



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

SEP 30 2019

The Honorable Steve Daines
Chairman
Subcommittee on National Parks
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Daines:

Enclosed are responses to questions received following the June 19, 2019, legislative hearing before your subcommittee. These responses were prepared by the National Park Service.

Thank you for the opportunity to respond to you on these matters.

Sincerely,

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

Enclosure

cc: The Honorable Angus King
Ranking Member

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
June 19, 2019 Hearing: *Pending Legislation*
Questions for the Record Submitted to Mr. P. Daniel Smith

Questions from Senator Steve Daines

Question 1: Regarding S. 849, the Department's testimony defers to the Department of Defense, who has "determined that the names of the U.S.S. Frank E. Evans do not meet the criteria for inclusion on the Vietnam Veterans Memorial Wall." Please provide a list, in cooperation with the Department of Defense if necessary, of all names that have requested placement on the Vietnam Veterans Memorial Wall since its construction and were subsequently denied placement. In addition, please provide the reason each of these names were denied recognition on the wall.

Response: The Department of Defense (DOD) is the recipient of requests for additional names to be placed on the Vietnam Veterans Memorial Wall (Wall). DOD makes the decisions on those requests on the basis of longstanding eligibility criteria related to loss of life within a defined combat zone. The NPS will seek to obtain information from DOD on records of requests for names to be placed on the Wall that have been denied.

We understand that in addition to the 74 sailors who died on the Evans, the DOD has identified more than 500 service members killed in incidents who would require similar consideration for inclusion on the Wall. In addition, it is our understanding that there could be thousands of requests for names to be placed on the Wall due to the many service members who died after their service in the Vietnam War, but possibly as a direct result of their service. These may include persons with such conditions as post-traumatic stress disorder, exposure to Agent Orange and similar chemicals, diabetes, cancer, and a variety of other diseases.

Question 2: Both NPS Management Policies and NPS Director's Order 18 detail the Department's policies related to wildfire management. As you are aware, S. 774, the Rim of the Valley legislation, is located in a very dense urban environment that is quite susceptible to catastrophic wildfire. Understanding that the Department chose not to support S. 774 at this time because of issues related to the deferred maintenance backlog, I would like to learn a little bit more about how, generally speaking, the Department currently addresses wildfire in densely populated areas? While we certainly want to provide more opportunities for outdoor recreation, how can the Department ensure that in doing so, we do not inadvertently increase opportunities for spreading wildfire?

Response: NPS wildland fire management programs rely on other Federal, state, and local cooperators when responding to wildfires, regardless of whether the wildfires are in densely populated areas or not. The NPS and other bureaus work with the states and local communities on mitigation and prevention activities such as the development of Community Wildfire Protection Plans, pre-season planning meetings, mutual aid agreements, targeted hazardous fuels reduction projects, and educational programs. Some neighboring communities provide initial attack and fuels treatment services in certain park units, thus significantly increasing firefighting capacity.

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The NPS recognizes the risk of human-caused fires associated with recreational activities, and as those activities increase, so does the wildfire risk. While we do our best to minimize those risks through wildfire prevention activities such as public outreach, signage, front and backcountry patrols, education programs, and area closures and fire restrictions during periods of high fire danger, it is not feasible to prevent all human-caused fires.



United States Department of the Interior

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Washington, DC 20240

SEP 30 2019

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

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the May 1, 2019, legislative hearing on S. 279, S. 790, and S. 832 before your Committee. These responses were prepared by the Bureau of Indian Education and the Office of Indian Gaming.

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

Sincerely,

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

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

U.S. Senate Committee on Indian Affairs
Legislative Hearing
“Legislative Hearing to Receive Testimony on S.279, S.790, and S.832”
May 1, 2019
Questions for the Record Submitted by Vice-Chairman Udall
For Mr. John Tahsuda, III
Principal Deputy Assistant Secretary - Indian Affairs
U.S. Department of Interior

BIE Teacher Recruitment and Retention

1. At the March, 13, 2019 Oversight Hearing, Senator Tester asked BIE Director Dearman if he had any data on teacher vacancies at the Bureau.¹ Mr. Dearman responded that he did not, but he promised to get back to the Committee. However, as far as I am aware, the Committee has not received this follow-up information.
 - a. **For the past five school years, please provide a national and regional summary of all BIE teaching and administrative vacancies.**

Response: Prior to the 2016 BIE Reorganization contract education vacancy data, including teaching and school administrative positions, was not collected. Following the transfer of human resources functions from BIA to BIE in February 2016, BIE began tracking such data for all directly operated BIE schools, including BIE-operated schools on the Navajo reservation. The total number of vacancies within BIE-operated schools fluctuates year-to-year based upon a variety of factors, including the number of enrolled students and whether there were any school conversions. Most recently, the total number of teacher positions within BIE-operated schools was 818.

Associate Deputy Director (ADD) Offices	SY 2016-2017 Vacancies	SY 2017-2018 Vacancies	SY 2018-2019 Vacancies
Navajo Schools	20	111	138
BIE Operated Schools	4	82	88
TOTAL	24	193	226

¹ *Where Are They Now: Indian Programs on the GAO High Risk List, Hearing Before the S. Comm. on Indian Affairs, 116th Cong. (2019)* (statements of Sen. Jon Tester and Tony Dearman, Director, Bureau of Indian Affairs).

- b. For the past five school years, please provide an annual estimate of the number of teacher vacancies nationally and regionally at the midpoint of each school year.

Response:

School Year 2017-2018 Facility	Teacher Vacancy Rate at Midpoint of SY
ADD Navajo Schools	11
ADD BIE Operated Schools	6
TOTAL	17

School Year 2018-2019 Facility	Teacher Vacancy Rate at Midpoint of SY
ADD Navajo Schools	12
ADD BIE Operated Schools	9
TOTAL	21

- c. Is the Bureau able to estimate the levels of teacher vacancies at Tribally operated BIE schools?

Response: No. Tribally operated schools maintain complete autonomy and control over their human resources functions, including identifying the number of teaching and administrative positions and hiring. Additionally, tribally controlled schools are not required, and BIE has no power to compel, the reporting of internal human resources data.

- d. Please provide a summary of faculty and administrative vacancies at Haskell and Southwestern Indian Polytechnic University for the 2018-2019 school year.

Response:

Institution	Vacancy Type	Vacancies for School Year 2018-2019
Haskell Indian Nations University	Faculty	2
Haskell Indian Nations University	Administrative	12
Southwestern Indian Polytechnic University	Faculty	8
Southwestern Indian Polytechnic University	Administrative	33

e. What recruitment and retention programs or strategies is the Bureau currently utilizing to address the number of teaching vacancies?

Response: BIE has developed and is currently implementing milestones within its five year Strategic Direction designed to address common challenges, such as recruitment and retention. Additionally, the BIE has identified and is actively implementing the following strategies in order to address its current rate of critical skill vacancies:

- **BIE Talent Recruiters:** The BIE recently hired two full-time BIE Human Resources staff as full-time talent recruiters. These recruiters maintain direct contact with the career services offices of nine (9) tribal colleges and ten (10) universities with high Indian populations, including New Mexico, Montana, Oklahoma and South Dakota. Additionally, during 2018 -2019 School Year the two BIE talent recruiters attended ten (10) regional job fairs, expanded online job advertisements beyond USA Jobs to include Handshake, which posts our announcement's on over 350 universities nationwide, Jobvite, Indeed, Team ND, which posts jobs on the career sites of six (6) North Dakota universities, and Jobzone, which posts on the career sites of nine (9) Nebraska universities.
- **Student Loan Repayment:** The BIE recently began providing student loan repayment recruitment incentives. In exchange for the student loan repayment recruitment incentive, a newly hired BIE employee must sign a written agreement to complete a specified period of employment. During FY 2019, the BIE has utilized its new student loan incentive to recruit five (5) critical skill vacancies and plans to continue utilizing this tool to fill additional vacancies.
- **Recruitment Incentive:** The BIE also recently began providing a cash recruitment incentive to recruit qualified candidates for difficult to fill vacancies. As is the case with the student loan incentive, in exchange for the cash recruitment incentive a newly hired BIE employee must sign a written agreement to complete a specified period of employment. During FY 2019, the BIE has utilized its new cash recruitment incentive to recruit one (1) critical skill vacancy and plans to continue utilizing this tool to fill additional vacancies.

P.L. 100-297 Tribally Controlled School Grants

1. On July 1, 2018, Acoma Pueblo's Department of Education (ADoE) took over operation of Sky City Community School, a BIE-operated school, via use of P.L. 100-297 grant and renamed the school Haak'u Community Academy. As noted in my October 18, 2018 letter to BIE Director Dearman,² ADoE experienced a number of unanticipated difficulties during and

² Letter from Sen. Tom Udall, vice chairman, S. Comm. of Indian Affairs, to Tony Dearman, Director, Bureau of Indian Affairs (Oct. 18, 2018) (on file with the S. Comm. of Indian Affairs).

after the transition process from direct service to 297 grant. For example, the week before this hearing, ADoE informed my staff that BIE did not –

- Inform the Tribe that it would remove basic software from the school’s computers;
- Leave copies of student records, including special education files that are required for *Individuals with Disabilities Act* (IDEA) compliance; and
- Inform the Tribe that “297” Grant schools are ineligible to continue using GSA school buses.

I am concerned that these miscommunications will impact the educational opportunities for Acoma students. What’s more, these difficulties seem to indicate a broader problem related to the Bureau’s technical assistance for Tribes and Tribal organizations interested in converting their direct-service BIE school to a P.L. 100-297 grant.

a. Has the Department worked with ADoE and GSA to ensure student transportation is not disrupted at Haa’ku Academy?

Response: The Department has worked cooperatively with both ADoE and GSA regarding this matter, and we have been able to reach a short-term accommodation with GSA. Representatives from the BIE, the Solicitor’s Office, and the Secretary’s office have, and will, continue to actively engage with the GSA in an effort to reach a final resolution that minimizes disruption to the school.

b. Will the Department review its protocols for student record transfers during the P.L. 100-297 conversion process to ensure there are no lapses in federal education law compliance?

Response: On July 2, 2018, BIE and Haak’u Community Academy personnel jointly accessed the school’s student record vault to review and transfer said documents, including special education files. However, a few weeks following this transfer, school administrators communicated to BIE that some files appeared to be missing. BIE staff immediately identified that the issue was caused due to some original files being placed into archived status. BIE personnel then provided copies of the original files to the school. BIE remains committed to improving its services to Tribes and schools and regularly reviews its protocols.

c. What training and technical assistance does BIE offer Tribal communities interested in taking over administration of a BIE school via a P.L. 100-297 grant?

Response: BIE’s Associate Deputy Director offices and Education Resource Centers are specifically designed to provide individualized technical assistance to schools and tribes to support their educational sovereignty, including training and assistance regarding P.L. 100-297 and 93-638 school conversions.

S. 790

1. Please provide a list of all documents the Secretary requires to make a determination under IGRA Section 20(b).

Response: Section 20 of IGRA generally prohibits gaming activities on lands acquired in trust by the United States on behalf of a tribe after October 17, 1988, 25 U.S.C. § 2719. However, Congress expressly provided several exceptions to the general prohibition. The Department's regulations at 25 C.F.R. Part 292 set forth the procedures for implementing Section 20 of IGRA.

An applicant tribe must submit a written request for a Secretarial (Two-Part) Determination, 25 U.S.C. § 2719(b)(1)(A) that contains:

- Documentation that the proposed gaming establishment will be in the best interest of the tribe and its members (25 C.F.R. § 292.17), and
- Documentation that the proposed gaming establishment will not be detrimental to the surrounding community, including NEPA compliance documentation (25 C.F.R. § 292.18).
- The governor of the state in which the gaming activity is to be conducted must provide written concurrence in the Secretarial Determination (25 C.F.R. § 292.22).

An applicant tribe must submit a written request for a determination of eligibility to conduct gaming pursuant to 25 U.S.C. §§ 2719(b)(1)(B)(i–iii) that contains:

- For settlement of a land claim, documentation that the land was acquired pursuant to the settlement of a land claim (25 C.F.R. § 292.5).
 - For an initial reservation of a tribe acknowledged pursuant to the federal acknowledgment process, documentation that the tribe has been federally recognized; and has a reservation proclamation, or a significant historical connection and a modern connection to the land (25 C.F.R. § 292.6).
 - For the restoration of lands for a tribe that is restored to federal recognition, documentation that the tribe was federally recognized, terminated, and restored to federal recognition, and the land qualifies as restored lands (25 C.F.R. §§ 292.7-12).
2. Please list each instance the Department has approved gaming on lands acquired in trust by the Secretary for a tribe pursuant to Section 20(b) of the Indian Gaming Regulatory Act, including the name of the beneficiary Tribe, the date, and state in which the property is located.

Response: See Attachment I.

3. The Catawba Indian Nation is not the current owner of the property S. 790 would authorize the Secretary to place land into trust for the purposes of gaming. Has the Department ever

taken a parcel in which a tribe did not have a recorded interest into trust pursuant to 25 C.F.R. §151.1 *et seq.* for gaming purposes?

Response: Yes.

- a. If yes, please provide a complete list, specifying the beneficiary tribe, the date, and the state in which the land was taken into trust.

Response: Tribes typically own the land in fee or exercise an option to purchase the land in fee before the government acquires it in trust. In some cases, tribes have agreements where the landowner, often the developer, transfers the land directly to the government to be held in trust for the tribe.

- b. Does Interior's land into trust process for gaming activities differ in the situation where a tribe actually owns a parcel in fee?

Response: No.

4. If S. 790 is enacted, what assurances will the Department, as trustee, provide the Nation to prevent or curb the subject property owner from leveraging S. 790 in order to sell it at a drastically increased price?

Response: The Department understands that the Nation has a binding option agreement to purchase the subject property at an already established price.

Attachment I

Applications Approved Pursuant to Section 20(b) of the Indian Gaming Regulatory Act Following Its Enactment on October 17, 1988 (25 U.S.C. §2719(b)).

Office of Indian Gaming
U.S. Department of the Interior
September 11, 2019

Tribe	City, County & State	Date Approved
25 U.S.C. § 2719 (b)(1)(A): Secretarial Determination (Two Part Determination)		
1	Forest County Potawatomi Community (Governor concurrence 7/24/1990)	Milwaukee, Milwaukee County, Wisconsin 07/10/1990
2	Confederated Tribes of Siletz Indians (Governor non-concurrence 11/20/92)	Salem, Marion County, Oregon 11/06/1992
3	Sault Ste. Marie Tribe of Chippewa Indians (Governor non-concurrence 9/7/1994)	Detroit, Wayne County, Michigan 08/18/1994
4	Kalispel Indian Community (Governor concurrence 6/26/1998)	Airway Heights, Spokane County, Washington 08/19/1997
5	Saint Regis Mohawk Tribe (Governor concurrence 2/18/2007)(land not acquired in trust)	Monticello, Sullivan County, New York 04/06/2000
6	Keweenaw Bay Indian Community (Governor's concurrence 11/7/2000)	Chocolay Township, Marquette County, Michigan 05/09/2000
7	Lac Courte Oreilles Band, Red Cliff Band & Sokaogon Chippewa Community (Governor non-concurrence 5/14/2001)	Hudson, St. Croix County, Wisconsin 02/20/2001
8	Jena Band of Choctaw Indians (Governor gave no written non-concurrence)	Logansport, DeSoto Parish, Louisiana 12/24/2003
9	Fort Mojave Indian Tribe (Governor concurrence 11/20/2008)	Needles, San Bernardino County, California 02/29/2008
10	Northern Cheyenne Tribe (Governor concurrence 7/30/2009)	Big Horn County, Montana 10/28/2008
11	Enterprise Rancheria of Maidu Indians (Governor concurrence 8/30/2012)	Yuba County, California 09/01/2011

Senate Committee on Indian Affairs
 Legislative Hearing to Receive Testimony on S.279, S.790, and S.832
 Questions to Principal Deputy Assistant Secretary John Tahsuda III
 May 1, 2019

12	North Fork Rancheria of Mono Indians (Governor concurrence 8/30/2012)	Madera County, California	09/01/2011
13	Keweenaw Bay Indian Community (Governor non-concurrence 6/18/2013)	Negaunee Township, Marquette County, Michigan	12/20/2011
14	Kaw Nation (Governor concurrence 5/23/2012)	Kay County, Oklahoma	05/17/2013
15	Menominee Indian Tribe (Governor non-concurrence 1/23/2015)	Kenosha, Kenosha County, Wisconsin	08/23/2013
16	Spokane Tribe of the Spokane Reservation (Governor concurrence 6/8/2016)	Spokane County, Washington	06/15/2015
17	Shawnee Tribe (Governor concurrence 3/3/2017)	Texas County, Oklahoma	01/19/2017
25 U.S.C. 2719 (b)(1)(B)(i): Settlement of a land claim			
1	Seneca Nation of Indians	Niagara Falls, Niagara County, New York	11/29/2002
2	Tohono O'odham Nation	Glendale, Maricopa County, Arizona	07/23/2010 Remand: 07/23/2014
25 U.S.C. 2719 (b)(1)(B)(ii): Initial reservation of an Indian tribe acknowledged by the Secretary under the federal acknowledgment process			
1	Mohegan Indian Tribe	New London, Montville County, Connecticut	09/28/1995
2	Nottawaseppi Huron Band of Potawatomi	Battle Creek, Calhoun County, Michigan	07/31/2002
3	Match-E-Be-Nash-She-Wish Band (Gun Lake Tribe) of Pottawatomi Indians	Wayland Township, Allegan County, Michigan	02/27/2004
4	Snoqualmie Tribe	Snoqualmie, King County, Washington	01/13/2006
5	Cowlitz Indian Tribe	Clark County, Washington	12/17/2010 Remand: 04/22/2013
6	Mashpee Wampanoag Tribe	Bristol and Barnstable Counties, Massachusetts	09/18/2015
25 U.S.C. 2719 (b)(1)(B)(iii): Restored lands for a tribe that is restored to federal recognition			
1	Confederated Tribes of the Grand Ronde Community	Grand Ronde, Polk County, Oregon	03/05/1990

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2	Coquille Indian Tribe	North Bend, Coos County Oregon	06/22/1994
3	Confederated Tribes of Siletz Indians	Lincoln City, Lincoln County, Oregon	12/13/1994
4	Coquille Indian Tribe	Coos Bay, Coos County, Oregon	02/01/1995
5	Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians	"Hatch Tract," Lane County, Oregon	01/28/1998
6	Little River Band of Ottawa Indians	Manistee, Manistee County, Michigan	09/24/1998
7	Little Traverse Bay Bands of Odawa Indians	Petoskey, Emmett County, Michigan	08/27/1999
8	Paskenta Band of Nomlaki Indians	Corning, Tehema County, California	11/30/2000
9	Lytton Rancheria	San Pablo, Contra Costa County, California	01/18/2001
10	Pokagon Band of Potawatomi Indians	New Buffalo, Berrien County, Michigan	01/19/2001
11	United Auburn Indian Community	Placer County, California	02/05/2002
12	Ponca Tribe of Indians	Crofton, Knox County, Nebraska	12/20/2002
13	Little Traverse Bay Bands of Odawa Indians	Petoskey, Emmett County, Michigan	07/18/2003
14	Elk Valley Rancheria	Del Norte County, California	01/04/2008
15	Mechoopda Indian Tribe of Chico Rancheria	Butte County, California	03/14/2008 Remand: 01/24/2014
16	Federated Indians of Graton Rancheria	Rohnert Park, Sonoma County, California	04/18/2008
17	Habematolel Pomo of Upper Lake	Upper Lake, Lake County, California	09/08/2008
18	Ione Band of Miwok Indians	Amador County, California	05/24/2012
19	Cloverdale Rancheria of Pomo Indians of California	Sonoma County, California	04/29/2016
20	Pokagon Band of Potawatomi Indians, Michigan and Indiana	South Bend, St. Joseph County, Indiana	11/17/2016
21	Wilton Rancheria	Sacramento County, California	01/19/2017



United States Department of the Interior

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SEP 25 2019

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

Dear Chairman Huffman:

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

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

Sincerely,

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

Enclosure

cc: The Honorable Tom McClintock
Ranking Member

Questions for the Record by Democratic Members

Questions from Chairman Huffman:

1. Can you confirm that the purpose behind the reduced CVPIA Restoration Fund budget request for 2020 is limited only to “resetting” the 3-year rolling average, to create more consistent collections and expenditures going forward?

Response: Yes. The purpose of resetting the 3-year rolling average was to eliminate the volatility in annual collections and create consistent collections going forward.

a. Can you confirm that if Congress approves the request for this limited purpose, Reclamation does not intend to propose collections of less than the full amount of CVPIA Restoration Fund payments for any other purpose in the future?

Response: Reclamation will continue to collect annually the mandated amount directed by the Act.

b. My understanding is that Reclamation is not proposing a change to the standard appropriations language for this item, which would continue to direct Reclamation to collect the full amount of mitigation fees going forward. Is that understanding correct?

Response: Yes. Reclamation is not proposing any appropriations language changes.

2. In the 2009 SECURE Water Act, Congress specified that agricultural grant recipients under Reclamation’s WaterSMART Water Efficiency Grants program must agree that any water conserved through their grant project will not be used to increase irrigated acreage or increase consumptive water use. This provision ensures that WaterSMART provides benefits not only for grant recipients, but for the water system as a whole. However, it appears that nearly half of the projects awarded in the most recent round of WaterSMART Efficiency Grants would allow the grantees to use some or all of their conserved water for prohibited purposes. Congress intended WaterSMART grants to create benefits for river systems as well as water users. Can you please explain whether agricultural water users are being allowed to increase consumptive water use, contrary to Congress’ intent and statutory requirements?

Response: Reclamation is aware of the concern that some projects selected for FY 2018 WaterSMART Grants funding appeared to include activities that could increase the recipient’s consumptive use of water. However, we believe that this was a misunderstanding based on a review of the project descriptions made available on Reclamation’s website. Beginning in 2019, Reclamation will include more detailed descriptions of each project selected to help better

explain the benefits expected to result, with an emphasis on the uses of water conserved through completed projects.

Questions from Representative Cox:

1. Congress appropriated \$335 million in funding for WIIN Act storage projects. The FY18 omnibus obligated \$77 million in projects, and in February of this year, Reclamation sent a list of projects to Congress requesting the obligation of roughly \$74 million in additional WIIN Act funds. If Congress approves these requests, there is still about \$184 million in WIIN Act storage funding that Congress has already appropriated, and that Reclamation needs to obligate. What is Reclamation's process for determining these obligation requests? When can Congress expect the Bureau to make the request to obligate more storage funding under Section 4007 of the WIIN Act?

Response: Each year Reclamation completes an internal solicitation and review process, starting with recommendations from each region, for determining WIIN Act storage fund obligation requests for the upcoming fiscal year. In February, the storage requests were combined with the Title XVI WIIN Act requests and the desalination construction WIIN Act requests into one letter and forwarded to Congress, which has the decision to name projects and associated appropriations. We expect to transmit our next set of recommendations for FY 2020 WIIN Act funding later this calendar year.

2. The final Biological Opinions for the CVP and California State Water Project are due out next month. What additional resources did your department make available to ensure the Biological Assessment was adequately completed in time? Is there a process in place to work with Fish and Wildlife Service and NOAA to resolve conflicting requirements that may come out as they are drafting their biological opinions?

Response: Consultation for these biological opinions was initiated in August 2016, with the National Environmental Protection Act (NEPA) process formally commenced in December 2017. As such, the Department of the Interior realigned and dedicated staff to the consultation as well as prioritized workload across area, regional, and national offices. Appointment of a lead Federal official provides coordination across Federal agencies. Reclamation has also appropriated additional funding to secure a consultant contract in order to bring additional staffing resources. The federal Regional Directors coordinate closely on biological opinion development and have established a project team to reconcile issues. There is a process in place to resolve conflicting requirements and arrive at consistent environmental documents.

3. In March, I was told that San Luis Reservoir filled, so even though environmental standards would have allowed for greater pumping, there was nowhere to store this water, so the

Central Valley Project had to reduce allowable pumping from the Delta. I understand this also happened when San Luis Reservoir filled in 2017, meaning the State and Federal water projects missed out on pumping hundreds of thousands of acre feet of water from the Delta. Now, San Luis Reservoir is experiencing seismic problems, and Reclamation's budget documents identify seismic repair of B.F. Sisk Dam, which forms San Luis Reservoir, as a priority. Is the Bureau of Reclamation also planning to expand the capacity of the reservoir so that the Bureau can pump and store more water in wet years like this one?

Response: With respect to the San Luis Reservoir, Reclamation currently has a Contributed Funds Agreement (CFA) in place with the San Luis & Delta-Mendota Water Authority. The CFA allows Reclamation to begin the process to explore increasing the project benefits for San Luis Reservoir Implementation of the Safety of Dams Modification for seismic issues. If the current explorations meet the statutory requirements from P.L. 114-113 Section 203, and demonstrate feasibility, a project could be pursued.

Questions from Representative Haaland:

1. I have heard that you are opposed to beginning significant construction of the water project associated with the Aamodt tribal water settlement in my home state of New Mexico unless Congress first provides a significant authorization increase and a substantial completion deadline extension to 2028.

a. Can you confirm whether that is the case? Are you willing to move forward with project construction at the full amount currently authorized by Congress? Or will you only do so if Congress authorizes additional funding and extends the project completion deadline?

Response: In 2008 and 2009 Reclamation testified on the legislation that was eventually enacted effectuating this settlement. At that time, Reclamation expressed strong concern about the reliability of the cost estimates for this Pojoaque Basin Regional Water System (PBRWS). The estimated costs for PBRWS have substantially increased over the already questioned \$139.8 million cap authorized by the 2010 Settlement, and the \$73.2 million of non-Federal funding, both indexed to 2018 (\$213M combined). The current estimate to construct in accordance with the Engineering Report cited in the 2010 Settlement is \$421 million or \$208 above the authorized amounts. The Settlement establishes a number of conditions and deadlines, including: (1) a requirement for "substantial completion" as defined in the Settlement (623(e); and (2) completion of the PBRWS by June 30, 2024 (§623(e) (2)). The requirement of "substantial completion" has onerous implication and would allow for voiding the Settlement if not achieved by June 30, 2024. The Department does not believe it can achieve "substantial completion" with the currently authorized Federal funding for the PBWRS.

The contribution of Federal and non-federal funds to the Settlement was negotiated as well as Pueblo's waivers of all water rights and water related claims. Because of the serious risk that settlement will be voided even if the Department expends all authorized funding, we have been very reluctant to commence construction without an increase in authorized funding. Because the parties have asked for a good faith showing of willingness to commence some construction while Congress is considering an increased authorization, DOI entered into negotiations on the cost shares to be borne by the United States and the parties and how construction could be sequenced. I am happy to report that the United States and the parties have reached agreement on these issues and on September 17th, 2019, we jointly executed a 611(g) agreement under the terms of which Reclamation has agreed to expend \$13M in Federal funds (\$10M for construction and \$3M for design and other non-contract costs) while congressional action to amend the Settlement is pending. The agreement also provides that State and County will provide a proportionate share of construction costs in the amount of \$5.6M, that would yield a total of \$18.6M towards limited construction.

On July 16th, 2019, Reclamation transmitted to the Congress a letter and markup related to the Aamodt settlement, and specifically H.R. 3292, which would provide the aforementioned increase in authorized funding. In that letter, we wrote: "The Administration would support H.R. 3292 and its Senate companion, S.1875, if the amendments reflected in the attached markup of the bill were adopted. These proposed amendments incorporate key provisions that the Settlement Parties agreed to in the 611(g) Agreement negotiations". The enactment of such legislation would provide certainty that there will be no future request for additional Federal funding.

b. It is my understanding that with indexing you have over \$100 million available under the cost ceiling. Why don't you start using that immediately?

Response: Current available (unobligated) funding is about \$60M. Expending the currently available funding of \$60M will bring the total Federal expenditure on the Settlement to about \$133M, all of which would be lost if the Settlement is voided because construction cannot be "substantially completed" by the 2024 deadline.

c. Will you commit to ensuring that Reclamation fulfills Congress' direction regarding implementation of the Aamodt settlement?

Response: The Department is committed to the successful implementation of the Aamodt Settlement.

Questions from Representative Sablan:

1. Last May, Congresswoman Plaskett from the Virgin Islands, then Congresswoman Bordallo from Guam, and I met with Assistant Secretary for Water and Science Dr. Timothy Petty as a follow up to his testifying before the committee at the FY19 Budget hearing. Our concerns were that many of our water agencies and local officials were unaware of their eligibility for the Bureau's programs or needed additional technical assistance to submit a competitive grant application. What steps has the Bureau taken the last year to upgrade its outreach to the territories, and, perhaps, most importantly, have they been successful?

Response: Reclamation continues to look for ways reach out to applicants across all eligible U.S. States and Territories. Reclamation has seen recent interest in funding from entities located in eligible U.S. Territories. In FY 2018, for example, the Coral Bay Community Council (St. John, U.S. Virgin Islands) was selected under the WaterSMART Cooperative Watershed Management Program to receive \$99,155 to update their watershed management plan focused on source pollution into Coral Bay and hurricane recovery. Also, in FY 2018, an entity located in Guam applied under the WaterSMART Grants: Water and Energy Efficiency Grants funding opportunity for installation of distribution main meters, but was unsuccessful. Reclamation held a debriefing with the applicant in March 2019 to discuss its application relative to the evaluation criteria, opportunities for improvement, and the schedule for future funding opportunity announcements.

Reclamation has had success in conducting outreach on WaterSMART through webinars in the past. In FY 2019, one WaterSMART webinar announced via email and on our website drew over 200 participants. Once all FY 2019 WaterSMART funding opportunities have closed, Reclamation plans to review lists of applicants to identify geographic areas, including specific States and U.S. Territories, that might benefit from additional outreach. Prior to FY 2020 announcements, Reclamation plans to provide a webinar targeted to entities that were under-represented in the FY 2019 selection process, including applicants located in the eligible U.S. Territories. Reclamation will coordinate with your office, and the offices of Representative Amata (American Samoa), Representative San Nicolas (Guam), and Representative Plasket (U.S. Virgin Islands) to ensure interested applicants are aware of the opportunity.

2. The Administration has proposed severe budget cuts to water infrastructure funding despite a project backlog in the billions of dollars. The EPA National Assessment of Water System Needs estimated that \$198.4 million in further investment is needed to provide water to households and to protect the environment in the Northern Marianas. That figure has only increased after the damage caused by Typhoon Mangkhut and Super Typhoon Yuta this past fall.

A 2013 \$300,000 WaterSMART grant helped our Commonwealth Utilities Corporation install advanced water meters at people's homes. How will the bureau meet the water infrastructure needs of our areas with such severe budget reductions?

Response: The FY 2020 budget for WaterSMART highlights the emphasis Reclamation places on projects that increase water supply reliability, but also reflects a need to balance a number of other important budget priorities. At the FY 2020 request level, Reclamation expects to be able to fund a total of 40-65 new water management improvement projects through WaterSMART Water and Energy Efficiency Grants, Small-Scale Water Efficiency Projects, and Drought Resiliency Projects funding opportunities. We believe these programs will continue to provide a meaningful opportunity to seek funding for projects similar to the one selected for funding in 2013 in the Northern Marianas, and we encourage entities there and in the other eligible U.S. Territories to apply.

Questions from Ranking Member Bishop:

1. Why did Reclamation change course in late 2018 by reducing acres to be served from 70,000 to 60,000 acres after years of implementation of Reclamation's Modified Preferred Alternative and following three years of contract negotiations?

Response: Reclamation continues to implement the Modified Partial Replacement Alternative as described in our Record of Decision, and has not changed course. We have worked closely with the East Columbia Basin Irrigation District (East District) to identify ways to increase irrigated acres by up to 90,000 acres. This includes 20,000 acres which will be available upon identification of a supply from water conservation.

In October 2018, East District requested their amended contract contain a guaranteed water entitlement of 3 acre-feet per acre. It was not possible to accommodate this request for 70,000 acres because it would exceed the currently identified water supply for the modified partial replacement alternative. This could lead to conflicts between the existing acres of the Columbia Basin Project, and acres in Odessa should a water shortage arise. Reclamation proposed a flexible approach that provides 3 acre-feet per acre for 60,000 acres upon execution of the contract with an additional 30,000 acres to be made available when the water supply is identified. East District was unwilling to approve this draft contract.

Reclamation has shared a revised draft contract with East District which authorizes 70,000 acres without a guaranteed water entitlement and the flexibility for an additional 20,000 acres from conservation actions. This draft also eliminates administrative approvals needed before East

District can execute contracts with individual landowners. Based on our conversations with the East District, we believe this draft contract has the potential to resolve concerns expressed.

2. Will you commit to working with the East Columbia Basin Irrigation District and my office to find solutions to address the outstanding Master Water Service Contract, including the acreage reduction?

Response: Yes, Reclamation will continue to work with the East Columbia Basin Irrigation District with the same spirit of shared enterprise and flexibility as we have throughout this process. Should additional concerns beyond the issue described above present themselves, Reclamation can provide briefings to you, your staff, or other representatives as requested.

Questions from Representative Hice:

1. As part of the FY20 request, Reclamation has asked for \$114.1 million in appropriations for “extraordinary maintenance” (XM) activities. This is a little more than double the FY19 request.

My understanding is that this account includes funding major, non-recurring repairs, replacements, or renovations at various Reclamation-owned projects. But for our edification, can you explain what some of these repair projects are and why there is such a drastic increase in expected costs this year?

Response: As a result of aging infrastructure at many of our facilities, Reclamation’s request for XM activities has increased from previous fiscal years and varies year-over-year. Many of Reclamation’s facilities possess aging infrastructure that, if not addressed, will hinder our ability to effectively maintain operations. Examples of the projects and sub components that are being addressed for repair are the following:

Grand Coulee Dam - Repairing Leavenworth Surface Water Intake System, well field reconfigurations, and replacing MP Drumgate Valve and Actuator;

Milk River - Storage Unit Concrete Repair, Diversion Dam Replacement and Fish Screens, and spillway chute repair;

Minidoka Project - Domestic Water System maintenance and repair, lead maintenance removal, and Palisades Hollow Jet Valve Refurbishment;

Heart Butte Unit - Stilling Basin Concrete Repair, Seepage Monitoring and Repair, and Gatehouse Repair.

Each of the sub-components identified above for the listed projects are necessary repairs to meet requirements for the safety of our employees, comply with environmental regulations, and to maintain continual operation of vital functions at our Reclamation facilities. Instead of adding to our deferred maintenance log, Reclamation has taken steps to prioritize funding in addressing aging infrastructure in order to continue our mission of serving water to the West.

2. I also understand that some of the funds in this account address invasive species of mussels that are destructive to water and power infrastructure. Can you explain this problem to me, how it is addressed, and what the associated costs are for removing this type of infestations?

Response: Invasive species represent a growing threat to Reclamation infrastructure. Quagga and Zebra mussels have continued to spread throughout the West, infesting Reclamation dams, power plants, and the facilities of other water providers. The Columbia Basin is the last major uninfected watershed in the United States, where regional estimates suggest a full-blown infestation would cost its citizens \$500 million annually in lost economic production, higher electric rates, and risk more endangered species complications. As a result, Reclamation's FY 2020 budget includes over \$8 million to combat and prevent the spread of invasive species throughout Reclamation facilities and structures, including \$5.1 million directed towards the prevention, early detection and monitoring, containment and control of Quagga and Zebra mussels at existing facilities.

3. If Reclamation is awarded this level of funding for this purpose, do you anticipate making a similar request as well next year? How often does this invasive species problem need to be addressed?

Response: Invasive species are an ongoing problem and their containment and control requires constant vigilance. I anticipate that future budgets will reflect that priority.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 24 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States House Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

Enclosed are responses prepared by the Bureau of Land Management to the questions for the record submitted following the June 20, 2019, hearing on the BLM's Geothermal program.

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

Sincerely,

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

Enclosure

cc: The Honorable Joe Manchin III, Ranking Member
Committee on Energy and Natural Resources

U.S. Senate Committee on Energy and Natural Resources
June 20, 2019 Hearing: *Opportunities and Challenges for
Advanced Geothermal Energy Development in the United States*
Questions for the Record Submitted to Mr. Timothy R. Spisak

Questions from Chairman Lisa Murkowski

Question 1: Geothermal energy must go through the NEPA process multiple times for any development on public lands, which can result in a total development time of up to 10 years. Many of the low environmental impact exceptions to NEPA that encourage oil and gas exploration do not apply to geothermal. Is the Bureau of Land Management (BLM) examining opportunities to develop administrative categorical exclusions for geothermal energy? How can we further reduce the regulatory barriers?

Currently, each geothermal project on public lands requires a separate environmental review under the NEPA at both the drilling stage, such as exploration wells to test the resources, and when the resource is to be utilized. According to the Department of Energy, improving the efficiency of the regulatory process for the drilling of resource confirmation wells could reduce the administrative costs of geothermal development on public lands and spur new development. The current policy for oil and gas employs categorical exclusions for various drilling and field expansion situations that were authorized by federal legislation. The BLM is exploring opportunities to streamline the NEPA and other geothermal permitting processes to alleviate the delays caused by multiple environmental reviews.

Question 2: While enhanced geothermal technologies may allow development anywhere, 90 percent of current geothermal resources are on public lands, making near-term geothermal development largely dependent on federal policy.

- **How is the BLM working to make geothermal development easier?**

Secretary's Order 3355 directs the BLM to streamline the NEPA review for all energy development on public lands. This Secretary's Order directs the BLM to keep Environmental Impact Statements (EISs) under 150 pages and, within one year of the issued Notice of Intent, to publish the EIS. In addition, in recent years, the BLM has offered geothermal leases via online auctions thus providing the opportunity for greater bidder participation.

- **What are lessons that can be transferred from oil and gas development on public lands to geothermal development?**

For oil and gas, the BLM has marshaled teams of subject matter experts to review applications expeditiously. Should the volume of geothermal applications increase, such a strategy could also be used to more efficiently and timely process geothermal applications. The categorical exclusions established by the Energy Policy Act of 2005 for oil and gas exploration have helped to expedite oil and gas exploration, and may offer similar efficiency for geothermal.

Question 3: The final Programmatic Environmental Impact Statement (EIS) for Leasing of Geothermal Resources in Eleven Western United States and Alaska, Including Proposed Amendments to Selected Land Use Plans, published in 2008, included a reasonable foreseeable development (RFD) scenario that was developed to predict future geothermal development trends.

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The RFD scenario estimated a potential for 5,540 megawatts (MW) of new electric generation capacity from 111 new geothermal power plants in the 11 Western States and Alaska by 2015. It also estimated an additional 6,600 MW from another 133 plants by 2025. In fact, in 2008 BLM had the largest geothermal lease sale in its history bringing in a record \$28.2 million for a total of 105,211 acres. As of today, only nine new plants are operational since 2008 with a total combined MW capacity of 345 – none are in Alaska.

- Please explain how the programmatic EIS intended to facilitate easier leasing.

The establishment of a programmatic EIS sets standardized frameworks for the processing of environmental reviews across BLM States and districts. This consistency makes it easier for private operators to develop plans that do not have to be tailored to each region or State.

- Do you think that it achieved its intended effect?

The 2008 programmatic EIS continues to be implemented consistently and there have been no major legal challenges to it since it was finalized. Without a programmatic EIS, a more extensive and time-consuming NEPA process would be required for each lease sale, so the programmatic EIS has met its goal in facilitating the expeditious processing of geothermal leases.

- Do you think any changes are necessary, and if so what?

The BLM is exploring opportunities to streamline the NEPA reviews and other permitting processes. The BLM will continue to look for innovative solutions to reduce regulatory burdens on the development of domestic energy and its delivery to the America people.

Question 4: On the BLM Geothermal Energy website five projects are listed as pending, all within the State of Nevada. Two projects require baseline studies, one a project redesign, another is pending environmental assessment, and the final is a competitive lease sale. All anticipate approvals by 2021. It appears that the last approved project that is currently operational was Tungsten Mountain, NV in 2016. Why it is taking so long to get these plants operational?

The BLM website will continue to be updated to include the latest information regarding pending and approved projects. As of July 5, 2019, there are 6 pending projects.

Approval from the BLM is not the only factor in putting a new geothermal power plant on line. State regulations, market demand, infrastructure development, and litigation from outside groups all cause delays. For example, the environmental assessment for one geothermal project, the Dixie Meadows Utilization Plan, went out for public comment in May of 2017. However, because an emergency listing petition from the Center for Biological Diversity regarding the Dixie Valley toad species remains unresolved by the U.S. Fish & Wildlife Service, the permitting and construction of that facility has been delayed by two years thus far.

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Question 5: BLM recently released a geothermal online lease sale notice for 21 parcels in White Pine County, NV that is scheduled for this September.

- **Is BLM making any changes to streamline the permitting process for this lease sale?**

BLM Nevada has a streamlined geothermal leasing process in place, which follows the Information Memorandum *Updated Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews* (IM 2018-034) to the extent possible under the Geothermal Steam Act, including annual lease sales in 2016, 2017, and 2018. The September 17, 2019 lease sale hosted by the NV State Office, which will be conducted via online auction, contains 142 parcels totaling approximately 400,000 acres in multiple counties across the State; that is, far more than just the 21 parcels in White Pine County, NV. Three Environmental Assessments and two Determinations of NEPA Adequacy (DNAs) have been prepared for this lease sale, and the Notice of Competitive Lease Sale was posted on the BLM website on August 2, 2019.

- **Are the potential leases currently able to conduct casual use exploration in this area?**

According to the 43 CFR 3250 regulations, anyone may request BLM approval to explore any BLM-managed public lands open to geothermal leasing, even if the lands are unleased or leased to another entity. To do so, it is necessary to submit a Notice of Intent (NOI) to Conduct Geothermal Resource Exploration Operations, Form 3200-9. If the proposed activities are determined to be limited to casual use, then the BLM will deny the NOI as unnecessary, and casual use exploration could proceed without further review or approval by the BLM. If the impacts of the proposed exploration operations are deemed to exceed casual use, and include surface disturbing geophysical activities, such as vibroseis surveys or temperature gradient hole drilling, the proposal would be reviewed according to the 43 CFR subpart 3251 regulations. NEPA analysis would be conducted and the NOI permit would be approved, denied, or approved subject to conditions of approval. A lease is not required to conduct exploratory geophysical operations through the NOI process under the 43 CFR 3250 regulations, but a lease is required to drill for or to utilize geothermal resources, which includes “resource confirmation” drilling intended to make direct contact with or directly test geothermal resources.

- **When determining lease areas, are you ensuring that these locations have access to a power grid?**

Although the BLM can self-nominate lands for a lease sale, this is rarely done because the geothermal industry knows better which areas have the best potential for the development of geothermal energy. Thus, prospective geothermal producers provide expressions of interest for lands that they are interested in leasing for geothermal development. Factors such as the accessibility of infrastructure and other considerations related to getting the energy to market are the responsibility of the private developer of any potential geothermal project on public lands. The BLM ensures that any lands nominated or projects proposed meet all appropriate regulatory requirements and conforms to applicable BLM policy and legal requirements.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 24 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States House Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

Enclosed are responses prepared by the Department to the questions for the record submitted following the June 13, 2019, hearing on the Department's Wildland Fire program.

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

Sincerely,

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

Enclosure

cc: The Honorable Joe Manchin III, Ranking Member
Committee on Energy and Natural Resources

U.S. Senate Committee on Energy and Natural Resources
June 13, 2019 Hearing: *The Outlook for Wildland Fire and Management Programs for 2019*
Questions for the Record Submitted to Mr. Jeff Rupert

Question from Chairman Lisa Murkowski

Question: In Alaska, we have seen a decline in the number of emergency wildland fire crews across state and federal agencies. Many of these crews are staffed by Alaska Natives. What is the cause of the reduction and what can be done to rebuild these village fire crews?

Response: The Department of the Interior's BLM Alaska Fire Service (AFS), located on Fort Wainwright Army Garrison, has trained and hired Emergency Firefighters from rural Alaska since the 1950s. Participation in the BLM Alaska Emergency Firefighter (EFF)/Administrative Determined (AD) program declined precipitously over the past two fire seasons. Currently, there are four BLM Type 2 EFF crews available for fire assignments compared to 15 crews in 2017. Through the mid-1990s there were 45 to 50 Type 2 crews made up of more than 1,200 EFF from the AFS protection area across northern Alaska. Participation has declined over the past 20 years, with the most significant decline occurring in 2018.

A variety of factors are likely contributing to the decline, including decreasing rural population; other consistent and better paying employment opportunities; declining interest in firefighting; implementation of medical standard requirements; and compliance with Fort Wainwright security screening. Last year, in response, AFS transitioned from single village-based crews to multiple village regional crews, and villages without enough EFFs for a crew were able to participate. The transition was actively supported by EFF Crew Bosses who helped determine village groupings. The Alaska Division of Forestry has implemented similar changes with its crews. In early 2019, five AFS EFF crews were rostered. However, one crew was subsequently unavailable for assignment because crew members took higher-paying construction jobs. Of the remaining four crews, all were assigned to fires as of June 22.

The AFS is working to transfer more firefighter administration to Alaska Native tribal organizations to help foster their increased involvement and self-governance. Currently, AFS has one Annual Funding Agreement (AFA) in place with an Alaskan Native tribal organization. AFS is preparing additional Statements of Work for Type 2 Wildland Fire Hand Crew contracts and expects to issue solicitations for crews to be available for the 2020 season. The contracts will provide opportunities for Alaska Native Claims Settlement Act corporations and Alaska Native tribal organizations to fully administer wildland fire crews and to play a larger role in wildland firefighting in Alaska and the Lower 48. These crews will be trained and managed to national standards. The BLM plans to evaluate the effectiveness of contract crews to better understand whether it is a viable alternative to the current single/multiple village EFF-based crew model.

Questions from Senator Maria Cantwell

Question 1: The Forest Service Northwest Regional Office commissioned a study that identified communities in the Northwest that are most threatened by wildfire. The National Weather Service Doppler Radar network has a gap in coverage along the eastern slopes of the Cascade Mountain Range and part of the Columbia Basin. Because there is a lack of coverage, wildfire managers monitor weather activity from hundreds of miles away in Spokane, WA and when a wildfire strikes,

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they take a weather vehicle to Central Washington to monitor temperature and humidity. Mr. Rupert, does the Forest Service or Department of Interior interact with federal agencies that provide predictive weather services like, NOAA or NASA? What can be done to coordinate with these agencies to meet the needs of wildfire fighters and emergency managers?

Response: The USDA Forest Service, in partnership with the Department of the Interior, has an agreement with the National Weather Services (NWS) to provide 23 NWS agency-sponsored incident meteorologists that provide strategic support for wildfire suppression and management efforts. The incident meteorologists are part of a larger national interagency program called Predictive Services. Predictive Services meteorologists provide daily, weekly, monthly, and seasonal weather outlooks that aid fire managers in decision-making processes involving firefighting resource allocations and firefighting strategies. At both the National and Regional levels, the meteorologists provide mission-critical briefings and maintain situational awareness, which enhances mission effectiveness across agency boundaries. NOAA provides the Federal agencies with weather modeling data to meet mission objectives used by the Federal fire agencies' predictive services units. Each of the 10 Geographic Coordinating Centers have partnerships with the NWS. The NWS has a facility at the National Interagency Fire Center (NIFC) to coordinate with the Federal wildland fire agencies.

Predictive Services consists of three primary functions: fire weather and fire danger; fuels and intelligence; and resource status information. The program provides decision support information needed to be more proactive in anticipating significant fire activity and determining resource allocation needs. Predictive Services integrates climate, weather, fire situations, historical fire data, resource status, and fuels information into national-level products readily available and easily used by fire management at all levels. With their counterparts at the Geographic Area level, Predictive Services staff provide critical information to the fire community, from the fireline to top fire managers at NIFC.

Question 2: In the March 2018 omnibus package and in the 2018 Farm Bill, Congress provided dozens of new authorities to the US Forest Service to support active management on our national forests and increase the pace and scale of forest restoration. These tools include long term stewardship contracting, expansion of the Good Neighbor authority road provisions, expanding the existing Insect and Disease authority for wildfire risk reduction on national forest lands, and Tribal forest management demonstration projects on national forests, in addition to many others. Has the USFS been using these new authorities? Please share recent examples.

Response: The Department of the Interior defers to the U.S. Forest Service on this question.

Questions from Senator Catherine Cortez Masto

Question 1: The footprint of the July 2018 Martin Fire in Northern Nevada impacted over 435,000 acres, which was almost completely on Bureau of Land Management (BLM) lands. This is a very rural part of the state, and did not cause a lot of property damage, but the damage it does cause heavily affects ranchers and their families whose livelihood depends on our public lands. The wildfire resources to help folks like

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this are not always prioritized to the extent as those whose private property is impacted or destroyed by wildfire, or those that live in more populated areas.

A. What flexibility or management tools exist to allow for more timely and effective fuels management, or for post-fire remediation and disaster relief?

Response: DOI has adopted more aggressive fuels management practices, moving to a risk-based approach to increase fuels treatments on DOI administered public lands. For example, the BLM has increased the number of acres of fuels management treatments through enhanced partnerships with local communities and state and county governments, and other Federal agencies like the Natural Resources Conservation Service and the Department of Homeland Security in the state of Nevada. In 2018, DOI treated a total of 1.2 million acres to reduce wildfire risk.

DOI is taking a number of steps that facilitate flexibility and more timely fuels management project work. For example, DOI included a suite of legislative proposals in its fiscal year (FY) 2020 Budget request that authorize the use of categorical exclusions (CXs) to expedite a number of wildland fire management and forest and vegetative management activities that reduce wildfire risk. The DOI is also developing proposals for additional administrative categorical exclusions (CXs) including fuels management, encroaching juniper management, invasive rangeland weeds management, aquatic and riparian habitat restoration, timber salvage, forest resilience, travel and transportation management, and post-disturbance rehabilitation to include post-wildfire recovery.

DOI's Fuels Management program supports Executive Order 13855 "Promoting Active Management of America's Forests, Rangelands, and Other Federal Lands To Improve Conditions and Reduce Wildfire Risk" and Secretarial Order 3372 "Reducing Wildfire Risks on Department of the Interior Land Through Active Management." To date, the Department has made considerable progress in addressing the action items mandated in both Orders, including the development of performance metrics to better capture the efficacy of fuels management efforts in reducing wildfire risk. This information will help inform the Department about opportunities to better assess, plan for and communicate about more active management, and develop the collaborative Wildfire Strategy that is mandated in the Executive Order.

B. What authorities exist to better utilize expertise of permittees and their livestock in the use of wildfire management activities?

Response: As part of the BLM's Integrated Rangeland Fire Management Strategy and range and vegetation management programs, the BLM has developed scalable and adaptive targeted grazing demonstration areas to reduce cheatgrass in three study locations. Two of the demonstration projects, located in Idaho and Nevada, were implemented in the spring of 2018 to test the practicality of targeted grazing and gather information for bureau-wide application. An additional demonstration area was added in Oregon in 2019. Final results of the effectiveness of the demonstration efforts are pending, but early observations are showing possible benefits.

Question 2: According to concerns expressed to me by some of my constituents, local knowledge of conditions on the ground is often not being considered or even asked for when large incident

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management teams are put in place. The cooperation and expertise of ranchers, local fire departments, and local government resources is necessary during pre-suppression work and during actual firefighting actions.

How are agencies working with local governments and local stakeholders on both pre-suppression efforts and coordination of suppression response?

Response: Addressing the resources and values-at-risk takes a cooperative and collaborative effort that involves not only the local land managers, but also a wide array of community members including local elected officials, Tribal governments, public safety departments and other key stakeholders such as business owners and ranchers. The involvement of the entire wildland fire community is essential to effectively prepare for wildfires, carry out wildfire operations, and implement post-wildfire recovery efforts. For example, Resource Advisors and BLM Rancher Liaisons are specifically trained to communicate, understand local perspectives, and work with private landowners and ranchers during wildland fire suppression operations.

Many of the resources and values-at-risk are identified and outlined in local land-use plans well in advance of a wildland fire incident. The Wildland Fire Decision Support System (WFDSS) is a tool that is designed to assist fire managers and Incident Management Teams (IMTs) identify the best course of action to respond to a wildfire. The information that is included in WFDSS is based in part on collaboration and information provided by community members, local land managers and other stakeholders. In addition to the information included in WFDSS, IMTs also work directly with local community members and stakeholders through daily cooperator meetings to help build a better operational picture of the values and resources that are important to the local community. This information directly feeds the decision making process and assignment of resources at both the local and national levels. Following an incident, this information also helps local leadership establish priorities for the repair and recovery work that is necessary to reestablish those resources damaged by wildfires.

Additionally, the DOI's Rural Fire Assistance (RFA) and Rural Fire Readiness (RFR) programs enhance firefighting capabilities and serve as a mechanism to transfer surplus firefighting equipment and provide funding to partners to increase safety and reduce response time to wildland fires. The RFR program provides training for private landowners and local fire departments. In fiscal year 2018, DOI invested \$2.8 million for units to provide wildland fire training, establish and maintain agreements, and build relationships with local cooperators, and in 2019 an additional \$2.8 million is being invested.

DOI is enhancing the use of the Good Neighbor Authority (GNA) to develop fuels management and timber management projects that benefit multiple jurisdictions. The BLM has numerous active or completed GNA contracts or agreements with state government entities to support rangeland restoration, woodland thinning treatments and vegetation treatments.

Question 3: This winter has been a particularly wet season for parts of my state, and other regions in the West. Whereas the greater amount of water has been good for drought related purposes, areas also see greater vegetation growth, which can lead to excess wildfire fuel once the areas dry out.

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What are relevant agencies and stakeholders doing to anticipate a heavier fire season as a result of the wetter season we just experienced?

Response: All of the members of the wildland firefighting community continuously monitor actual conditions and assess the wildland fire potential. When extreme wildfire conditions develop or continue on a prolonged basis, field offices and regional offices plan for and request severity resources to bolster staffing and local resources. Over shorter time frames to address critical conditions, wildland fire suppression resources are prepositioned, reallocated, or reassigned. Similarly, wildfire prevention teams can be deployed to critical areas to help local communities understand and address the risks of human caused wildfires. The current National Significant Wildland Fire Potential Outlook highlights some areas of above normal wildfire potential, but also broad areas of normal or below normal activity. DOI does not anticipate issues with the strategic deployment of wildfire suppression resources during the course of the fire year.

Question 4: The Nevada state legislature just recently passed a law creating a \$10M carve-out of the State's rainy-day fund for the purposes of matching incoming federal funds for wildfire prevention, suppression, and rehabilitation projects.

A. Can you describe the federal wildfire programs applicable in allowing the State to apply their matching funds to incoming federal funds?

Response: DOI is not authorized to carve out Nevada-specific funds through its WFM program, but we certainly can and will coordinate with the State of Nevada to leverage the resources that we each can contribute for wildland fire management in the Silver State. At this time, the BLM has Good Neighbor Authority (GNA) and is expanding its use. The GNA allows the BLM and the U.S. Forest Service to enter into agreements with states to allow for certain land management work on Federal lands, to include fuels management and timber management projects that can benefit multiple jurisdictions.

B. What is the best way for the State and their federal partners to utilize these funds for maximum efficiency? What advice would you give to my state agencies?

Response: We encourage the state of Nevada to work with the BLM Nevada State Office, U.S. FWS Pacific Region Office, NPS Pacific West Region Office, and BIA Western Region Office to develop a shared list of priorities and projects so that the state of Nevada and the Federal government can most effectively collaborate to reduce wildfire risk for the benefit of local Nevada communities. We welcome the participation of the U.S. Forest Service Humboldt-Toiyabe National Forest, the Lake Tahoe Basin Management Unit and other U.S. Forest Service units in these conversations.

Question 5: In addition to higher temperatures, scientists are finding that wildfires in the western United States may alter the landscape in ways that lead to earlier, faster snowmelts. Not only is this concerning for water resources and the probability of drought, but a faster snowmelt and a drier summer landscape may also worsen the fire season in some areas – leading to bigger, hotter blazes.

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What have we learned over these past few years of rising wildfire frequency and intensity to anticipate and suppress future wildfires, and what can be done to account for this snowmelt cycle?

Response: Over the past several years, we have seen wide variability of weather and climate cycles. We have observed prolonged drought that has desiccated trees and shrubs, causing mortality as well as increased flammability of live vegetation. We have also seen catastrophic wildfires following unusually wet periods, both within forest and shrubland ecosystems. In the past few years, we have seen “atmospheric rivers” that provided well above normal precipitation, but with very high snow levels that contribute to the snowmelt cycle that you mention. Moreover, we have seen early season heatwaves that may stop the growing period of some vegetation, as well as exacerbate early snowmelt.

In our observation, wildfires nationally, and in some cases, regionally, have become so common that we now refer to their occurrence as the “fire year” rather than the “fire season.” Intense heat waves, with short-term drought, followed by wildfire ignitions and extreme fire weather, may cause catastrophic wildfires even while a geographic region may not otherwise have widespread wildfire potential. Therefore, as an agency, we plan for and anticipate significant wildfires, and we respond according to our strategic and operational planning. And, we consult with and rely upon collaboration with our Federal, Tribal, state, local and private partners.

Question 6: Last year’s wildfire season was the most expensive on record, with federal suppression costs exceeding \$3.1 billion. Many fires create problems that require special efforts to remediate the land in order to not cause further environmental damage once the fire is extinguished. The loss of vegetation exposes soil to erosion; water runoff may increase and cause flooding; sediments may move downstream and damage houses or fill reservoirs putting endangered species and community water supplies at risk.

How do we ensure that remediation funds are being best applied to these vulnerable ecosystems?

Response: Burned Area Rehabilitation (BAR) funding helps maintain proper functioning watersheds and landscapes through treatments such as reseeding, habitat repair, vegetative management, and other projects that are intended to prevent erosion, flooding, and noxious weed invasion that often follow major wildfires. DOI allocates BAR funding based on the rolling 5-year average of non-Alaska acres burned by each bureau. BAR funds are used to address the highest priority rehabilitation needs on DOI and Tribally-managed lands based on each bureau’s assessments and decision support methodologies.

Question 7: Sagebrush once covered 250 million acres of western North America, but today that ecosystem is half the size it once was and it’s burning more frequently. In just the past two years, more than 800,000 acres of sagebrush have burned in northern Nevada. Climate change is partially to blame, but the growth of invasive cheatgrass has also contributed to sagebrush displacement. Cheatgrass spreads rapidly after a fire, taking over crucial habitat for sage grouse.

A. How do we best work with landowners to reverse the effects of cheatgrass and preserve our ecosystems throughout the West?

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Response: Since 2000, over 15 million acres of shrublands or grasslands have burned. Mega-fires, large fires exceeding 100,000 acres – some of which are over 500,000 acres – are becoming more frequent and are typically fueled by invasive annual grasses. Frequent wildfires followed by invasive species are impacting vast areas of the western United States, particularly in the sagebrush-steppe ecosystem. Although much of the attention on wildfires in the West is focused on forested lands, almost half of the acres burned in the United States occurred on shrublands or grasslands. Specific to DOI-managed lands, more than 70 percent of acres burned by wildfires are shrublands or grasslands. To reverse the effects of cheatgrass and conserve the habitat that is left, DOI is working collaboratively with local landowners, state, and other Federal partners to treat fuels and reduce the number of acres burned s.

In collaboration with partners, the DOI plans to treat over 1,200,000 acres in fiscal year 2019. The DOI is also providing funding and educational programs to reduce the impact of invasive species and to promote fire prevention messages aimed to reduce human-caused fires in cheatgrass-invaded areas. The DOI works closely with private landowners to suppress wildfires before they become large and impactful. Rangeland Fire Protection Associations (RFPAs), comprised largely of ranchers, typically operate in remote areas and can respond to fire starts - in some cases hours before ground crews could arrive. Cooperative partnerships with local and rural fire departments, including RFPAs, are crucial to success in responding to remote wildfires on private, state and Federal lands affecting grazing, recreational, wildlife and other values important to local rural economies.

B. What other measures are being undertaken to cut down on post-fire invasive species?

Response: DOI's Emergency Stabilization and Burned Area Rehabilitation (ESR) Program plans and implements post-fire treatments to restore ecological function, combat invasive plant species, and create landscape conditions allowing for the continuation of land uses. Using remotely sensed and field monitoring data, the ESR identifies post-fire invasive species locations, and aggressively targets them for control.

In addition, effective post-fire rehabilitation efforts in the form of re-establishing functioning plant communities is an important tool in combating invasive species. On average, the ESR program rehabilitates over 400,000 acres of post-fire landscape annually by seeding. These treatments involve aerial and ground seeding to reestablish resilient plant communities, which have greater ecological fitness and dampen fire proneness, as compared with invasive plants such as cheatgrass. DOI fire and land managers are working with United States Geological Survey, Forest Service Research, as well as the Natural Resources Conservation Services, and academic institutions like the University of Nevada-Reno, to study the plant materials that are best suited to meet the array of challenges that rangeland and forest fire degraded systems encounter, and by which to reestablish productive and naturally functioning landscapes. In addition, BLM is working with National Academy of Sciences on a national assessment of seed needs and capacities across federal, state, and tribal governments as well as the private sector.

The BLM purchases an average of 2 million pounds of seed per year partnering with 65-75 private seed producers, primarily small family farms in the western U.S. The BLM recently implemented a native seed contract for 41 grasses and 70 forbs. This contract is designed to provide genetically appropriate native seed by Seed Transfer Zone (STZ). The management of stock seed collections is critical to the long-term

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sustainability of native seed increase. BLM is working on a protocol to replenish foundation seed and provide the stock seed to the growers.

Large-scale high intensity wildland fires have increased significantly throughout the Western United States in recent years, particularly in sagebrush-steppe ecosystems, resulting in the widespread loss of sagebrush-steppe vegetation, effective rangelands, loss of forage and habitat, destruction of private property and affecting recreational opportunities. Many of these wildland fires are largely a result of continuous fuel loading, caused by increases in invasive annual grasses and very large areas of continuous sagebrush cover. As a result, the BLM proposed two PEISs within the Great Basin region in an effort to curb some of these effects: 1) Fuel Breaks PEIS and 2) Fuels Reduction and Rangeland Restoration PEIS.

A system of strategically placed fuel breaks in the Great Basin region would slow the spread of wildfires and provide firefighters with the best opportunity to catch rapidly moving fires and establish an anchor point, thereby reducing wildfire size and improving firefighter safety while engaging in fire suppression. Fuel breaks will also provide greater protection to human life and property, sagebrush communities, and ongoing/pending habitat restoration investments. Reducing fire size also helps to reduce the expansion of non-native annual grasses and invasive species, such as cheatgrass and medusahead.

Question 8: Typically, federal agencies use the winter months to hire and train firefighters in advance of the upcoming fire season, and to perform fire prevention work – such as tree removals and controlled burns – that are more difficult or dangerous to carry out during active fire seasons. However, training and prevention programs were delayed due to the 35-day Government shutdown – leaving forest management officials across the country behind schedule on prescribed fire treatments.

A. Can you speak to the negative impacts of the Government shutdown that you are still dealing with?

Response: DOI made steady progress in preparing for the fire season following the 35-day lapse in appropriations. During the lapse, some active vegetation management work intended to reduce wildfire risk on DOI on Tribally-managed lands continued, but other treatments were postponed. Currently, DOI is caught up with all Preparedness activities, such as hiring, training, and finalizing aviation contracts, and is fully prepared to respond to wildfires.

B. What has the Forest Service and the Interior Department been doing to compensate for the lost time?

Response: As noted above, DOI is caught up with all preparedness activities and is prepared to respond to wildfires. With the onset of the fire season, and to the extent practical, the bureaus continue to work on the highest priority active vegetation management projects to reduce wildfire risk on DOI and Tribally-managed lands.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

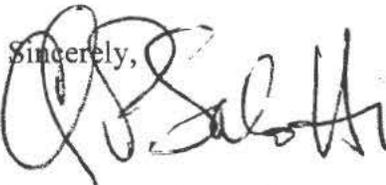
SEP 20 2019

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

Dear Chairman Hoeven:

Enclosed are responses to the questions received by Mr. Charles Addington, Deputy Director of the Bureau of Indian Affairs, following his June 19, 2019, appearance before your Committee S. 227, Savanna's Act; S. 288, the Justice for Native Survivors of Sexual Violence Act; S. 290, the Native Youth and Tribal Officer Protection Act; S. 982, the Not Invisible Act of 2019; and S. 1853, the Bridging Agency Data Gaps and Ensuring Safety for Native Communities Act.

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

Sincerely,


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

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions from Vice-Chairman Udall

Unmet Law Enforcement Staffing Needs

1. Section 3 of the *Indian Law Enforcement Reform Act* (25 U.S.C. 2802) requires the Office of Justice Services (OJS) to submit a list of “unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies” to Congress each year.

- a. **Is the report dated September 12, 2017, the only unmet needs report produced to date by the OJS?**

Response: No. Prior to September 12, 2017, we submitted reports on appropriations for fiscal years 2010 through 2013. The report dated September 12, 2017, detailed the allocation and expenditure of our FY 2014 and 2015 appropriations. A report submitted on June 11, 2018 was for our FY 2016 appropriation. The report detailing our FY 2017 appropriation has been prepared and is under review by the Department and will be provided to Congress in the coming weeks.

- b. **If the Office has not produced an unmet need report each year since enactment of this requirement, what factors contributed to the Office’s challenges in complying with statute and publishing the report annually?**

Response: We are currently delivering a report each year. With regard to timing, a complete and accurate report cannot be produced until the two-year availability of our appropriation has expired and all obligations are recorded. Our latest expired appropriation is FY 2017, and the corresponding report is under review.

- c. **How does the Office calculate or estimate unmet staffing needs for Tribally-operated justice programs?**

Response: Law enforcement programs and Tribal courts are usually sized to meet the needs of a resident service population range. Cost estimates assume that all tribes of similar size have law enforcement agencies or courts with the same composition. The report groups tribes by population size, and then uses scalable cost models to create estimates for operating law enforcement programs and Tribal courts for each group.

Cost estimates for BIA-funded detention/corrections centers differ in that only existing centers are considered. Estimated total costs are based on individual staffing models developed for each BIA-funded facility, which is influenced by National Institute of Corrections standards in connection with building layout, type of prisoners housed, and programs/services offered.

d. How does the Office estimate the unmet staffing needs for tribal and Bureau of Indian Affairs investigators?

Response: Because of their similar structure and function, we utilize the same scalable budget models to estimate costs for both tribal and BIA programs.

2. At the hearing, I asked for information on the current law enforcement vacancy rates and officer attrition causes. You responded, "For direct service programs and Tribal law enforcement programs across the nation, they vary anywhere from 1.8 to 3.2 officers per thousand residents... We do track, if we do have folks that leave... we do track why they left and attrition rate."

a. Can you provide specific information on the current national and regional law enforcement vacancy rates for the BIA?

Response: The current estimated vacancy rates for the Bureau of Indian (BIA), Office of Justice Services (OJS) sworn staff in the field are displayed in the below table.

Organizational Unit	Vacancy Rate
District 1	44%
District 2	21%
District 3	41%
District 4	34%
District 5	45%
District 6	33%
District 7	25%
District 8	67%
District 9	0%
OJS Overall (Field/Sworn)	39%

b. Would the OJS be able to include this information in its annual unmet needs reports if directed to do so by Congress?

Response: Yes.

c. Can you further clarify or provide any statistics on the most frequently cited causes for officer attrition at the Bureau of Indian Affairs?

Response: In FY 2018, BIA-OJS hired 65 new personnel, but lost 96. The respective figures for FY 2017 are 72 and 63. Retirement, misconduct, remote location without adequate services (including housing), competition from higher paying State and Federal law enforcement agencies, and burn out were the most common reasons for attrition.

3. You noted at the hearing, “Under the *Tribal Law and Order Act*, we do have to do Tribal backgrounds for tribal law enforcement if requested by the Tribe.”

a. Approximately how many Tribes ask the OJS to conduct law enforcement background checks?

Response: OJS has conducted background investigations for up to 20 tribes in a single year. However, the number of Tribes served annually varies and is dependent on background cycles. For example, new hires are normally done locally unless there is a mass hiring at a tribal department. Five-year background updates may also be batched, which increases Tribal requests of OJS. For example, the Seminole Tribe requested that OJS conduct five-year background investigation renewals for approximately 100 tribal officers.

b. Would section 201 of the BADGES for Native Communities Act allow OJS to conduct law enforcement personnel background checks for Tribal law enforcement, when requested to do so by Tribes, using the new in-house demonstration authority?

Response: No, the general purpose is for “law enforcement positions in the Bureau of Indian Affairs.” See Section 201(a)(1). However, under the Tribal Law & Order Act, if a tribal law enforcement program operating under a P.L. 93-638 contract or self-governance compact requests that OJS conduct background investigations for a tribal officer, OJS has 60 days to do so after receiving all required information. Funding for this mandate was not included in TLOA.

Committee Rule Compliance

4. According to Committee Rule 4b, witnesses must submit testimony to the Committee 48 hours before the start of a hearing. Your testimony was received after the deadline. **Please provide the date and time you submitted testimony to the Office of Management and Budget for clearance pursuant to Circular A-19.**

Response: Draft testimony was submitted to the Office of Management and Budget on June 14, 2019 at 11:33 am Eastern Time.

Questions from Sen. Schatz

Question 1: A 2017 Senate Committee on Indian Affairs hearing highlighted the prevalence of child sexual exploitation, including the online trading of child pornography, in communities with close proximity to Native lands or within Native communities. **From your work with human trafficking investigations affecting Indian Country, is there a need to support legislation that works to improve state, local, tribal, and military law enforcement training and tools to further investigate and prosecute child pornography? If so, is the Bureau of Indian Affairs--and the Office of Justice Services specifically-- willing to collaborate with Congress in this effort?**

Response: The Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) has not encountered many child sexual abuse material cases in Indian Country. Most sex crimes against children in Indian Country that we are aware of are cases of hands-on-only sexual abuse or molestation. However, we would like to refer you to Homeland Security Investigations and the Federal Bureau of Investigations for more information on child sexual abuse material investigations. With ever changing crime trends, BIA OJS welcomes any collaboration with Congress and additional training that would enhance the skills of our Special Agents in efforts to identify and prosecute child sexual exploitation cases in Indian Country.

Question 2: A 2017 Government Accountability Office report found that while data on child sexual exploitation is collected by Department of Justice grantee programs, and by the Office of Juvenile Justice and Delinquency Prevention for minors, but the only easily accessible data comes from the National Human Trafficking Hotline. **How can we improve both the data collection and reporting on these crimes, to better help policymakers craft effective solutions?**

Response: BIA OJS recommends enhancing Federal statutes to require all Indian Country law enforcement programs receiving any federal funds to use the same reporting format and submit the same statistical reports to the BIA OJS as prescribed by the OJS Director and as are required of all BIA law enforcement programs. This would assist BIA OJS in standardizing and collecting the required crime statistics from Indian Country law enforcement programs and allow public safety programs to collect adequate crime data to be analyzed so they can identify crime trends and apply resources to address the identified trends. BIA OJS's Indian Country crime data is compiled from the monthly crime statistics submitted to BIA OJS by Tribal law enforcement programs. However, Tribal law enforcement programs often submit incomplete data or none at all. 25 CFR Part 12 requires Tribes to submit the monthly crime data but it has little consequences if they do not.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 11 2019

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

Dear Chairman Murkowski:

Enclosed are responses to the questions received by Mr. James Cason, Associate Deputy Secretary of the Interior, following his December 12, 2017, appearance before your Committee at the hearing regarding the permitting processes at the Department of the Interior and the Federal Energy Regulatory Commission for energy and resource infrastructure projects and opportunities to improve the efficiency, transparency, and accountability of federal decisions for such projects. We apologize for the delay in our response.

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

Sincerely,

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

Enclosure

cc: The Honorable Joe Manchin
Ranking Member

Questions from Chairman Murkowski

Question 1: The tools provided in FAST-41 and being implemented by the Federal Permitting Improvement Steering Council (FPISC) are important, but not all projects are eligible (either because of sector, size or other factors) and/or selected to participate. What types of projects benefit most from the FAST-41 framework, and how do efforts to improve sector specific processes and policies for all projects, whether or not eligible or selected to be “covered,” influence implementation of FAST-41 and permitting process more broadly?

Response: FAST-41 requires the Permitting Council to issue recommendations on eight best practices categories outlined in 42 U.S.C. § 4370m-1(c)(2)(B) for environmental reviews and authorizations common to covered projects, and for the Executive Director to assess agency progress in making improvements consistent with these best practices and compliance with performance schedules. As noted in the FY 2017 Report to Congress on the program, Department of the Interior (DOI) and the Federal Energy Regulatory Commission (FERC) had the highest number of projects covered under FAST-41 in FY 2017, with electricity transmission and interstate natural gas pipelines the most common project types under FAST-41 during that period. As noted in the FY 2017 Report, agencies have shown significant progress implementing recommended best practices and increasing transparency on the permitting dashboard.

Question 2: At what point in the project development process can large projects become “covered project,” what is the role of the agencies and FPISC in determining and ensuring consistency regarding the appropriate timing for a project to be awarded “covered project” status, and is there a difference for projects depending on whether they are subject to a pre-application process?

Response: The agencies and FPISC role is described in the United States Office of Management and Budget and Council on Environmental Quality guidance for FAST-41, issued January 13, 2017. According to the guidance, the reviewing agency may consider whether the proposed project is sufficiently defined in order to determine whether:

- The project is a covered project;
- The sponsor is ready to begin the NEPA phase of project development;
- There is sufficient sponsor leadership attention to the project to help prioritize tasks and assist in any issue resolution; and
- The project is technically and/or financially feasible or is still at an early concept phase.

A project must be sufficiently developed for the project sponsor to submit an Initiation Notice. This will include a description of the project with its general location, an indication of whether the cost will be greater or less than \$200 million, and a statement of their technical and financial capabilities, and Federal financing, environmental reviews, and authorizations anticipated to be required to complete the proposed project.

Questions from Sen. Wyden

Question 1: People in the west have talked for years about the economic consequences on rural families and communities when a new species is added to the Endangered Species List. In Oregon ranchers have worked collaboratively with community leaders, conservationists and a variety of stakeholders to keep the Greater Sage Grouse off of the endangered species list. While Interior has undertaken a review of the sage grouse plans, it seems this creates new opportunity for foreign mining companies and energy developers but puts traditional ranching and recreation activities that support rural communities at great risk. In support of the work of ranchers, farmers, environmentalists, recreationists, and other local stakeholders that spent years working collaboratively with the federal government on sage grouse plans, I have a few questions.

On July 12, 2017, I sent a letter with three colleagues seeking clarification on the Department's process for revisiting the 2015 sage-grouse land management plans. To date, we still have not received a response to that letter. Some of those questions remain relevant, and I would like to renew our request for a response.

- **The sage grouse has been carefully studied, and it is important that conservation actions continue to be based on well-established data. How will the review team incorporate the best available science into the review process?**
- **How will the review team coordinate with the Forest Service and Natural Resources Conservation Service and all affected states?**
- **How will the review team consider the extensive input received from stakeholders?**
- **How and when will you make all of the findings and recommendations from your review available to Congress and to the public? Will there be a formal comment period on Interior's findings?**

Response: The Department recognizes the significant investments states have made to protect Greater Sage-Grouse populations. The Department's response to your letter was sent on September 22, 2017.

Question 2: Further, as BLM reviews the more than 100,000 comments delivered on sage grouse asking that DOI protect the plans and the habitat, is Interior including the habitat protection requirements included in the existing plans when granting leases and permits in habitat?

Response: BLM Guidance published in December 2018 (IM 2018-026) clarifies that the BLM will apply appropriate stipulations and conditions of approval for protection of sage-grouse, in accordance with state plans, to any leases or permits issued in designated habitat.

Question 3: The Bureau of Land Management's National Technical Team, the Fish and Wildlife Service's Conservation Objectives Team, the U.S. Geological Survey's Summary

Report, and the Western Association of Fish and Wildlife Agencies all agree on the key elements of the finalized 2015 sage grouse plans.

With such strong support for the structure of the 2015 plans from the relevant federal science community, explain why major changes to the 2015 plans are being contemplated?

Response: In 2017, governors of seven of the 11 affected sage-grouse states asked the BLM to revisit existing plans for managing sage-grouse habitat and adapt them to better meet the needs of individual states. In response, the BLM proposed range-specific modifications developed in collaboration with governors and state wildlife agency professionals in the seven affected states, as well as other concerned organizations and individuals, largely through the Western Governors Association's Sage-Grouse Task Force. The goal was to better align BLM plans for managing habitat with state plans for conserving the species. The decisions also formalize coordination between the BLM and respective states in applying mitigation measures to approved actions. The decisions received bipartisan support from the governors who sought revisions to the plans that guide conservation of sagebrush steppe habitat on BLM-administered public lands in their respective states.

Question 4: In each step of the review process, it is critical that Interior engage the Bipartisan Sage Grouse Federal-State Recovery Task Force before proposing any changes to the 2015 plans.

Describe in detail Interior's discussions thus far with that task force. If discussions have not yet occurred, please outline your plans for dialog with the task force in the future.

Response: The plan changes were developed in collaboration with Governors, state wildlife managers, and other stakeholders, with the goal to improve management by more appropriately framing threats to the bird across the West and by allowing BLM to consider economic issues at a local scale.

Question 5: On November 11, 2017, the Associated Press reported that "Republican Gov. Matt Mead of Wyoming, Democratic Gov. John Hickenlooper of Colorado and Democratic Gov. Steve Bullock of Montana have expressed concern that altering existing plans could undermine efforts to prevent a (greater sage-grouse) listing."

What specific governors have you spoken with thus far regarding Interior's potential actions to revise the 2015 plans? Please describe specific ways in which Interior and the BLM are incorporating this feedback.

Response: The BLM worked in collaboration with governors and state wildlife agencies in the seven affected states, as well as other concerned organizations and individuals, largely through the Western Governors Association's Sage-Grouse Task Force.

Question 6: In September 2017, Senator Merkley and I wrote to the Secretary of Interior about the Sagebrush in Prisons project, a contract that allows prison inmates to grow sagebrush seed for habitat restoration. We have yet to receive a response to this letter. Fire

on rangeland habitat is one of the key risks for the bird, and yet the administration is withholding funds. I would like to know the process and timeline for ensuring that critical restoration work is occurring on the ground.

Response: The BLM transmitted a response to your letter on December 20, 2017.

Question 7: In November 2017, Senator Merkley and I wrote to the Secretary of Interior about its four decades long partnership with the Oregon Department of Agriculture to control noxious weeds on public lands and waterways. We have yet to receive a response to this letter. The Oregon Department of Agriculture uses strategies like targeted grazing and biological controls and attempts to get in front of invasive weeds that can have devastating effects on public lands and waterways, grazing allotments and adjoining private agriculture lands. If this long-time partnership with the Oregon Department of Agriculture is not a preferred strategy for this administration, I would like to know the strategy for protecting the land from invasive weeds.

Response: The BLM transmitted a response to your letter on January 5, 2018.

Question 8: I am hearing from stakeholders that routine contracts heretofore decided at the state BLM office level are now being reviewed at the Washington Office level, and the review process and decisions are extremely slow. This process seems contrary to the Administration's stated intent of moving decision-making closer to the on-the-ground work.

Can you explain why routine, but very important contracts for range restoration and weed eradication work are being delayed?

Response: The Department is committed to ensuring that practices detailing fiscal responsibility are followed by all our bureaus and offices, across the Department. Such a review provides transparency, reduces duplicative grants, and streamlines processes.

Question 9: Why has DOI been so reluctant and slow to respond to information requests from the public regarding reorganization and staff reassignments?

Response: The Department has responded to numerous questions about the proposed reorganization, including at several Congressional hearings. Information and updates related to the Department's reorganization efforts can be found at <https://www.doi.gov/employees/reorg>.

Question 10: Are DOI scientists free to attend conferences and talk about their work? Do they enjoy the freedoms expressed explicitly in the DOI scientific integrity policy?

Response: As the Department has indicated in response to similar questions, senior staff at the Department have been clear in their strong support of and respect for scientific integrity and the work that our scientists carry out at the Department of the Interior.

Question 11: Have there been any DOI scientific integrity complaints from or to DOI staff since this administration took over? How many? How were they resolved? Will you ensure transparency going forward?

Response: As the Department has indicated in response to similar questions, senior staff at the Department of the Interior have respect for scientific integrity and are strong supporters of the Department's scientists and the work that they carry out at the Department of the Interior. The Department's scientific integrity web page, found here: <https://www.doi.gov/scientificintegrity>, contains a searchable database of summaries of closed matters in which formal complaints alleging scientific misconduct or loss of scientific integrity were filed pursuant to the Department's Scientific and Scholarly Integrity Policy.

Question 12: In June 2016, the Indian Trust Asset Reform Act was signed into law. Several Indian tribes in my state have expressed interest in utilizing the Act's demonstration program (Title II) for forest management activity. When will the Department initiate the demonstration program, or at least initiate formal consultation with tribes about the program?

Response: The Department carried out consultation during 2018, and in October 2018 the Assistant Secretary - Indian Affairs, announced the establishment of the Demonstration Project in a letter to Tribal leaders. The BIA website contains additional information on the program here: <https://www.bia.gov/as-ia/raca/archived-regulatory-efforts/itara-demonstration-project>.

Question from Sen. Stabenow

Question: This summer, I introduced the Great Lakes Aquatic Connectivity and Infrastructure Program Act that establishes a grant program that would be led by the Fish and Wildlife Service and the Department of Transportation. Federal officials would work with their counterparts from Great Lakes states to select grants to help fund local projects that modernize dams and bridges that currently block fish movement. These projects would support robust Great Lakes fisheries, fund needed infrastructure improvements for local communities, and work to prevent invasive species from spreading to new areas of the Great Lakes.

What are your thoughts about this bill and the concept behind it?

Response: The Department and its bureaus continue to play an important role in the health of the Great Lakes ecosystem. Further review of the language, should it be introduced during this Congress, would be necessary before the Department could offer views on the bill.

Questions from Sen. Heinrich

Question 1: Last year I worked very closely with BLM to ensure the update of Onshore Order No. 3 preserved existing surface and downhole commingling approvals for oil and gas production. In addition, the updated Order 3 provided exemptions for certain future approval requests. Commingling is used primarily in the checkerboard areas of the San Juan basin in my state. Can you assure producers in New Mexico that BLM's existing commingling agreements and exemptions for future approval requests will not be impacted by additional changes in Onshore Order 3?

Response: Onshore Order No. 3 has been codified at 43 CFR 3173, published in the *Federal Register* on November 17, 2016. This rule (81 FR 81365) became effective on January 17, 2017. While the Department is currently reviewing 43 CFR 3173, the proposed rule is not intended to impact existing commingling agreements and exemptions for future approval requests. Any potential changes will be published in the *Federal Register*, when the public will have the opportunity to review and comment.

Question 2: In 2014, Congress made improvements to sec. 365 of the Energy Policy Act of 2005 to provide additional resources to seven of BLM's busiest field offices to hire and support sufficient staff to meet current demands. Subsection 365(e) requires BLM to report to Congress annually on the allocation of the additional funds among the seven Project offices and the accomplishments of each office. The BLM has yet to submit a report as required by law. What is the status of the first required report and when will it be submitted to Congress?

Response: The reports are in development and will be submitted to Congress once they are complete.

Questions from Sen. Hirono

Question 1: In your testimony you note how the Department is following suit with Executive Order 13807, which highlights the costs to American households resulting from the poor condition of America's infrastructure, by focusing on streamlining environmental reviews and permitting authorizations.

The Governmental Accountability Office published a report this fall indicating that climate change has cost the federal government \$350 billion.

Will the Department's time and page number limitations for environmental impact statements and environmental assessments obstruct a complete evaluation of impacts, such as those related to climate change, and result in increased costs to American taxpayers?

Response: The primary goal of the order is to streamline the Department's environmental reviews while continuing to meet or exceed the National Environmental Policy Act requirements for informed decision making and public participation in environmental impact statements and environmental assessments. The Department's own NEPA regulations at 43 C.F.R. 46.240 direct the bureaus to set time limits. The order does not set arbitrary limits. Instead, it establishes a process to secure a waiver for any EIS that will exceed either the time completion goal or page goal.

The Department has created a dedicated management team, established a standard and streamlined NEPA document clearance process, standardized internal procedures for bureaus working as cooperating agencies, and established an internal tracking database to monitor compliance and progress. And progress has been significant: since 2017, the average number of days from Notice of Intent to Record of Decision dropped over 79 percent, and the target completion time for Environmental Impact Statements has dropped from more than 2 years, to a time frame of between 1 and 2 years. This streamlined process helps lower energy costs, create jobs, and keep our economy strong.

Question 2: In your testimony you repeatedly refer to the initiatives undertaken by the Department of Interior to advance the President's goal of making the United States 'energy dominant' and how domestic energy production will spur local and regional economic dynamism and job creation.

Yet, just last week the Bureau of Land Management held an oil and gas lease sale for the largest number of tracts ever in the National Petroleum Reserve in Alaska and only received bids for less than one percent of the acreage offered.

How will the Department of Interior's initiatives change if future oil and gas lease sales draw similar interest?

Response: The U.S. energy outlook remains strong. FY 2018 included record breaking bids that shattered prior records in onshore oil and gas and offshore wind energy lease sales. For example,

the BLM's third-quarter 2018 oil and gas lease sale in New Mexico broke all previous records by grossing nearly \$1 billion in bonus bids for 142 parcels.

Question 3: I understand that renewable energy projects sometimes suffer from a longer permitting process due to the projects including the use of newer technology.

How many people within the Department of Interior are currently tasked with reviewing renewable energy-related infrastructure permitting? How does that compare to the number of people tasked with reviewing fossil fuel-related infrastructure permitting?

Response: Renewable energy projects are subject to a robust permitting process and compliance with the NEPA, as are oil, natural gas, and coal projects, and the size, scale, and complexity of the programs impact the number of FTEs assigned to each program.

Questions from Sen.Cortez Masto

Question 1: In your testimony, you reference three executive orders and one secretarial order which encourage energy production on federal lands, orders which pay particular attention to the oil and gas industry. You also allude to efforts at the Departmental level on mining. In each case, these orders and actions are focused upon a particular special interest or industry. However, last week, Secretary Zinke appeared on Fox & Friends where he argued that President Trump's rollbacks of environmental protections in Utah were aimed at taking land back from special interests.

Are the oil and gas industry or the uranium mining industry not considered special interests by the Department? What constitutes a special interest?

Response: The Department and its bureaus work to strike the right balance between development and conservation of America's resources to advance important national objectives. This includes ensuring targeted investments and actions are taken in order to advance domestic energy security, enhance public access to public lands, and strengthen our state and local economies.

Question 2: How is Secretary Zinke's effort to reorganize the Department conducive to the Department's parallel effort to streamline permitting processes? How does this not create confusion or duplication? Would you provide an update on where this reorganization effort stands?

Response: As the Department has indicated in response to similar questions, the reorganization will create mechanisms within the Department to streamline communications and inter-bureau decision-making at the local level. Organizing the Department's bureaus within common geographic areas will allow for more integrated and better coordinated decision-making across bureaus and help streamline operations.

Question 3: On August 31, Secretary Zinke issued Secretarial Order 3355 to streamline NEPA processes throughout the Department. One of the directives is to limit an Environmental Impact statement to "150 pages or 300 pages for unusually complex projects, excluding appendices." It also directs the leading agency to complete each Final EIS within 1 year from the issuance of a Notice of Intent to prepare an EIS. Timelines exceeding the one-year limit by more than three months must be approved by the Assistant Secretary with responsibility for that matter.

- Does the Department intend to limit the amount of factual information included to fit this requirement?
- Doesn't limiting the length of the EIS just move all the necessary information to the size-unlimited appendices?
- Was there a scientific rationale for how these sizes were chosen?
- Is there an expectation of what kind of project constitutes a regular project that could fit within a 150-page EIS, and one that would necessitate an extra 150 pages?

Response: The primary goal of the order is to streamline the Department's environmental reviews while continuing to meet or exceed the National Environmental Policy Act requirements for informed decision making and public participation in environmental impact statements and environmental assessments. The Department's own NEPA regulations at 43 C.F.R. 46.240 direct the bureaus to set time limits. The order does not set arbitrary limits. Instead, it establishes a process to secure a waiver for any EIS that will exceed either the time completion goal or page goal.

The Department has created a dedicated management team, established a standard and streamlined NEPA document clearance process, standardized internal procedures for bureaus working as cooperating agencies, and established an internal tracking database to monitor compliance and progress. And progress has been significant: since 2017, the average number of days from Notice of Intent to Record of Decision dropped over 79 percent, and the target completion time for Environmental Impact Statements has dropped from more than 2 years, to a time frame of between 1 and 2 years. This streamlined process helps lower energy costs, create jobs, and keep our economy strong.

Question 4: The House Natural Resources Committee recently held a hearing on environmental regulation reform where they heard from a 27-year veteran of CEQ who testified that two of the greatest reasons that cause delays in NEPA reviews deal with capacity within agencies – lack of staff with responsibility for NEPA implementation and lack of NEPA review training.

- What has the Department done to increase the level of NEPA training?
- Wouldn't this increase accuracy and project review timelines?
- If Secretary Zinke follows through with his plan to reduce the size of BLM by 4000 employees, what contingency plans are in place to ensure staff are properly trained in performing NEPA reviews?

Response: The Department has created a dedicated management team, established a standard and streamlined NEPA document clearance process, standardized internal procedures for bureaus working as cooperating agencies, and established an internal tracking database to monitor compliance and progress, with indications of significant progress.

Question 5: Secretary Zinke's report outlining policies and regulations it says should be repealed or reformed because they hinder domestic energy production recommends reviewing regulations that currently allow external parties to file protests with agency actions (pertaining to lease sales). It sounds like the Department is clearly saying it's against what it sees as unnecessary litigation.

In regards to Gold Butte National Monument, the Secretary has recommended cutting a portion of the boundaries to satisfy some local water access concerns that some legal experts believe this situation could be best resolved with assurances in a forthcoming management plan, leaving the boundaries intact, and sidestepping litigation. Understanding that the Department is averse to litigation, why wouldn't the Department go this easier route?

Response: Former Secretary Zinke evaluated comments and, in certain instances, visited monuments as he prepared his recommendations for the President, which were made public on December 5, 2017. Final action and authority on national monuments rests solely with the President.

Question 6: In regards to publishing Notices of Intent to the Federal Register, my understanding is that it is now mandated to go through the DC office, rather than through BLM state offices. I am curious what you and the Secretary feel on this matter and whether state offices should have that authority instead.

Response: The primary goal of the order is to streamline the Department's environmental reviews while continuing to meet or exceed the National Environmental Policy Act requirements for informed decision making and public participation in environmental impact statements and environmental assessments. The Department's own NEPA regulations at 43 C.F.R. 46.240 direct the bureaus to set time limits. The order does not set arbitrary limits. Instead, it establishes a process to secure a waiver for any EIS that will exceed either the time completion goal or page goal.

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Question 7: The BLM has sent a request to the U.S. Forest Service to determine whether 54,000 acres in the Ruby Mountains in Nevada are suitable for oil and gas leasing. This request is opposed by state-based environmentalists, hunters, anglers, and tribes. This area also serves as a critical habitat for the Lahontan cutthroat trout, which is Nevada's state fish. Can you tell me why the agency sent the request, and who originally submitted and supported the request?

Response: The U.S. Forest Service (FS) has approval authority for the surface use portion of Federal oil and gas operations. We understand that the FS recently made a decision to make 52,533 acres of Forest Service land within the Ruby Mountain Range unavailable for oil and gas development.

Question 8: Please provide me with an up to date list of all the energy related projects for which the Department/the Commission has received an application for a permit of any kind in the State of Nevada. I'm particularly interested in the status of all transmission or related facilities and projects that will increase the growth of a viable and competitive electricity market in the West that will benefit Nevada's consumers AND provide opportunities for Nevada's clean renewable energy to be exported.

Response: Information about energy related projects can be obtained through the BLM's ePlanning website, which contains a searchable web portal providing online review of BLM planning and implementation projects. The ePlanning search tool can be accessed at the following url: <https://eplanning.blm.gov>.

Question 9: The Administration's Climate Science Report released last month projects some very serious changes coming to the United States and particularly to the West due to man-made greenhouse gas emissions. These changes in weather patterns, drought cycles, the hydrological regime, sea level, wildlife habitats, etc. are going to have a significant impact on infrastructure and energy projects that have long-use periods.

How are these risks - to the users of these infrastructure components and to their public investors - being factored into the permitting processes? How are your agencies utilizing the Climate Change Report's findings?

Response: The Department's role is to follow the law in carrying out our responsibilities using the best science. We do evaluate the climate impacts of proposed actions. We also recognize that the science indicates there is uncertainty in projecting future climate conditions and USGS scientists have indicated that there is no "best" climate model, that each has its strengths and weaknesses. Secretary Order 3369, issued last September, is intended to ensure that the Department bases its decisions on the best available science and provides the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.

Question 10: The Obama Administration created the Interagency Rapid Response Team for Transmission (RRTT), which aimed to improve the overall quality and timeliness of electric transmission infrastructure permitting and review by the Federal government on both Federal and non-Federal lands. Interior and FERC were both participating agencies.

The current Administration's actions seem to be going to great lengths to rescind or rewrite existing regulations that are deemed to be over-burdensome, too costly, or duplicitous. However, the RRTT seemed to create a more efficient system within the existing requirements.

What is the status of the RRTT? Has it been eliminated? If so, how would the creation (and then elimination) of the RRTT, followed by the Trump Administration's Executive Orders to eliminate regulatory hurdles not actually be duplicitous and cause confusion for permit applicants?

Response: The Department is continuing to prioritize electricity reliability, particularly as it relates to corridors designated on Federal lands through Section 368 of the Energy Policy Act of 2005.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 11 2019

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

Dear Chairman Huffman:

Enclosed are responses prepared by the U.S. Fish and Wildlife Service to questions submitted following the Subcommittee's May 21, 2019, hearing on "Examining the President's Fiscal Year 2020 Budget Proposal for the National Oceanic and Atmospheric Administration and U.S. Fish and Wildlife Service.

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

Sincerely,

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

Enclosure

cc: The Honorable Tom McClintock
Ranking Member

Committee on Natural Resources
Subcommittee on Water, Oceans, and Wildlife
Oversight Hearing
1324 Longworth House Office Building
May 21, 2019
3:00 pm

Oversight hearing entitled, "Examining the President's Fiscal Year 2020 Budget Proposal for the National Oceanic and Atmospheric Administration and U.S. Fish and Wildlife Service."

Questions from Rep. Huffman:

1. There are 19 memos from the Fish and Wildlife Service (FWS) regarding oil and gas drilling on the coastal plain of the Arctic National Wildlife Refuge. The cover memo, "Priority Information Needs for the Arctic National Wildlife Refuge 1002 Area," notes that additional information on polar bears and 10 priority studies are needed.

- a) **Have any of these studies been completed? If so, when? Please provide any completed studies as referenced in the above FWS memos.**

Response: These are shared research priorities with U.S. Geological Survey, the agency with primary responsibility for scientific research of Polar Bears. The pilot forward-looking infrared survey for polar bear den detection, "Aerial Infrared Detection Survey for Polar Bear Maternal Dens in the Coastal Plain of the Arctic National Wildlife Refuge, Alaska", was completed as planned in February 2018 and the report is attached. Other studies and field research are ongoing.

- b) **There is nothing in the FY20 Interior Budget that is allocated towards these studies, despite the need for roughly \$2.7 million for the polar bear study and \$1.25 million for the other studies, according to the FWS memos. How much of the Department's FY20 budget will be used for the studies that are yet to be completed, and that are still needed to meet regulatory requirements, for the BLM-led EIS for the 1002 Area in the Arctic National Wildlife Refuge?**

Response: Depending on final enacted FY 2020 congressional appropriations, FWS anticipates continuing to dedicate \$1.2 million to research needs in the 1002 Area, as was accomplished in FY 2018 and FY 2019, when FWS dedicated \$1.2 million for research needs for oil and gas development in the 1002 Area of the Arctic National Wildlife Refuge.

- c) **Did you review these memos? Who in the Department outside of the Fish and Wildlife Service was aware of the existence of these memos? Were these memos sent to anyone in the Department outside the Fish and Wildlife Service? If so, who and when?**

Response: I had not joined the Department by that time. This memo was drafted by career staff at the request of Department leadership to inform decision-making and budget priorities considering the new Congressional mandate to conduct lease sales in the Coastal Plain of the Arctic Refuge. The Department prioritized science requirements to support future NEPA, ESA, and MMPA related work in and around the Coastal Plain.

2. It is my understanding that the 19 FWS memos were not released under Freedom of Information Act requests regarding efforts to drill in the Arctic National Wildlife Refuge.
 - **Can you confirm that these were not released?**
 - **Can you confirm that these were also not listed as being withheld from the FOIA requests?**
 - **Was Department leadership aware that these memos were not released?**
 - **If these were not released nor listed as being withheld, please provide documentation for the decision as to why these memos were not released under FOIA.**

Response: FWS has and will continue to adhere to all statutory FOIA obligations as they pertain to this and other matters. FWS has received multiple FOIA requests over the last two years on the Arctic National Wildlife Refuge. Many of those FOIA requests are still ongoing due to the fact that they are large in scope, and documents for those requests are being processed in chronological order. The 19 memos referenced have not yet been processed as part of those larger FOIA requests, but any responsive documents will be released in compliance with FOIA when the process is completed. FWS also received other FOIA requests that are narrower in scope, have been completed, and under which these documents were released in compliance with FOIA.

3. **Can you provide details on how FWS will incorporate feedback from the peer reviews of the Central Valley Project and State Water Project biological opinion?**

Response: FWS is committed to using the best available science to inform its biological opinion. On April 12, 2019, FWS worked with a contractor to send portions of its draft biological opinion for the long-term operation of the Central Valley Project and State Water Project to three individuals with known expertise on Delta smelt for peer review. Responses from these individuals were received in late April. Our scientists have reviewed the input received from each of the peer reviewers and the underlying science supporting their assessments. We incorporated the input from the peer reviewers and revised the analyses, as appropriate, into the biological opinion, which the Bureau of Reclamation is expected to release soon.

4. There is much talk in recent years regarding the need to invest in infrastructure to support economic growth and development. Large-scale, multi-species Habitat Conservation Plans (HCPs)—implemented under Section 10 of the Endangered Species Act (ESA) and funded in part through Section 6 grants—have a proven track record of success in resolving conflicts between endangered species and economic and infrastructure development. These plans also exemplify cooperative federalism through partnership with states in natural resource conservation, and through acknowledging the land use

authority of local governments. Large-scale, multi-species HCPs facilitate efficient permitting under the ESA. However, in many places, development also requires permitting under the Clean Water Act (CWA). If every project covered by an HCP must go through a separate federal permitting process under the CWA, the permitting efficiency of HCPs--and therefore the incentive for local governments to prepare them--can both be significantly diminished.

- a) **What will FWS commit to doing to increase the capacity of the agency to support development of these plans in collaboration with non-federal partners? Will FWS commit to increased support—in terms of both funding and staff capacity--for collaborative conservation partnerships, including large-scale, multi-species HCPs?**

Response: FWS agrees with the value of large-scale, multi-species HCPs for reconciling endangered species conservation and economic development needs, and, within existing resources, FWS is already prioritizing our work in support of developing and permitting HCPs for those that are large-scale and multi-species in scope. The President's FY 2020 budget requests an increase of \$6.1 million within the Planning and Consultation subactivity for increased staffing to support HCPs, section 7 consultations, and other environmental review efforts.

- b) **Will FWS commit to working with the Army Corps and the Environmental Protection Agency to improve coordination of both planning and permitting under ESA and CWA, in partnership with state and local governments?**

Response: Yes, FWS is committed to continuing our work with federal partners, including the Army Corps of Engineers, the Environmental Protection Agency, and state and local governments to improve the coordination of planning and permitting under the ESA and CWA.

Questions from Rep. Case:

1. As isolated islands in the middle of the Pacific Ocean, Hawai'i has one of the highest numbers and rates of endemic species in the world. The introduction of exotic species over the last few centuries, diseases, overdevelopment and now the real effects of climate change have taken a devastating toll on native flora and fauna. Any delay of grant funding from the Fish and Wildlife Service can be devastating to protection efforts.

For example, Hawai'i is at risk of losing its native snail species due to the increased range of predator snails. A delay in funding at this point could lead to irreversible damage or extinction of this critical species.

A primary source of federal assistance under the Endangered Species Act is the Traditional Conservation Grant Funds Program. The State of Hawai'i has two non-traditional Section 6 grant extension requests that went to the Department of Interior for signature in August 2018 and have not yet been approved and released. I have been told that changes to the Department of the Interior's grant processes may be a factor in the delay.

Please (1) summarize the new grant review process and funding decision criteria and (2) answer the following questions:

- a) **When should the State of Hawai'i expect the release of funding for its two non-traditional Section 6 grant extension requests submitted to the Department of the Interior in August 2018?**

Response: The extensions were approved on February 27, 2019, allowing the State of Hawaii to continue using funds released to them during previous fiscal years.

- b) **What steps is the Department of Interior taking to address any delay in the releasing of federal funding for these critical projects?**

Response: The responsibility for approving grant requests and extension requests related to non-traditional Section 6 grants is with the FWS Ecological Services program. The Ecological Services program strives to approve requests in a timely manner, however discussions of rescissions of prior year Section 6 funds caused delays in processing recent requests.

- c) **Why did the Department of Interior change its approval process for all grants over \$50,000?**

Response: The Department is committed to appropriately administering a grant and cooperative agreement program that distributes over \$5.5 billion of taxpayer money each year. The Department's review of financial assistance programs included examination of 83 audits by the Department's Inspector General (IG) over the last 5 years which

illustrated questionable disbursements of over \$88 million. The IG also made 419 recommendations for corrective action.

In addition to the audits, numerous IG investigations were conducted revealing waste, fraud, and abuse, including lack of a competitive process, conflict of interest, lack of adequate processes involving acquired Federal interests in lands through financial assistance, and financial irregularities. Furthermore, we found there was no Department-wide process in place to manage these awards. As stewards of taxpayer resources, we found the status quo to be wholly unacceptable.

d) To what extent did the Department of Interior considered how this new process could lead to additional paperwork and administration burdens on grantees?

Response: With an eye on establishing a reasonable path forward – although minimum thresholds for review were initially set – the process for review is an evolving one. The guidance provides that the review process may be modified to address particular programs. We are striving to better manage the risks associated with awards of taxpayer moneys to third parties. We are regularly adapting our process to strengthen grants review, and reduce paperwork, while still protecting the public interest.

e) To what extent did the Department consider if the process might encourage grantees to request funds below the \$50,000 threshold instead of requesting a larger grant?

Response: The Department has a responsibility to manage the public's fiscal resources appropriately. We are regularly adapting our process, in accordance with all applicable laws, to strengthen grants review and reduce paperwork, while still protecting the public interest.

f) How long does it take the department to process Section 6 grant extension requests today compared to before June 2018 when the approval process changed?

Response: The Department does not process requests to extend the period of performance of financial assistance awards. The Ecological Services program strives to process grant extension requests in a timely manner.

Questions from Rep. Sablan:

- 1. The Draft Management Plan for the Marianas Trench National Monument was required under Executive Order 8335 to be completed by January 6, 2011, which was 8.5 years ago for those of us who are counting. I asked this question at last year's hearing and in a QFR was told that the draft was being revised subsequent to submerged land conveyance completed three years ago and will be issued when that work is completed. Can you simply inform us if we will ever see the draft management plan and when that might be?**

Response: To date, a number of steps have been taken to address or resolve important outstanding issues between FWS and NOAA - National Marine Fisheries Service (NMFS) to complete work on the Marianas Trench Marine National Monument draft Monument Management Plan and associated documents. Currently, both agencies are revising the draft Plan and associated Environmental Assessment for the Monument. Once the internal processes are completed and all issues addressed, FWS and NMFS will coordinate input from the Commonwealth of the Northern Mariana Islands (CNMI) before preparing a final draft Monument Management Plan for public review and comment. The anticipated timeframe for coordination with the CNMI is late summer 2019.

Questions from Rep. Rob Bishop:

1. **You note the President's budget includes a request for \$509.5 million to administer the Refuge System. Included within that request is \$146 million for maintenance backlog. Can you reiterate the importance of maintaining the refuge system for sportsmen's and visitor access?**

Response: FWS manages 567 national wildlife refuges and 38 wetland management districts and operates 70 national fish hatcheries, seven fish technology centers, and nine fish health centers. FWS is responsible for over \$46 billion in constructed real property assets that include over 25,000 structures (e.g., buildings and water management structures) as well as over 14,000 miles of roads and bridges. The estimated total deferred maintenance backlog for FWS facilities is \$1.3 billion.

National wildlife refuges are a hub for outdoor recreation and conservation and are valued destinations for local residents as well as visitors. Every state and territory has wildlife refuges, and over 55 million people visit FWS refuges and hatcheries each year. They are places where families go on a weekend day to spend quality time outdoors, through activities such as hunting, fishing, and birding. FWS lands generate over \$2 billion for local economies and support tens of thousands of private-sector jobs.

As crown jewels of our public lands, FWS will continue to focus appropriations on the infrastructure and public works of these important places to ensure the public has welcoming, safe, and reliable hunting, fishing and other wildlife-dependent recreational access on their public lands.

2. **Have deferred maintenance issues caused any closures or loss of access for sportsmen and visitors in the past year in any of our nation's refuges?**

Response: Providing access to quality wildlife dependent recreation is one of the primary purposes of the National Wildlife Refuge System. More than 55 million people per year visit national wildlife refuges to enjoy many outdoor recreation activities including hunting, fishing, wildlife observation, and photography. Due to this emphasis, Refuge System staff prioritize available deferred maintenance funding to ensure outdoor recreation facilities are safe and accessible for visitors. Each year, the Refuge System invests a minimum of 60 percent of its deferred maintenance budget on projects that support outdoor recreation and wildlife habitat.

While FWS tries to mitigate impacts to the visiting public, maintenance issues have caused closures and loss of access in the past year.

3. **What role do sportsmen play in the local economies locate near America's refuges? How important to the Service is it that America's refuges remain open for sportsmen to pursue their outdoor passions freely and with access?**

Response: American sportsmen and sportswomen are the backbone of the North American Model of Wildlife Conservation that is admired around the globe. The 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, indicated that 101.6 million Americans, 38 percent of the U.S. population 16 years old and older, enjoyed some form of fishing, hunting, or wildlife-associated recreation. The report also noted that outdoor recreation is a huge contributor to our Nation's economy, spurring annual expenditures estimated at \$156.3 billion. This spending creates thousands of jobs, supports countless local communities and their economies, and provides vital funding for conservation.

The National Wildlife Refuge System plays an essential role in providing outdoor recreation opportunities to the American public and the associated economic benefits to local communities. In FY 2018, over 55 million visitors to National Wildlife Refuges hunted, fished, observed or photographed wildlife, or participated in environmental education or interpretation on a refuge. The most popular visitor activities were use of our trails, wildlife auto tour routes, and wildlife observation programs. These activities help National Wildlife Refuges serve as an economic engine for local communities, supporting 37,000 jobs and \$2.4 billion annually in visitor expenditures, according to the FWS's latest Banking on Nature report, published in 2013.

- 4. Former Secretary of the Interior Zinke issued an executive order to expand hunting and fishing opportunities wherever possible across the Refuge system. Is FWS continuing this crucial directive under current Secretary Bernhardt? What gains have been made recently?**

Response: Yes, FWS is continuing these crucial directives; in response to Secretarial Orders (S.O.) 3347 and 3356, the Service is engaging in efforts to assess FWS's hunting and sport fishing regulatory alignment to State regulations, and to identify opportunities to increase access for hunters and anglers. A web-based tool called the FWS's Hunt/Fish Opportunity Tool (SHOT) was developed, and a team of Regional Chiefs of Hunting and Fishing are assessing all FWS lands and waters for regulatory alignment to State hunting and fishing regulations. As part of the 2018-2019 station-specific final rule, which published in the Code of Federal Regulations on September 10, 2018, thirty refuges opened or expanded opportunities for hunters and anglers on 251,000 acres of the Refuge System. As assessments are completed in 2019, this data will support further proposals to increase access for hunters and anglers for the 2019-2020 station-specific rule.

- 5. Regarding ESA, last week Director Brian Nesvik of Wyoming Fish & Game Department testified before this subcommittee on the need to delist the Greater Yellowstone Ecosystem (GYE) Grizzly bear population. The Director was testifying against a bill, H.R. 2532, introduced by the Chairman of this Committee, Mr. Grijalva that would create additional protections for grizzly bear populations that have been fully recovered under ESA. What is the current position of the Service regarding the GYE grizzly population's recovery status? (answer: according to USFWS, it's fully recovered)**

Response: FWS stands behind our finding that the Greater Yellowstone Ecosystem grizzly bear is biologically recovered and no longer requires protection under the ESA.

6. **Does the Service have a formal position on the Chairman's legislation, H.R. 2532, "Tribal Heritage and Grizzly Bear Protection Act"?**

Response: FWS does not have a position on H.R. 2532, "Tribal Heritage and Grizzly Bear Protection Act".

7. **Can you describe the role the US FWS plays in helping states and tribes work to recover species listed under the ESA? Is the management role of the Service, in your opinion, designed to be one of a permanent nature under the ESA?**

Response: The ultimate goal of the ESA is to recover species to the point where they no longer require protections of the Act and can be returned to state and tribal management. FWS pursues the goals of the ESA knowing that the federal government cannot successfully achieve these goals on our own, and must work collaboratively with states, tribes, landowners, and other partners. FWS partners with states and tribes in recovery using a number of tools including, but not limited to, Cooperative Endangered Species Conservation Fund grants, cooperative agreements for species management under Section 6 of the ESA, Habitat Conservation Plans, Candidate Conservation Agreements with Assurances, and State and Tribal Wildlife Grants.

8. **How important is the role of states and tribes in resource management once a species is fully recovered under ESA?**

Response: States and tribes are critical to the ongoing management of recovered species. Once a species is delisted due to recovery under the ESA, management of that species returns to the states and tribes.

9. **You note the Service has requested \$95 million dedicated to the recovery of species listed under ESA and an additional \$26.4 million for conservation and restoration activities that can help keep at-risk species off the threatened and endangered list. Does the Service have an estimate of how much money it spends on the Greater Yellowstone Ecosystem Grizzly population, despite its own conclusion that the GYE population is fully recovered?**

Response: FWS contributes approximately \$557,000 per year toward Greater Yellowstone Ecosystem Grizzly Bear recovery efforts.

10. **What other species has the Service recommended be delisted yet are still currently listed?**

Response: There are currently twenty-seven species that are recommended for delisting due to recovery that remain protected under the ESA. Of those, FWS has published proposed delisting rules for nine. FWS recently published a revised national work plan to

address all outstanding delisting and downlisting recommendations in the next three fiscal years. The work plan can be found here: https://www.fws.gov/endangered/esa-library/pdf/3-Year_Downlisting_Delisting_Workplan.pdf.

11. What is the total estimate of funding the Service expends on those species that have been recommended for delisting?

Response: FWS reports on federal and state expenditures, including those of FWS, for all species listed as Threatened or Endangered under the ESA for a given year. These reports are available at: <https://www.fws.gov/endangered/esa-library/index.html#expenditure>

12. How many species that have been deemed recovered under ESA have been relisted because of backsliding in the species' population under state management?

Response: We are not aware of a species that has been deemed recovered under the ESA that has been relisted later due to reduced populations under state management.

Questions from Rep. González-Colón:

1. **How does the FY 2020 budget request seek to address the Fish and Wildlife Service's deferred maintenance backlog, particularly across national wildlife refuges?**

Response: The FWS deferred maintenance totals \$1.3 billion. The maintenance backlog includes \$280 million for roads, bridges and trails; \$311 million for water management and habitat structures; nearly \$355 million in hatcheries, boat docks, fishing piers, recreational sites and other public use infrastructure; and nearly \$355 million for visitor centers, offices, housing and historic structures.

For FY 2020, FWS has requested \$45,991,000 for deferred maintenance activities across the National Wildlife Refuge System. This request will allow FWS to complete about 135 of the highest priority deferred maintenance projects, which will generate an estimated \$143 million and 841 jobs in local and state economies and provide opportunities for public-private partnerships. This funding will also allow FWS to invest in infrastructure projects to reduce or proactively address deferred maintenance and operational costs, ultimately saving taxpayer dollars. Improved infrastructure provides safe and reliable outdoor recreational access for the American public.

In addition, the Administration has proposed a Public Lands Infrastructure Fund that would help address the FWS and other agencies' deferred maintenance backlogs. The Departments of the Interior and Agriculture manage an infrastructure asset portfolio with over \$18 billion in deferred maintenance, which includes structures, trails, roads, utility systems, and Bureau of Indian Education (BIE) schools. To address these needs, the FY 2020 budget includes \$6.5 billion over 5 years for a Public Lands Infrastructure Fund. The Fund will support infrastructure improvements through an allocation of 70 percent for national parks, 10 percent for national forests, 10 percent for wildlife refuges, five percent for BIE schools, and five percent for lands managed by the Bureau of Land Management. The Fund will be supported by the deposit of 50 percent of all Federal energy development revenue that would otherwise be credited or deposited as miscellaneous receipts to the Treasury over the 2020–2024 period, subject to an annual limit of \$1.3 billion. The Departments of the Interior and Agriculture would prioritize projects, monitor implementation, and measure results. This investment will significantly improve many of America's most visible, visited, and treasured places.

2. **What actions have been taken to date to address the maintenance backlog in Puerto Rico, particularly after the 2017 hurricanes?**

Response: FWS is investing \$25.8 million in funding from the FY 2018 Supplemental Appropriations to address hurricane-related damages to equipment real property. We are ensuring all repairs and replacements made to damaged infrastructure incorporate hardening components to minimize damages during future storm events. In FY 2018 and FY 2019, FWS also invested more than \$2.65 million of Deferred Maintenance funding in Puerto Rico including replacement of a bridge at Laguna Cartagena NWR, fencing and

utility lines at Vieques NWR, and repairs to buildings at Cabo Rojo NWR and Culebra NWR.

3. As you know, the U.S. Fish and Wildlife Service administers 5 National Wildlife Refuges in Puerto Rico: the Desecheo, Laguna Cartagena, Cabo Rojo, Culebra, and Vieques National Wildlife Refuges.

Addressing the National Wildlife Refuge System's deferred maintenance backlog is particularly important to the island-municipalities of Vieques and Culebra.

The Vieques National Wildlife Refuge is a former U.S. Navy Weapons Training Base that was actively used for more than 60 years. When the US Navy left the island of Vieques in the early 2000s, thousands of unexploded ordinance (UXO), munition related debris, and several dump sites were left behind. The Navy has been conducting environmental cleanup efforts ever since. Although much progress has been made, a major portion of the eastern refuge is still closed due to the danger of unexploded ordinance and the cleanup process occurring in that area.

In a December 2018 report to Congress, the U.S. Department of the Navy stated that land and water cleanup efforts in Vieques would be completed between 2031 and 2032, respectively.

What actions does the Fish and Wildlife Service intend to take to help the Department of Defense and local authorities expedite the cleanup process in Vieques and Culebra, where applicable? What efforts are currently being pursued to ensure the National Wildlife Refuges contribute to the islands' local economies?

Response: FWS, representing the Department of the Interior, is a party to the Federal Facilities Agreement for Vieques National Wildlife Refuge (Vieques) and also participates in interagency teams formed for the clean-up of Culebra National Wildlife Refuge (Culebra). In this role, FWS reviews and comments on related documents, establishes priorities for different areas on Vieques and Culebra, provides the team with land use plans, actively participates in community meetings, and works alongside the Department of Defense and its contractors to ensure that natural resources are protected during the clean-up. A priority for FWS is to open areas for compatible public use while also ensuring public safety. The area of the Berdiales lighthouse on Vieques was opened to the public recently, and it is anticipated that areas on the western part of Vieques will be opened within the next year.

FWS has a stake in the wellbeing of these communities and engages continuously to help them thrive. For example, following Hurricane Maria, Vieques actively assisted the municipality and the Commonwealth in reopening roads and other protected areas, storing equipment, and providing areas for temporary placement of debris. Today, FWS is offering numerous recreational opportunities, including opening for night fishing, and working with local outfitters to allow fishing, kayaking, biking, paddleboarding, and birding tours on and adjacent to the refuges. Prior to Hurricane Maria, at least 30

outfitters had permits to operate their businesses on Vieques. FWS has diligently worked to reopen the refuge following Maria and is assisting outfitters and the community to restart their businesses by guiding them through the process and closely coordinating with the Puerto Rico Tourism Company. FWS also provides job opportunities to youth in Puerto Rico by hiring 30 young people just this year as part of one of the largest Youth Conservation Corps summer programs in the country.

4. According to data from the website of the FEMA Recovery Support Function – Leadership Group, the Fish and Wildlife Service was allocated \$3.1 million for disaster relief efforts in Puerto Rico, specifically for construction.

However, as of March 31st, 2019, only \$1 million had been obligated and less than \$500 thousand had been outlayed or delivered.

Can you discuss the status of disaster relief and rebuilding efforts across the Fish and Wildlife Service’s units in Puerto Rico? Are there any obstacles that have prevented the agency from releasing more of its disaster relief funding intended for Puerto Rico? How can we speed up the process?

Response: FWS was recently provided \$25.8 million from the FY 2018 Supplemental Appropriations to address Hurricane-related damages in Puerto Rico for real property, as well as debris removal and equipment replacement. FWS has been working diligently to ensure that internal accountability procedures are followed and that solicitations are accurate, properly awarded, and properly administered. Initial project planning and acquisition planning for all projects within Puerto Rico has been accomplished with a goal of having all projects under contract by the end of September 2019.

5. **Could your office provide this Committee a breakdown of estimated hurricane damages across the Service’s units in Puerto Rico, including the Puerto Rican Parrot Recovery Program’s Iguaca Aviary and the 5 national wildlife refuges?**

Response: A breakdown of estimated hurricane damages at FWS Puerto Rico field stations is provided below.

<u>Unit</u>	<u>Estimated Damages</u>
<i>Caribbean Ecological Services Field Office</i>	<i>\$950,000</i>
<i>Puerto Rican Parrot Aviaries</i>	<i>\$11,463,000</i>
<i>Cabo Rojo NWR</i>	<i>\$1,026,000</i>
<i>Culebra NWR</i>	<i>\$859,000</i>
<i>Laguna Cartagena NWR</i>	<i>\$49,000</i>
<i>Vieques NWR</i>	<i>\$11,517,000</i>
<i>Total Estimated Hurricane Damages</i>	<i>\$25,864,000</i>

6. Earlier this year, Congress passed a bipartisan lands package that, among other provisions, reauthorized the Multinational Species Conservation Funds (MSCF)

administered by the Fish and Wildlife Service. I am particularly proud that language was included to give the five U.S. territories access to the Marine Turtle Conservation Fund, which only applied to foreign or international organizations.

At least four of the seven species of sea turtles are found in Puerto Rico's waters: the leatherback, the hawksbill, the green turtle, and the loggerhead. As the Island's sole representative in Congress, I am naturally very interested in the success of this program and in ensuring we take all actions to protect these magnificent creatures.

Can you discuss what efforts the Fish and Wildlife Service is currently undertaking to implement the changes to the Marine Turtle Conservation Fund recently enacted into law, including its expansion to include freshwater turtles and the eligibility of U.S. territories?

Is the Service conducting any outreach to pertinent stakeholders across the 5 U.S. territories to raise awareness about these changes and their eligibility to apply for funding under the Marine Turtle Conservation Fund?

Will entities in U.S. territories be eligible to apply for funding from the Marine Turtle Conservation Fund in Fiscal Year 2019?

Response: FWS is implementing changes to the Marine Turtle Conservation Act (MTCA) that were recently enacted into law through the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act). These changes expand the Marine Turtle Conservation Fund (MTCF) to include freshwater turtles and tortoises and make the U.S. territories eligible for funding. The U.S. territories will not be eligible to apply for funding from the MTCF in FY 2019 because FWS posted the FY 2019 Notice of Funding Opportunity (NOFO) prior to the enactment of the Dingell Act. FWS posted the FY 2019 NOFO in September of 2018 in order to accommodate the summer and winter nesting seasons for marine turtles. The FY 2020 NOFO will include language explicitly inviting proposals for freshwater turtle and tortoise conservation, as well as marine turtle applications from U.S. territories. FWS plans to conduct outreach to raise awareness about these changes to the MTCA and the eligibility of the U.S. territories to apply for funding under the MTCF. For example, FWS staff will attend the Turtle Survival Alliance Conference in August 2019 to provide a presentation on the new funding opportunities for the territories as well as freshwater turtles and tortoises.

SUMMARY REPORT

**Aerial Infrared Detection Survey for Polar Bear Maternal Dens
in the Coastal Plain of the Arctic National Wildlife Refuge, Alaska**



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INTRODUCTION

The polar bear (*Ursus maritimus*) is listed as a threatened species under the Endangered Species Act of 1973 and is assumed to occur in 19 relatively distinct subpopulations throughout the Arctic (Aars et al. 2009). One such subpopulation, the South Beaufort Sea (SB) population occurs throughout the northern reaches of the US state of Alaska. Reduction of seasonal sea ice resulting from climate change has been associated with reduced recruitment and fecundity of the SB subpopulation (Rode et al. 2014). In 2016 a listing review was conducted by the U.S. Fish and Wildlife Service as required under the provisions of the 1973 act. They determined that no change was warranted to the listing status of the polar bear, yet drastic circumpolar population declines are expected in all subpopulations before the end of the 21st century (Hunter et al 2010).

For decades the coastal plains (known as the 1002 area) of the Arctic National Wildlife Refuge (ANWR) in northeastern Alaska has been a target for the petroleum industry because it is believed to hold high oil and gas reserves. However, despite pressures from industry leaders, the 1002 area has remained protected from direct industrial process due to the fragile arctic ecosystem and its importance to local wildlife. Nearby Prudhoe Bay is the largest oil field in the United States and has been drilled continuously for more than 50 years (Morgridge and Smith 1972). With many oil and gas companies having established arctic drilling platforms and strategies already in place in Prudhoe Bay, drill platforms could be readily and quickly established in the 1002 area once lease sales are approved.

In late 2017, the United States congress passed a tax bill that allowed for oil and gas exploration within the 1002, effectively dissolving the 40-year-old drilling ban in the area. While no leases have yet been established, quick action is needed to ensure appropriate protection for SB polar bears establishing maternal dens within the 1002. On January 18th, 2018 Owyhee Air Research (OAR) was contracted through a cooperative agreement between the U.S. Geological Survey (USGS) and U.S. Fish and Wildlife Service (USFWS) to conduct aerial infrared (AIR) surveys for maternal polar bear dens in the 1002 area of the ANWR, which provides essential denning habitat for the SB subpopulation of bears. This survey was to be completed prior to spring emergence and a survey terminus date of March 9th, 2018 was set by USFWS Marine Mammal Specialists. The objectives of this survey were:

1. Survey critical portions of the 1002 for active polar bear dens and document all detected hotpots of interest.
2. Develop timely, practical, and measurable survey strategies for the 1002 designed to ensure maximum area coverage and detection rates.
3. Identify high priority areas within the 1002 where seasonal denning is most likely to occur.

METHODS

Owyhee Air's flight crew responsible for conducting this survey met with USFWS regulatory personnel for pre-flight briefing and orientation. Following orientation, OAR and USFWS personnel conducted a survey flight over high probability denning habitat for the purpose of instrument calibration prior to commencing survey operations over the greater coastal plain of the ANWR.

Survey operations of the 1002 commenced on February 18, 2018. The survey was conducted using a Partenavia P-68, lite twin, fixed-wing aircraft equipped with an L3-Wescam MX-10 camera system paired with a dedicated Churchill Navigation ARS computer system. When possible, the survey flights were conducted in the early morning or late afternoon during periods of twilight or darkness. Flights were conducted at an above ground altitude of 1000-1500 feet depending on cloud ceiling. Survey flights were not conducted if weather conditions did not favor IR detection rates (i.e. fog, high winds, blowing snow). Survey flights were only conducted during daylight hours if overcast conditions were present with sufficiently high ceilings to support survey parameters. Additionally, survey flights were not conducted over or directly to the south of Barter Island as per directives from USFWS personnel.

Potential denning habitat maps were obtained from the USFWS and were used to direct survey operations and crew attention during the survey flight. In addition to the potential habitat map, areas of terrain relief conducive to drifting snow were closely observed during the survey flight. OAR surveyed all terrain relief areas and identified possible denning locations within the coastal plain boundary.

RESULTS

Survey flights were conducted over a 10-day period between February 18th and February 28th, 2018. A total of nine (9) hotspots of interest were identified during those flights (Table 1). Of those, six (6) were located within the 1002 (Fig 1). Two of the identified hotspots were further identified by USFWS personnel as likely being fox dens but warrant further examination. Two locations of high probability habitat were identified adjacent to Barter Island during the survey flights. However, neither of these two locations were thoroughly surveyed during the survey period due to persistent poor weather conditions (Figure 2). Weather conditions for each survey flight can be found in Table 2.

DISCUSSION

With the opening of the 1002 to exploration and the fact all industrial construction in the Arctic is conducted in the winter months, it is imperative that an effective and practical means of surveying the area for polar bear dens be established. While a prudent and effective method for den detection, AIR results are not guaranteed to be 100% accurate. Additionally, to the best of

our knowledge, AIR den detection surveys are typically conducted during the month of December when dens are still relatively fresh and surface snow levels have not accumulated greatly over den entrances. This survey was conducted in late February, by which time denning bears have been in their dens for over two full months. In that time, it is possible that blowing snow over the den could build up a sufficient enough surface layer to mask all heat signatures coming from the den. It is our recommendation that survey flights for the 1002 area also be completed in December or early January. Conducting survey operations in December would limit the possibility of heavy snow accumulation over dens and would eliminate confounding effects of daylight on survey parameters as well as simplify flight planning and logistics.

This year, the south Beaufort Sea coast experienced unseasonably high winter temperatures not common to the area. During our survey flight we also detected large overflow areas on river drainages. Due to the emissivity of bare ice, overflow areas in river drainages are intensely bright when viewed in IR. Further, some of the best denning habitat may occur along the banks of these river drainages. It is possible that thermal glare from the overflows obscured some den generated heat signatures along the banks. However, we feel that this source of error is nullified by our survey practices and expertise in filtering out thermal glare by continuously adjusting the IR filter settings, in real time, to accommodate changing surface conditions.

Weather conditions inhibited survey operations by grounding survey personnel for five (5) of the 10 days that were committed to the survey. Additionally, persistent ground fog and low ceilings prohibited OAR from thoroughly surveying two high probability areas adjacent to Barter Island (Figure 2). Despite numerous attempts we were continually forced out of those two areas by rapidly changing weather conditions that were not conducive to survey success or safe flight operations. Further, after consulting with USFWS personnel, OAR terminated survey operations on March 1st, 2018 due to predicted weather patterns rendering continued operations cost prohibitive. A third portion of the 1002 area was not surveyed during the operational period. Per the directives of USFWS personnel, Barter Island and surrounding coastlines, as well as mainland drainages directly to the south of Barter Island were not surveyed (Figure 3). Barter Island and surrounding coast lines are high probability areas for den sites. It may be likely that additional dens are located in those areas. It is our recommendation that future surveys include Barter Island and surrounding coast lines to allow for maximum detection and reduced error in denning population estimates.

One of the primary objectives of this study was to determine the most timely, efficient, and cost-effective means for surveying the 1002 for maternal polar bear dens. As a result, survey parameters were continuously adjusted following each survey flight as more of the area was covered. It was determined following the February 19th flight that representative photographs be taken of each detected hotspot. Of the nine (9) hotspots detected, only two (2) were detected after that date; hot spots 21-1 and 21-2 (Photo 1 and 2 respectively). Future surveys using integrated imaging and computing software should include screen shot images of each detected hotspots as some overlaid imaging data may not be represented in the recorded video footage.

SUPPLEMENTAL MATERIALS

In addition to this report, KML files of all data layers associated with this project are included.

- All detected hotspots over-laid on provided denning habitat.
- Aircraft Track during all survey flights.¹
- Camera View Track during all survey flights.²
- Camera Viewshed.²
- Video footage of the entire flight as well as all audio communications recorded continuously during each flight.¹

¹ Aircraft flight track and video recording for the training flight on the 17th was not saved at the discretion of onboard USFWS personnel.

² Camera tracks and viewshed were not saved for the evening flight conducted on February 28th due to error on the part of the camera operator.

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TABLES

Table 1 Date, Name, Video Time, and geographical coordinates (WGS 84) of all hotspots of interest located during survey flights conducted between Feb 18th and 28th. Important notes or observations for specific detections are also included.

Date	Hotspot	Video Time	Lat	Long	Notes
18-Feb	18-1	0853	70.17545	145.95507	Flaxman Island
18-Feb	18-2	0935	69.97489	146.23589	
18-Feb	18-3	2009	69.82405	144.84955	
18-Feb	18-4	2034	69.89955	144.91192	Fox den
18-Feb	18-5	2154	69.93593	145.68072	
19-Feb	19-1	1132	69.84385	143.74106	
19-Feb	19-2	1150	70.03083	144.28693	Fox Den
					In a drift formed around the shipwreck,
21-Feb	21-1	1856	69.63727	141.25095	landward side.
21-Feb	21-2	1958	69.62714	142.04462	

Table 2 Daily weather conditions as observed from Deadhorse airport for each survey flight

Date	Time	Temp (F)	Wind (MPH)	Visibility	Sky Condition
2/17/2018	1647	12	7	10+	Overcast
2/18/2018	0615	9	9	10+	Partly cloudy
2/18/2018	1705	7	14	10+	Partly cloudy
2/19/2018	0645	14	12	10+	Cloudy - Survey area was fogged in.
2/29/2018	0940	15	10	8	Cloudy - Survey area cleared
2/20/2018	N/A	N/A	N/A	N/A	Weathered out due to blowing snow and ice fog
2/21/2018	1531	20	14	10	Overcast - Morning flight was cancelled due to low ceilings
2/22/2018	N/A	N/A	N/A	N/A	Weathered out due to high winds and blowing snow
2/23/2018	N/A	N/A	N/A	N/A	Weathered out due to high winds and blowing snow
2/24/2018	N/A	N/A	N/A	N/A	Weathered out due to high winds and blowing snow
2/25/2018	N/A	N/A	N/A	N/A	Weathered out due to high winds and blowing snow
2/26/2018 ¹	1304	1	19	5	Overcast
2/27/2018	0925	-5	10	10	Overcast - Flight was cut short due to low ceiling over survey area
2/28/2018	1635	-18	6	5	Clear - Flight was forced short due to fog over the survey area.

¹ At the time of this flight weather conditions over the unsurveyed portions of the 1002 area characterized by low ceilings, too low for effective survey work. This flight was conducted over the western portion of the ANWR, west of the 1002 boundary. It was an industry survey for SAExploration project site, Yukon_3D.

FIGURES

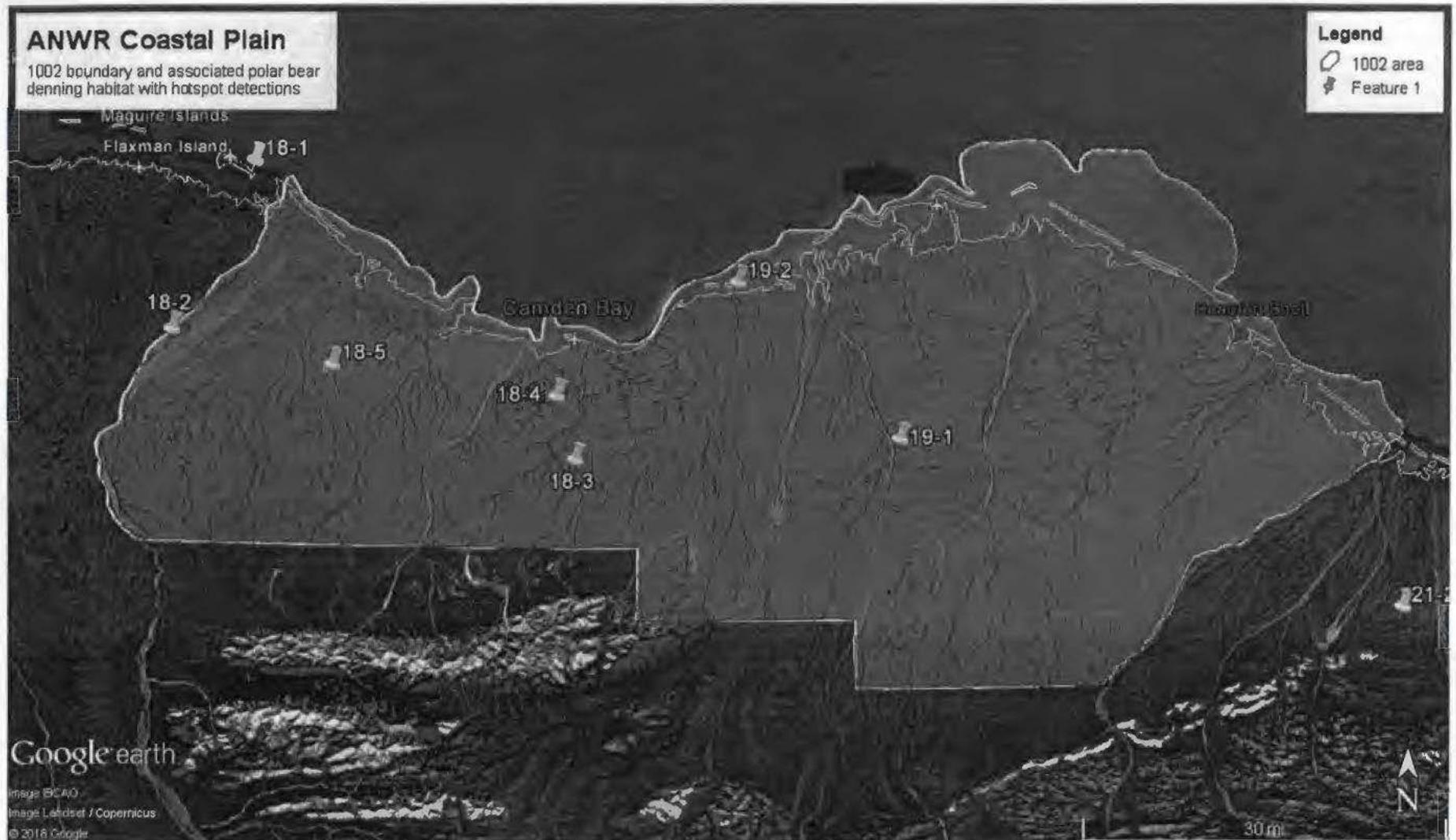


Figure 1 Identified hot spots of interest within the 1002 (white) survey area. Lines of terrain relief showing possible areas of suitable denning habitat is also reflected (red lines).



Figure 2 Areas of high denning potential (white) within the 1002 (transparent white) survey area that were not completely surveyed due to persistent weather conditions that were not conducive to survey success or safety. Multiple survey attempts were made in both areas but were routinely abandoned due to rapidly changing weather conditions.



Figure 3 Area of the 1002 (transparent white) that was not surveyed (purple) as per directives from USFWS personnel. Barter Island and mainland drainages directly south of the island were intentionally avoided to avoid conflict with native inhabitants. Future surveys would benefit from obtaining permission from local inhabitants to conduct surveys around Barter Island.

PHOTOGRAPHS

AGL:1560R TGT N069°38'14.17" W141°15'4.00" EL:0R DIST:0.3M OWYHEE AIR RESEARCH 16:56:17 Wed Feb 21 2018

HAZE OFF 120 NM/h VIDEO SPLIT MAP SAT OFF STREET PARCEL

21 FEB 2018 AUTO DV3 SPA IR 300 DFLT 23.5
 18:56:17 CENT
 TC-7.0

N

-017

128

REC REC

ACFT 69.64190N 061 1559FT
 141.24693W

OFT 0.4NM

OFF NONE
 #1 TGT
 197° 69.63728N
 LOS-141 25.109W

CLEAR
 Distance Direction
 -- M --

[no markers]

Gordon (North Slope Borough, Beaufort Sea)

Photo 1 Hotspot 21-1 detected in a drift along the landward side of a shipwreck approximately 6 miles west of the Canadian Border. Hotspot falls within the ANWR coastal plain but is not inside the 1002 area.



Photo 2 Screenshot of hotspot 21-2 located in the far eastern portion of the ANWR, outside the 1002 boundary. Hotspot was located in a river drainage in a foothill area approximately 13 miles from the coast.

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Marine Debris: Impacts on Ecosystems and Species Hearing
September 19, 2019

Questions for the Record –Fish and Wildlife Service and U.S. Geological Survey

Questions from Chair McCollum

U.S. Fish and Wildlife Service Funding

Marine debris has an economic impact on the American taxpayer, we either address this problem through changes in behavior and consumption, or we expend taxpayer dollars to clean up the pollution.

McCollum Q1: How much does the Fish and Wildlife Service currently spend to clean up and dispose of marine debris? Please provide this information for the last five fiscal years.

- How much staff time is devoted to cleaning up and disposing of marine debris?

Answer: The Service does not track the amount of funding or staff time dedicated to marine debris removal because it is usually associated with other natural resource management activities. In addition, the Service’s Coastal Program provides technical and financial assistance to conservation partners and coastal communities to protect and restore fish and wildlife habitat on public and private lands based on locally-identified priorities, including marine debris cleanup and prevention. Funding for marine debris projects varies, but on average, the Coastal Program completes a marine debris project each year. Costs for past projects ranged from \$30,000 to \$400,000 (including leveraged partner funding) depending on scale and complexity.

- What portion of the Fish and Wildlife Service construction and deferred maintenance allocations are associated with marine debris clean up and disposal?

Answer: The Service does not directly apply deferred maintenance appropriations to clean up and dispose of marine debris, as the intent of deferred maintenance is to correct delayed rehabilitation and repair on real property assets. In prior years, the Service requested funding for marine debris removal under the construction account. Marine debris is often disposed of incidental to projects completed on remote coastal and island stations. In those cases any excess space left on barges, already paid for as a part of a deferred maintenance project, would be utilized to transport marine debris for recycling or disposal.

U.S. Geological Survey Funding

McCollum Q2: How much does the U.S. Geological Survey currently spend on marine debris research? Please provide this information for the last five fiscal years.

Answer: U.S. Geological Survey estimates include work in the Great Lakes and their tributaries.

USGS Estimated Marine Debris Research (\$000)	
2015	\$10
2016	\$14
2017	\$21
2018	\$25
2019	\$60

- How much funding would be required to research the impacts of marine debris on critical food webs?

Answer: The U.S. Geological Survey has not investigated and designed a study to address this research question so no funding estimate is available.

- How much funding would be required to research the main sources of marine debris and what factors drive transport and deposition?

Answer: The U.S. Geological Survey has not investigated and designed a study to address this research question so no funding estimate is available.

What collaboration is required to determine a standard approach for the quantification of marine debris?

Answer: Quantification of marine debris on a large scale to address the research questions above will require collaboration among multiple partners. The USGS would need to form strong partnerships on this topic with federal, state, and local agencies as well as universities and Canadian entities.

Questions from Ms. Pingree

Origin of Plastics

As we have heard at the hearing, more than 8 million tons of plastic enter the ocean each year. This plastic lasts for thousands of years becoming microplastics that stay in our ecosystems. It would be helpful for the Committee to have a better understanding of the sources of this plastic.

Pingree Q1: What do we know about the origin of the plastic in the ocean? Is it coming from the U.S. or other countries, and in what ratio?

Answer: Research suggests that plastic in the oceans originates from just about every country (Eerkes-Medrano et al., 2015, Jambeck et al., 2015, Lebreton et al., 2017). The relative contributions of plastics in the ocean from different countries and river basins have been estimated by Jambeck et al. (2015) and Lebreton et al. (2017), with most of the biggest contributors being in Asia; however, the studies note that there are considerable uncertainties in these estimates.

The USGS has done some research on the occurrences of microplastics in lakes, rivers, streams, and the ocean in localized and regional areas. Previous studies published by researchers in the global research community have estimated that roughly 80 percent of the plastics in the ocean have continental origins and enter the oceans via rivers and streams (dominant pathway), direct wastewater treatment facility discharge, stormwater and agricultural runoff, and atmospheric deposition (Jambeck et al., 2015, Lebreton et al., 2017).

Questions from Mr. Joyce

U.S. Fish and Wildlife Service

The Great Lakes have among the highest densities of microplastics recorded and microfibers make up the majority of microplastics. Research in 2014 found one million plastic particle parts per square mile in Lake Erie, with higher counts in Lake Ontario.

Joyce Q1: Do scientists know why microplastics are found in higher densities in the Great Lakes?

Answer: Rates and sources of plastics entering the Great Lakes are similar to other U.S. areas along the oceans. The higher density of microplastics in the Great Lakes is thought to be due to the limited size and volume of the Great Lakes. The depth of

the water column and area for dispersion are magnitudes larger in the ocean allowing for more dilution (Driedger et al., 2015).¹

The U.S. Fish and Wildlife Service manages several national wildlife refuges in and adjacent to the Great Lakes, including multiple sites on Lake Erie.

Joyce Q2: Is the agency seeing the same level of impacts of marine debris on wildlife at these Great Lakes refuges as it is seeing at its marine refuges?

Answer: We cannot make this comparison, because the number of wildlife/debris interactions is not tracked on National Wildlife Refuges. However, wildlife is equally susceptible to impacts from plastic pollution whether it is present in freshwater lakes and rivers, the Great Lakes, or the oceans. The USGS indicates ingested microplastics can cause digestive and reproductive problems, as well as death, in fish, birds, and other animals.

I understand that the U.S. Fish and Wildlife Service's Coastal Program partners with others to restore and protect coastal habitats for fish and wildlife.

Joyce Q3: Is the Coastal Program shifting its emphasis to address marine debris as the problem grows?

Answer: The Service's Coastal Program provides technical and financial assistance to conservation partners and coastal communities to protect and restore fish and wildlife habitat on public and private lands based on locally-identified priorities. Over the past 10 years, the Service has completed numerous marine debris projects around the country, including marine debris cleanups at Kure Atoll (Northwestern Hawaiian Islands) and Maine coastal islands; removal of debris deposited by Hurricane Katrina in Mississippi; removal of derelict fishing gear in Whatcom County, Washington; and derelict dock removal in San Juan County, Washington. In the future, the Service will continue to work with State and local partners to identify, prioritize, and complete conservation projects, including marine debris cleanup and prevention, based on resources available.

U.S. Geological Survey

U.S. Geological Survey scientists co-authored a study in 2016 on plastic debris in Great Lakes tributaries, including the Ashtabula River and Grand River in my district. Plastic fragments, films, foams, and pellets were positively correlated with urban-related watershed attributes and were found at greater concentrations during runoff-event conditions.

¹ Driedger, A., Durr, H., Mitchell, K., Van Cappellen, P. (2015) 'Plastic debris in the Laurentian Great Lakes: A review'. *Journal of Great Lakes Research*, 41 (1), pp. 9-19.

Joyce Q4: Understanding these correlations, is it reasonable to concentrate clean-up efforts in these urban areas? Are there any proven mechanical methods for collecting these plastics once they are in the tributaries so that they don't get into the lakes?

Answer: Management of plastic debris is likely to be most effective at the original source, and where that is not feasible, using runoff management practices. Common techniques for reduction of contaminants using runoff management practices in urban areas will likely help reduce debris before entering tributaries. Once in a river system, there are no proven techniques to remove plastic debris on a relevant scale. Previous research suggests that atmospheric deposition and land spreading of sewage sludge could be important contributors of plastic fibers in addition to urban sources.