since 2016 and provide the required local input on a new management plan being drafted by BLM.

During the hearing, I asked if you would commit to filling the vacancies on the MAC and ensuring they have the opportunity to provide input prior to finalizing a new management

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plan. During the hearing, said you were not familiar with the plan but you promised to take a look at this issue.

Will you commit to filling the vacancies on the San Juan Island MAC to ensure a quorum prior to the finalization of the San Juan National Monument Proposed Resource Management Plan and Environmental Impact Statement?

Will you commit to ensuring the San Juan MAC has the ability to provide thorough comments on the Proposed Resource Management Plan and Environmental Impact Statement prior to any finalization of the plan and environmental impact statement?

Response: The BLM published a call for nominations for the MAC on January 10, 2020, with a deadline for receipt of nominations on February 24, 2020. The BLM is in the process of evaluating the nominations that it received.

Question 4. In January 2018, Secretary Zinke released a new 5-year lease plan for offshore drilling that would open up more than 90% of America's shores to leasing. On May 15, 2019, you testified before the House Committee on Natural Resources that in response to a court ruling, final publication of the 5-year lease plan would be delayed. As I mentioned during the hearing, coastal states nationwide and all of our impacted fishermen and businesses are currently left wondering what will happen in their waters.

Will you officially scrap the five-year lease plan introduced by Secretary Zinke?

Before your agency takes any action to develop a replacement lease plan, will you commit to holding public meetings to gather information from those most directly impacted and to provide an open and transparent process?

Response: The Outer Continental Shelf Lands Act prescribes the major steps involved in developing the program, including extensive opportunities for public comment. The Department, through the Bureau of Ocean Energy Management, seeks a wide array of input during this process from all stakeholders, including affected states, in the process to determine the size, timing and location of leasing activity on the OCS. Under the law, states and the public will have the opportunity to have their views heard and considered as the Department moves forward with developing the National OCS Program.

Question 5. A little less than a year ago, thirteen federal agencies, --with input from hundreds of government and non-governmental experts-- jointly issued the Congressionally- mandated quadrennial Fourth National Climate Assessment.

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Do you agree with the Assessment’s finding that greenhouse gas emissions from human activities are the only factors that can account for the observed warming over the last century? Do you agree with the Assessment’s finding that because greenhouse gases released by human activities, such as methane, are removed from the atmosphere by natural processes more quickly than carbon dioxide; efforts to cut emissions of methane could help reduce the rate of global temperature increases over the next few decades? Will your Department help mitigate climate change by reinstating the U.S. Bureau of Land Management’s methane waste prevention rule to limit the amount of methane that oil and gas producers operating on tribal or public lands can release?

Will you commit to considering climate change impacts in all agency decision making?

Response: The impacts of a changing climate need to be understood and addressed, and the Department’s role is to follow the law in carrying out our responsibilities. We will comply with the law that Congress has enacted, including the laws that govern our resource management actions on the public lands and offshore areas, which generally require us to manage these areas for multiple uses, including energy development.

Question 6. The Bureau of Reclamation, WaterSMART Water and Energy Efficiency grant program issues grants to non-federal entities for water and energy efficiency projects that contribute to water supply reliability in the western United States. A key element of this program is that applicants must agree not to use conserved water to increase irrigated acreage or increase consumptive water use, a practice called “water spending.” New research shows that many of the projects receiving WaterSMART grants lack the means to ensure that conserved water is not diverted for a prohibited purpose.

Are agricultural water users who receive WaterSMART grants being allowed to use conserved water to increase irrigated acreage or increase consumptive water use? Please provide the number of grants issued, over the past two years, that allowed the grantee to use some or all of their conserved water for prohibited purposes?

Response: Reclamation awards WaterSMART Water and Energy Efficiency Grants to help projects in the Western United States use water more efficiently and effectively. For FY 2020, Reclamation selected 54 total projects to share \$40.99 million in WaterSMART Water and Energy Efficiency Grant funding; in FY 2019, 45 projects were funded. Projects receiving funding may include canal lining, advanced water metering, flow measurement and real-time monitoring of water deliveries, and pressurized irrigation systems. Some projects complement on-farm improvements that can be carried out with the assistance of the U.S. Department of Agriculture’s Natural Resources Conservation Service to accomplish coordinated water conservation improvements. All awards are made consistent with existing authorities.

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Question 7. In 2018, the U.S. Department of Interior and the U.S. Geological Survey issued a report titled: Federal Lands Greenhouse Gas Emissions and Sequestration in the United States: Estimates for 2005-14, Report 2018–5131.

Do you agree with the report’s finding that between 2005 and 2014, Federal lands were an important tool for sequestering carbon, sequestering CO₂ at the national level at a mean net rate of 195 MMT CO₂ Eq./yr?

Do you agree with the report’s finding that CO₂ sequestered by federal lands offset approximately 15 percent of the CO₂ emissions resulting from the extraction and use of fossil fuels on Federal lands over the same time period?

Response: The USGS estimates presented in the report represent a first-of-its-kind accounting for the emissions resulting from fossil fuel extraction on federal lands and the end-use combustion of those fuels, as well as for the sequestration of carbon in terrestrial ecosystems on federal lands.

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Questions from Sen. Lee

Question 1. The Wild Horse and Burro Program has tried for years to bring populations down to appropriate management levels but has been constrained by lawsuits and appropriations riders. Additional funds have been appropriated to the program but were made contingent on the presentation of a plan explaining how they will lead to new results. What is the status of this plan? Could DOI more efficiently and economically reach appropriate management levels with new or currently excluded management tools?

Response: The requested plan was delivered to Congress on May 8, 2020.

Question 2. 36 CFR §4.2 states that “Unless specifically addressed by regulations in this chapter, traffic and the use of vehicles within a park area are governed by State law. State law that is now or may later be in effect is adopted and made a part of the regulations in this part.” Currently, Utah state law allows for certain OHVs to operate on state roads but they are not being allowed in National Park System units. What can be done to bring NPS practice into congruence with NPS code?

Response: The NPS is currently working with the Office of the Solicitor to address this issue.

Question 3. In recent years, communities in the West have experienced a dramatic increase of federal law enforcement presence on federal land. FLPMA directs the BLM to achieve “maximum feasible reliance upon local law enforcement officials.” Do you believe that the agency is meeting this standard? What are you doing to increase reliance on local law enforcement? Is the agency entering into more cooperative agreements with local law enforcement officials?

Response: The BLM is committed to remaining a good neighbor and cooperating with its partners at all levels of government, including states, tribes, and other local stakeholders. As such, the BLM through its Office of Law Enforcement and Security is working as cooperators and collaborators through partnerships to maximize the effectiveness of law enforcement efforts. BLM currently has nearly 250 law enforcement partners working in collaborative relationships to protect the public and natural resources.

Question 4. Congress has given the Department of the Interior broad discretion to administratively withdraw lands from entry and mining. Are there any procedures that you have in place to review the effectiveness or use of prior mineral withdrawals undertaken by the Department? If so, what are they? Are there any plots of land that are currently withdrawn from mining and entry that you think deserve review?

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Response: An administrative withdrawal can be reviewed at any point, and at a minimum is routinely reviewed before an extension to determine if the withdrawal is still warranted. The BLM has carried out large scale reviews of withdrawals, as well. For example, just last year, I tasked the BLM with reviewing public lands mineral withdrawals made from 2009 until 2017 to ensure that the lands were not inappropriately identified for withdrawal during that time period.

Question 5. The relationship between NEPA and wildfire prevention efforts has been well documented. The NEPA process for routine forest management takes a long time and over that period the fuel supply continues to build. When the fire finally comes, there is that much more fuel. What is less well-known are the Congressional and regulatory issues that prevent fire suppression once it has started. Are there any legislative or regulatory issues, beyond adequate funding, that inhibit fire suppression once fires have started?

Response: Yes. Congress should support the President's FY 2021 Budget proposal to transform the firefighting workforce and build a more stable and permanent federal workforce to address threats associated with wildfire and has increased funding for Preparedness and Fuels Management. Congress should also support the Department's legislative proposals, also included with the FY20 Budget, to address fuels management in a more efficient manner.

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Questions from Sen. Daines

Question 1. The Bureau of Land Management has been directed by Congress to “ensure the Nation does not lose its domestic sheep industry or bighorn sheep conservation legacy” by carrying out several directives including "actions to resolve issues on allotments with a high risk of disease transmission" and meeting with "stakeholders interested in collaborating on strategies and solutions to address the risk of disease transmission". The Interior and Related Agencies Appropriations bill report language for Fiscal Years 2016-2020 has included this language. Please describe the status of efforts in Montana to carry out this direction particularly in developing the Lewistown Resource Management Plan amendment currently underway.

Response: The BLM has taken this direction seriously. With regard to the Lewistown RMP amendment process, in February 2020 a Proposed RMP/Final EIS was published and can be found here:

[https://eplanning.blm.gov/epl-front-](https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=50899)

[office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=50899](https://eplanning/blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=50899). As a result of public comments received on the draft, best science, cooperating agency coordination, and internal review of the drafts, the BLM has developed the Proposed RMP/Final EIS for managing BLM-administered lands in the Lewistown Field Office. The proposal focuses on addressing public comments while continuing to meet the BLM’s legal and regulatory mandates. In that document, domestic sheep and goats would not be allowed within 9 miles of wild bighorn sheep populations. Between 9 and 20 miles, domestic sheep and goats may be considered if mechanisms are in place to achieve effective separation from wild sheep.

Question 2. Last week you sent a letter to my office recognizing that flawed decision-making processes resulted in a growing discontent among the people that live with these bears. In that same letter you commit to providing additional resources to better address “problem bears.” Can you elaborate on those new resources and how they will help reduce conflict? You also committed to implement new hazing practices for bears that may pose a threat to human safety. What is the timeline of implementing those and can you elaborate on what that might look like?

Response: Under the new direction set for grizzly bear management, the U.S. Fish and Wildlife Service will play a more conclusive role when deciding how to handle problem bears and will enter into a contract with the Department of Agriculture’s Wildlife Services to help implement those decisions. FWS updated and reissued guidance on actions the public can take to haze grizzly bears that may pose a threat to human safety, including the use of paintballs, noise-making projectiles, and visual deterrents. This updated guidance delineates for the public allowable actions that they can take from actions that harass and are not allowed. It

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can be found here: https://www.fws.gov/mountain-prairie/es/Library/Grizzly%20Bear%20Hazing%20Guidance.FINAL_03092020.pdf

Question from Sen. Heinrich

Question. In September 2018, the Department of the Interior cancelled a mineral segregation and withdrawal study for the Rainy River Watershed in northeastern Minnesota, just three months before it was scheduled to end. Last week, the Twin Cities Star and Tribune published a link to a 60-page environmental assessment for that study that had been heavily redacted before release. All that can be seen is the cover page, followed by 60 pages of black ink. The cover page indicates that the assessment had been completed just prior to the move to cancel the overall withdrawal study. Can the Department please provide the Senators on the Committee with a copy of the unredacted version, whether it was fully done or even if it was a draft?

Response: I understand that the requested document is a U.S. Forest Service document, not a Department of the Interior document. As a result, such a request should be directed to USDA.

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Questions from Sen. Cortez Masto

Question 1. The Interior's 2019/2020 Performance Plan notes that the Department is planning to make 18.8 million acres of public lands available for oil and gas leasing in 2020. Under this administration, your Department has already offered over 24 million acres of public lands for leasing, yet industry has only purchased just 5 million acres of those leases – or 20 percent.

Furthermore, many of the leases being offered right now are on lands that, especially in my home state of Nevada, have little to no drilling potential.

- A. Is offering millions of acres of public lands for leasing that will never be drilled a waste of your Department's time and resources?**
- B. What concrete steps is your Department taking to curb, or end, this wasteful practice?**

Response: No, the actions we are taking are not a waste but instead promote energy security and help drive job growth and the economy.

Question 2. On March 6, 2020, the Government Accountability Office (GAO) released a 14-page warning that the Interior Department's plans for relocating the Bureau of Land Management (BLM) headquarters out of Washington, DC did not account for key performance measures to determine if the reorganization was successful. Specifically, this report found that the Trump Administration did not fully consider the financial costs of the move, or adequately involve employees and key stakeholders in the reorganization process. Further, the GAO report says that while roughly half of the employees identified for relocation have not accepted reassignment, the agency has not produced a plan to recruit replacements.

Your Department previously requested \$28 million to cover these relocation costs for BLM's headquarters – which was not fully appropriated by Congress – and yet, still proceeded with the relocation.

- A. How much money has the Department and the BLM spent so far on the relocation?**

Response: The Department has spent the money that has been lawfully appropriated.

- B. What programs have Interior and the BLM pulled from to cover the cost of the relocation?**

Response: The Department has spent the money that has been lawfully appropriated.

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C. Was any money pulled from the sage grouse conservation funding stream to pay for unanticipated costs associated with the BLM relocation?

Response: See the response to the previous question.

D. Will you provide Congress with an accounting of costs, including: travel costs to and from DC to the new headquarters in Grand Junction, building and office space costs, employee relocation and early retirement incentive costs, and any other significant expenses?

Response: The Department will provide this information, as appropriate.

Question 3. It was reported last week that 87 employees left BLM's DC office in the weeks after the reorganization was announced.

A. Are you concerned about the potential loss of expertise from these employees leaving BLM service?

Response: No.

B. What programs will be impacted the most?

Response: As we have said before, the BLM relocation will have a positive impact on the way the bureau, and the Department, do business.

C. How will the BLM permitting process be affected?

Response: The permit processing program will not be affected by the BLM relocation.

D. Can you give us a breakdown of the titles and positions left vacant by the departing employees?

E. How is this exodus affecting the programs and duties in which these employees covered, and how is the agency covering the open positions?

Response to D and E: There has not been a significant exodus from the bureau. Positions that are being filled, including titles, have been advertised and the public response to the job postings for those positions has been very positive.

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F. How long does the Department expect to take to fill these positions?

Response: We are moving ahead quickly and expect the positions to be filled in as little time as possible.

Question 4. In your written testimony, you mention that the Department is committed to “Being a good neighbor by continuing support for PILT, which are relied upon by communities across the country.”

However, the Interior’s FY 2021 budget request cuts the PILT Program by 12 percent (or \$58 million) – compared to the FY 2020 enacted level.

A. What is the rationale for these cuts?

Response: While the amount proposed in the Department’s budget request supports the program, we understand that the budget process is lengthy and that Congress will provide its input on many issues, including this one.

Question 5. Extensive damage has occurred at Organ Pipe Cactus National Monument in Arizona to build the President’s border wall. It has been documented that construction crews have bulldozed cactus, destroyed sacred burial sites, and that there has been an overall lack of planning and consultation.

These actions are in direct contradiction to the National Park Service’s mandate under the Organic Act of 1916 to preserve these places unimpaired for future generations.

A. What are you doing to stop or at least mitigate the damage?

Response: I do not agree with your characterization of the matter. At Organ Pipe Cactus National Monument, the National Park Service has worked collaboratively with the U.S. Customs and Border Protection on siting and wall alignments to identify known archeological sites, ethnographic resources, and areas with a high potential for intact cultural resources. The NPS also worked with CBP to identify sensitive plant species within the construction zone to salvage plants, when practicable. The U.S. Fish and Wildlife Service similarly worked with CBP to discuss ways to avoid impacts to federally-listed species’ habitat, migration movements, and ability to travel and breed between Mexico and the United States.

B. Does the creation of the border wall take precedence over the preservation of this National Monument?

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Response: The current situation at the southern border presents a security and humanitarian crisis that threatens core national security interests and constitutes a national emergency. The southern border is a major entry point for criminals, gang members, and illicit narcotics. Along this border, cultural resources, wilderness areas, wildlife refuges, plants and animals are adversely impacted by land degradation and destruction from trails, trash, fires and other activities related to unlawful border crossings.

Under President Trump's leadership, the federal government is not only tackling the national security and humanitarian crisis, but also addressing the environmental crisis impacting the character of the lands and resources under the federal government's care. Construction of border barriers will reduce or eliminate impacts from illegal entry and will help us maintain the character of these lands and resources under the Department's management that may otherwise be lost.

C. What consultation has been performed with local Tribes?

Response: In the process of working with CBP on completing the border infrastructure, the Department has honored its responsibility to consult with affected tribes on Departmental actions. When the NPS discovered several bone fragments during archaeological surveys close to Quitobaquito Springs, the NPS voluntarily engaged in processes drawn from the Native American Graves Protection and Repatriation Act to mitigate or avoid potential impacts from the project. The NPS is currently working to repatriate discovered bone fragments to the Tohono O'odham Nation following the process of the NAGPRA.

D. Do the Tribes support what is going on in Arizona?

Response: This question is best directed to the Tribal governments themselves.

Question 6. This past week, several festivals and other public events have either been cancelled or are limiting access to large gatherings in public due to the spread of the Coronavirus. As you are well aware, the Interior Department hosts numerous large events on the National Mall and other public land spaces, not to mention the Department operates several parks and historic sites across the country, many of which welcome thousands of visitors every day.

A. How have you been planning for potential impacts to these sites should the virus spread further?

Response: From the beginning of the response, the Department has been working collaboratively with interagency partners to take actions to ensure the safety of our employees and the public here in Washington and at the assets we manage across the country.

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B. Is the Department considering closing any particular sites to decrease the risk of transmission?

Response: Yes, where we have determined that our bureaus could not adhere to applicable guidance by public health officials, we have modified operations for buildings, facilities, programs, and units, which has included closing units in some cases.

C. What is the Department proactively doing to increase public health and sanitation at highly-visited sites?

Response: We are following the guidance of federal, state, and local public health officials. Department and bureau websites are being updated to ensure that the most current information is available to the public, including the status of specific sites and locations. We are also posting signage and other notices at specific sites to provide information to our visitors.

D. If such closures were to occur, would you leave parks open to public access as you did during the government shut-down, or would they be closed to better protect sites from vandalism and trespassing?

Response: The health and safety of our employees and visitors is paramount. Where we have determined that our bureaus could not adhere to applicable guidance by public health officials, we have modified operations for buildings, facilities, programs, and units, which has included closing units in some cases.

Question 7. The Colorado River supplies water to about 40 million people in seven states and two countries. Las Vegas gets about 90 percent of its water from the river. This river is the lifeblood of Southern Nevada and numerous other communities.

Just a couple weeks ago, USGS scientists found that the River is so sensitive to climate warming that it could lose about one-fourth of its flow in 30 years as temperatures continue to climb

Your own scientists estimated that warmer temperatures were behind about half of the 16 percent decline in the river's flow during the stretch of drought years from 2000-2017. Without changes in precipitation, the researchers said, for each additional 1.8 degrees of warming, the Colorado River's average flow is likely to drop by about 9 percent.

However, your budget request cuts water science research by over \$2 million, cuts \$53 million from the Water Resources mission area overall, it eliminates the environmental health program, it cuts \$37 million from climate adaptation science centers, and proposes major cuts for other core science and research functions.

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- A. What plan is being put in place to address this reduction in water flows?**
- B. What is being done by your agency to reduce the effects of climate change on the River?**
- C. How does this budget reflect these needs?**

Response: Reclamation, the Lower Division States, and other key partners developed and recently implemented a Drought Contingency Plan, in place through 2026, to conserve water in Lake Mead to address and reduce the likelihood of Lake Mead declining to critical elevations. As part of the DCP, the United States has agreed to take affirmative actions to implement Lower Basin programs designed to create or conserve 100,000 acre-feet or more annually of Colorado River System water to contribute to conservation of water supplies in Lake Mead and other Colorado River reservoirs. Reclamation's FY 2021 budget request reflects a commitment to the DCP.

Other drought response activities include continuing voluntary water conservation under System Conservation agreements, Reclamation commitments under the Arizona Water Settlements Act, and other drought mitigation activities. Implementation of Minute 323 also helps to mitigate the impacts of the drought by Mexico incurring water reductions during a shortage condition in the Lower Basin and additional reductions consistent with Mexico's water scarcity contingency plan.

Question 8. Recent surveys of sage-grouse population numbers by state agencies have shown an alarming decline in their numbers. As such, FY 2020 Appropriations allocated \$64 million for sage-grouse conservation.

- A. Is it correct that this budget is reducing money allocated for sage-grouse conservation by \$27.4 million from last year?**
- B. How does the Administration's proposed budget cut for sage-grouse conservation square with the reality that population surveys show an alarming decline in the bird's numbers?**
- C. With less funding, what assistance will the Department be giving States to enact sage-grouse management plans?**

Response: The BLM will continue to integrate efforts with its other resource programs and collaborate with the Fuels Management program within the Office of Wildland Fire to protect, enhance, and restore sagebrush habitat. The BLM will focus protection and restoration on the highest priority habitat areas as specified in the applicable land use plan amendments. The bureau will seek out additional opportunities for coordination and cooperation with partners to identify and address the highest priority projects.

Question 9. On the website of the U.S. Fish and Wildlife Service, it says, regarding the greater sage-grouse and a commitment made in 2015, "The Service has committed to monitoring all of

**Committee on Energy and Natural Resources
Hearing on FY 2021 Budget Request
March 10, 2020 Hearing**

the continuing efforts and population trends, as well as to evaluate the status of the species in five years.”

A. The Fish & Wildlife Service is supposed to undertake this review this year – in 2020. Will they still be doing so?

Response: The FWS is working with partners to support greater sage-grouse conservation and will not be conducting a status review since the species is not federally-managed or petitioned for listing. The FWS continues to provide technical support to western states through the Western Association of Fish and Wildlife Agencies in order to document conservation actions and their effectiveness for the greater sage-grouse. WAFWA is leading the effort to assess the range-wide status of the species.

Question 10. In the last two fiscal cycles, Congress tasked and requested the BLM to produce reports to describe its intended management strategy for balancing the Wild Horse and Burro Program through the use of proven safe and humane fertility control tools.

A. What is the status of these reports and why haven't we received formal feedback from the agency regarding these Congressional directives?

Response: The report was transmitted to Congress on May 9, 2020.

B. Could you provide some insight into what we will see in this or these reports, and when we should expect to see the comprehensive document(s)?

Response: See the response to the previous question.

C. Is the BLM's headquarters relocation and the loss of so many employees impacting these reports at all?

Response: No.

D. How can you ensure we will not end up in a worse state of affairs?

Response: I can make no assurances about this matter.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 07 2020

The Honorable Ruben Gallego
Chairman, Subcommittee for Indigenous Peoples
of the United States
Natural Resources Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Gallego:

Enclosed are responses to the follow-up questions from the February 26, 2020, oversight hearing entitled *Destroying Sacred Sites and Erasing Tribal Culture: The Trump Administration's Construction of the Border Wall*, before your Subcommittee. These responses were prepared by the Bureau of Indian Affairs.

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

Sincerely,

Cole Rojewski
Director
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Paul Cook
Ranking Member

Questions for the Record
House Natural Resources
Subcommittee on Indigenous Peoples of the United States
Oversight hearing on the Border Wall Construction
February 26, 2020

Question from Chairman Ruben Gallego

Question 1: In December 2019, U.S. Customs and Border Protection and the National Park Service conducted a meeting with the Tohono O’odham Nation to discuss construction activities on the sites of Monument Hill and Quitobaquito Springs.

Please provide a record of communications and meetings between U.S. Customs and Border Protection; and the National Park Service (NPS) with the Tohono O’odham Nation regarding the border wall’s construction activities within Organ Pipe National Monument, including the activities on Monument Hill and Quitobaquito Springs.

Response: The Department of the Interior (Department) is not constructing border barrier and infrastructure projects. However, during the construction of this project by the U.S. Customs and Border Protection, which does not traverse Quitobaquito Springs, the Department has honored its responsibility to consult with affected Tribes on Departmental actions. For example, when the NPS discovered several bone fragments during archaeological surveys close to Quitobaquito Springs, the NPS voluntarily engaged in processes drawn from the Native American Graves Protection and Repatriation Act to mitigate or avoid potential impacts from the project. Not every phone call, in-person meeting or other communication with the Tohono O’odham Nation is tracked, however, public notices regarding the repatriation of bone fragments are attached hereto.

The Department does not track communications between the U.S. Customs and Border Protection and the Tohono O’odham Nation.

Questions from Representative Raul Grijalva

Question 1: In your testimony, you mention that the Department of Interior (DOI) has strong interagency and inter-department relationships. For this situation, an inter-agency relationship would include working with the Department of Homeland Security (DHS).

Please provide the dates, and related documents, which demonstrate that Secretary Bernhardt has met with the Acting Secretary of Homeland Security, Chad Wolf, regarding the construction of the border wall.

Response: The Department does have a strong interagency and inter-department relationship with the Department of Homeland Security (DHS). The Department's Bureaus and offices collaborate with DHS' component, U.S. Customs and Border Protection and the U.S. Border Patrol, the Bureau and Office level, as needed, and these relationships are particularly important as work is planned and carried out on the ground.

Question 2: During my tour of the border, the Tohono O'odham Nation's archeologist attempted to interact with the contractor that DHS had hired as its arborist. The Tribal archeologist tried to ask the arborist about DHS' criteria for the removal of saguaro cacti, as the Nation has found DHS' internal policies for the removal and replanting of saguaro cacti to be very inconsistent in the past.

Rather than providing an answer, the DHS arborist said that he could not talk to the Nation because he was under an order to not speak with Tribal officials or representatives. Are you aware of this "gag order" that prevents DHS contractors from speaking to Tribal representatives?

Response: The Department is not involved in the relationships between DHS and its contractors and we would refer any questions related to those issues to DHS.

Question 3: What is DOI's internal policy regarding the agency's interactions with tribal officials and representatives?

Response: The Department complies with Secretarial Order 3317, the Departmental Manual (DM) at 512 DM 4, Policy on Consultation with Indian Tribes, and 512 DM 5, Procedures for Consultation with Indian Tribes, and any law as appropriate. The Department remains committed to meaningfully consulting with Tribes on a government-to-government basis regarding each plan and action the Department takes that has Tribal implications.

Questions for the Record
House Natural Resources
Subcommittee on Indigenous Peoples of the United States
Oversight hearing on the Border Wall Construction
February 26, 2020

Question 4: How, if at all, does DOI provide input in DHS' internal policies about agency interactions with tribal officials and tribal representatives?

Response: All Federal agencies are responsible for developing their own internal policies and processes for complying with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The Department does not craft any other Federal agency's Tribal consultation policy.

Questions from Representative Deb Haaland

Question 1: You mention in your testimony that the Department will strive to “provide effective collaboration and establish an avenue for the Department’s land management interests to be considered in ongoing border security efforts with DHS and the Army Corps of Engineers.”

By land management interests, do you mean national monuments and federal lands held in trust for tribal nations?

Response: Yes. The Department is the steward of 20 percent of the Nation’s lands including national parks, national wildlife refuges, and public lands. The Bureau of Indian Affairs administers and manages 56 million surface acres and 59 million acres of subsurface mineral estates held in trust by the United States for individual Indians and Tribes.

Question 2: What are the legal implications of waiving pertinent federal laws to build on Tribal trust land? In what ways would these implications affect Indian Country in the future?

Response: The lands on which these border security activities have taken place are public lands, not Tribal trust lands. Congress provided DHS the authority to carry out these activities in section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (“IIRIRA”). Under this authority, Congress—

- Directed that the Secretary of Homeland Security “shall take such actions as may be necessary” to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States;
- Mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border; and
- Granted to the Secretary of Homeland Security the authority to waive all legal requirements that, in his sole discretion, he determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

ARIZONA DAILY STAR

Tucson, Arizona

STATE OF ARIZONA)
COUNTY OF PIMA)

Debbie Sanchez, being first duly sworn deposes and says: that she is the Advertising Representative of TNI PARTNERS, a General Partnership organized and existing under the laws of the State of Arizona, and that it prints and publishes the Arizona Daily Star, a daily newspaper printed in Phoenix, AZ and published in the City of Tucson, Pima County, State of Arizona, and having a general circulation in said City, County, State and Cochise and Santa Cruz Counties, and that the attached ad was printed and

Legal Notice

published correctly in the entire issue of the said Arizona Daily Star on each of the following dates, to-wit:

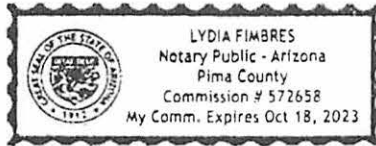
JANUARY 20 AND FEBRUARY 3, 2020

Debbie Sanchez (handwritten signature)

Subscribed and sworn to before me this 3rd day of February 2020

Lydia Fimbres (handwritten signature)

Notary Public



My commission expires

AD NO. 4003374

Notice of Intended Disposition

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.6 (c), of the intent to transfer custody of Native American human remains in the control of the U.S. Department of the Interior, National Park Service, Organ Pipe Cactus National Monument.

A detailed assessment of the human remains was made by Organ Pipe Cactus National Monument officials in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mohave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Hia C'ed O'odham, a non-federally recognized Indian group, was also informed.

On November 27, 2019, human remains were removed from the surface from two sites near the Qultobaquito area (Son B:04:009(ASM) and Son B:4:014(ASM)), Organ Pipe Cactus National Monument, Pima County, Arizona by National Park Service archeologists; they were initially discovered during a National Park Service led archaeological survey and surface collection project. No known individuals were identified.

Officials of Organ Pipe Cactus National Monument have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains described above represent the physical remains of up to three individuals of Native American ancestry.

Lastly, officials of Organ Pipe Cactus National Monument have determined that, pursuant to 43 CFR 10.6 (a), that the human remains were removed from lands that are recognized as the aboriginal land of the Tohono O'odham Nation of Arizona.

Representatives of any other Indian tribe or Native Hawaiian organization that wishes to claim ownership or control of the human remains should contact Scott Stonum, Superintendent, Organ Pipe Cactus National Monument, 10 Organ Pipe Drive, Ajo, AZ 85321, telephone (520) 387-6849 ext. 7500, before March 2nd, 2020. Disposition of the human remains to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

Organ Pipe Cactus National Monument is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mohave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian

Ajo Copper News

Hollister David, Publisher
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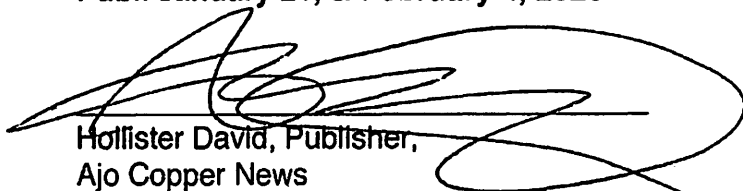
STATE OF ARIZONA)
) ss.
 COUNTY OF PIMA)

Hollister David deposes and says that he is the publisher of the *Ajo Copper News*, a weekly newspaper of general circulation and established character, published weekly at Ajo, Pima County, Arizona, and that

NOTICE OF INTENDED DISPOSITION

a correct copy of which is attached to this affidavit, was published in the said *Ajo Copper News* every week in the newspaper proper and not in a supplement for

Publ. January 21, & February 4, 2020

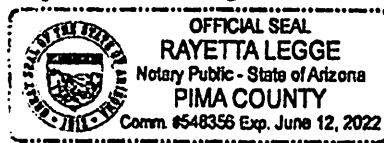


Hollister David, Publisher,
 Ajo Copper News

Sworn to and subscribed before me, a Notary Public in and for the County of Pima, Arizona, this 4th day of February, 2020.



Notary Public



Notice of Intended Disposition
 Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.6 (c), of the intent to transfer custody of Native American human remains in the control of the U.S. Department of the Interior, National Park Service, Organ Pipe Cactus National Monument.
 A detailed assessment of the human remains was made by Organ Pipe Cactus National Monument officials in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mohave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pima-Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Hia-Ced O'odham, a non-federally recognized Indian group, was also informed.
 On November 27, 2019, human remains were removed from the surface from two sites near the Quilobasquito area (See B-04-009(ASM) and See B-4-014(ASM)), Organ Pipe Cactus National Monument, Pima County, Arizona by National Park Service archeologists; they were initially discovered during a National Park Service led archaeological survey and surface collection project. No known individuals were identified.
 Officials of Organ Pipe Cactus National Monument have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains described above represent the physical remains of up to three individuals of Native American ancestry.
 Lastly, officials of Organ Pipe Cactus National Monument have determined that, pursuant to 43 CFR 10.6 (e), that the human remains were removed from lands that are recognized as the aboriginal land of the Tohono O'odham Nation of Arizona.
 Representatives of any other Indian tribe or Native Hawaiian organization that wishes to claim ownership or control of the human remains should contact Scott Stoen, Superintendent, Organ Pipe Cactus National Monument, 10 Organ Pipe Drive, Ajo, AZ 85321, telephone (520) 387-6849 ext. 7500, before March 2nd, 2020. Disposition of the human remains to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.
 Organ Pipe Cactus National Monument is responsible for notifying the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mohave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pima-Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.
 Publ. January 21, February 4, 2020
 OPCNM - Disposition 200121



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 06 2020

The Honorable Ruben Gallego
Chairman, Subcommittee for Indigenous Peoples
of the United States
Natural Resources Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Gallego:

Enclosed are responses to the follow-up questions from the February 5, 2020, legislative hearing on H.R. 4059, H.R. 4495, H.R. 4888, and H.R. 5153 before your Subcommittee. These responses were prepared by the Bureau of Indian Affairs.

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

Sincerely,

Cole Rojewski
Director
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Paul Cook
Ranking Member

Questions from Chairman Ruben Gallego

Question 1: (H.R. 4888) Is the Bureau aware that the land exchange understanding between the Bureau of Land Management (BLM) and the Grand Ronde Tribe at the time of negotiation only required the Tribe to relinquish its claims to the Thompson Strip and not to the entire State of Oregon?

Response: The Bureau of Indian Affairs was not a party to the land exchange or negotiations and, therefore, cannot speak to the understanding between the parties.

- a. We have internal documents obtained from BLM that support this understanding. In fact, a 1994 BLM memorandum on the issue states: “The [Grand Ronde Reservation Act] extinguishes all claims established by the Executive Order of June 30, 1857. This does not protect the Indians’ rights. This Bill should apply only to the Thompson Strip because there may be other similar [survey] problems that we are not aware of at this time.” Do documents such as these have any impact on the Department’s stance on this legislation?**

Response: The Department’s views on current legislation are informed by the 1994 Act and its legislative history, which does not contain the 1994 BLM memorandum or reference thereto. The legislative history shows the statewide extinguishment provision was in the proposed language of the 1994 Act at the time of its hearing. Prior to the 1994 Act becoming law, Congress could have changed the provision affecting the statewide extinguishment of claims, but it did not.

Question 2: (H.R. 4888) Is the Department aware that at the original legislative hearing on this issue, both the Tribe’s testimony and that of the legislation’s Sponsoring Member of Congress, Rep. Mike Kopetski, also support the original intention of only extinguishing claims to the Thompson Strip? In the view of the Bureau, does this or should this have any impact on the Department’s stance on this legislation?

Response: Representative Mike Kopetski’s statement reads, “[u]nder this bill, the tribe will relinquish their claim to the 84 acres in exchange for a parcel of 360 acres of BLM land...” Mr. Kopetski’s statement is silent on the issue of the statewide extinguishment of claims.

Questions for the Record
House Natural Resources Committee
Subcommittee on Indigenous Peoples of the United States
Legislative Hearing on H.R. 4059, H.R. 4888, and H.R. 5153
February 5, 2020

Question 3: (H.R. 4888) Before the hearing, was the Bureau aware that the Grand Ronde Tribe had not been made aware that the legislation distinguished all land claims in the State of Oregon instead of just the Thompson strip until after the legislation was signed into law? In the view of the Bureau, does this or should this have any impact on the Department's stance on this legislation?

Response: The legislative history shows the statewide extinguishment provision was in the proposed language of the 1994 Act at the time of its hearing and subsequent passage.

Question 4: (H.R. 4888) The Chairwoman of the Confederated Tribes of Grand Ronde, Cheryle A. Kennedy, says in her testimony today that the Department of Interior was the entity which developed the language voiding the Tribe's land claims in the entire State of Oregon. Why did the Department override BLM's understanding of the land exchange and insert language that was not agreed upon by the Tribe?

Response: The authority to introduce and pass laws lays with Congress. Any language inserted into a bill was ultimately placed there by a member of Congress, not the U.S. Department of Interior.

Questions for the Record
House Natural Resources Committee
Subcommittee on Indigenous Peoples of the United States
Legislative Hearing on H.R. 4059, H.R. 4888, and H.R. 5153
February 5, 2020

Questions from Ranking Member Rob Bishop

Question 1: As to H.R. 4888 (Grand Ronde bill), could the land claims authorized under this bill create a cloud on the title of private property owners?

Response: Generally, land claims may cloud title to private property located in the land claim area.

Question 2: Is the filing of land claims (as under H.R. 4888) often used as a means for identifying and correcting federal agency survey errors?

Response: Generally, agency survey errors are re-surveyed by the Bureau of Land Management and corrected. The re-survey includes a full title search of all relevant documents.

Question 3: Does the gaming prohibition language contained in H.R. 4888 adequately ensure nothing in this act can lead to the creation of a casino under the Indian Gaming Regulatory Act?

Response: As drafted, the gaming prohibition provision in H.R. 4888 prohibits gaming on lands obtained from a land claim settlement under the bill.

Question 4: With respect to H.R. 4059, does the BIA have any concerns with its ability to properly administer trust lands in a national monument? Are there any concerns with increased federal liability for acquiring the land in trust under this bill?

Response: The Department has no concerns regarding its ability to administer the lands to be taken into trust under H.R. 4059 in the San Jacinto and Santa Rosa Mountains National Monuments. The Department recognizes that the 2,560 acres this bill would legislatively transfer into trust are part of a longstanding cooperative agreement between the Agua Caliente Band of Cahuilla Indians and the Bureau of Land Management.

Question 5: Has the Agua Caliente Tribe applied to have lands described in H.R. 4059 acquired in trust under the Department's "Part 151" process? If so, what's the status of the application?

Response: The Tribe has not requested that the Department take the subject lands into trust.