



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY - 3 - 2016

The Honorable Don Young
Chairman
Subcommittee on Indian, Insular
and Alaskan Native Affairs
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Office of Insular Affairs to the questions for the record submitted following the March 22, 2016, oversight hearing on *the President's Fiscal Year 2017 Funding Priorities and Impacts on Indian Country and Insular Affairs*.

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 Raul Ruiz
Ranking Minority Member

Committee on Natural Resources
Subcommittee on Indian, Insular and Alaska Native Affairs
1334 Longworth House Office Building
March 22, 2016
11:00 a.m.

AGENDA

Oversight Hearing on:

“The President’s Fiscal Year 2017 Funding Priorities and Impacts on Indian Country and Insular Areas.”

Questions from the Honorable Madeleine Z. Bordallo

PANEL: (Assistant Secretary Esther Kia’aina) – (Office of Insular Affairs, Department of Interior)

(1) I commend OIA’s efforts to prioritize addressing invasive species in the Pacific region, and support the budget request for additional funding for invasive species. Could you please detail how the proposed funding would be used, and will these efforts specifically address implementation of the Regional Biosecurity Plan for Micronesia and Hawaii?

Response: Given the importance of biosecurity matters in the Pacific region, the Office of Insular Affairs (OIA) continues to support the 2015 Biosecurity Plan for Hawaii and Micronesia and other invasive species efforts. OIA’s Technical Assistance funding supports and bolsters live-trapping and live-baiting of snakes; methods that have proven effective in reducing brown tree snake activity in Guam’s forests and port areas. Grants also support rapid-response training and prevention efforts and vital research, as well as the canine-detector program in Hawaii. The President’s 2017 budget requests continued support for control and eradication of the Brown Tree Snake. In addition, the 2017 budget calls for an appropriation of \$2 million for Coral Reef Initiative & Natural Resources. This is an increase of \$1 million to combat invasive species such as the Coconut Rhinoceros Beetle and Little Fire Ant.

OIA has increased efforts to work with stakeholders throughout the Pacific. Partnerships with the U.S. Fish and Wildlife Service, National Park Service, and U.S. Geological Survey, support a range of invasive species related activities such as prevention, detection, control, research, education, and restoration work. For example, OIA is exploring with the Hawaii Office of the FWS and the Secretariat of the National Invasive Species Council how to develop and implement a Pacific strategy on Early Detection and Rapid Response (EDRR) for all invasive species in the U.S. Pacific territories and freely associated states.

(2) Could you please provide an update of accomplished activities and planned next steps of the Department of Interior and its sub-agencies towards implementation of the Regional Biosecurity Plan for Micronesia and Hawaii?

Response: The Regional Biosecurity Plan for Micronesia and Hawaii (RBP) identifies strategic opportunities to improve biosecurity, focusing on large-scale, integrative, and cross-cutting strategies, compared to advancing many individual activities in isolation. The RBP supplements ongoing activities at the Department of the Interior, in collaboration with other Federal agencies, governments, and other organizations, to improve biosecurity measures and minimize invasive species threats and impacts in the Pacific region.

The RBP specifically identifies EDRR as a strategic opportunity to improve biosecurity. The Department recently released an interdepartmental report, *Safeguarding America's Lands and Waters from Invasive Species: A National Framework for Early Detection and Rapid Response [EDRR Framework]*. The President's FY 2017 budget requests \$1.5 million to support implementation of the report by the Department and the Secretariat of the National Invasive Species Council (NISC). Commitments include supporting multiple pilot projects to demonstrate early detection and rapid response approaches, as well as conducting assessments to identify current capacities and gaps in the context of Federal EDRR authorities, programs, and costs; risk analysis tools; monitoring programs and species identification support.

The Department will continue to coordinate internally as well as with other Federal partners, including the Departments of Defense, Commerce, and Agriculture, to identify opportunities for more effective interagency planning and coordination to improve biosecurity in the Pacific region. This includes evaluating the policy and program recommendations identified in the RBP and other initiatives and identifying next steps for implementation.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

MAY - 5 2016

The Honorable John Fleming
Chairman
Subcommittee on Water, Power and Oceans
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Chairman Fleming:

Enclosed are responses prepared by the Bureau of Reclamation to the questions for the record submitted following the March 22, 2016, oversight hearing before your Subcommittee on *Examining the Missions and Impacts of the President's Proposed Fiscal Year 2017 Budgets of the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Bureau of Reclamation and the Power Marketing Administrations.*

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 Jared Huffman, Ranking Member
Subcommittee on Water, Power and Oceans
Committee on Energy and Natural Resources

**House Committee on Natural Resources
Subcommittee on Water, Power and Oceans
1324 Longworth House Office Building
Tuesday, March 22, 2016
2:00P.M.**

Oversight Hearing:

"Examining the Missions and Impacts of the President's Proposed Fiscal Year 2017 Budgets of the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Bureau of Reclamation and the Power Marketing Administrations."

Questions from Rep. Huffman for Bureau of Reclamation Commissioner Estevan Lopez

1. QUESTION: Based on the initial 2016 water supply allocation for Central Valley Project (CVP) contractors, what percentage of the maximum contract amount for all CVP contractors (9,508,607 acre-feet) is the Bureau of Reclamation expecting to allocate in 2016?

RESPONSE: There are 261 distinct water contracts or agreements for the delivery of water on the CVP. On April 1, 2016 the Bureau of Reclamation (Reclamation) announced its initial 2016 water supply allocation for CVP contractors. The allocations vary widely by contractor group, from zero up to 100%, and are described below. Taking the percentage allocation as of April 1, 2016, for all contractor groups arrives at a CVP-wide figure of approximately 60% of the total water supply from the CVP of over 9.5 million acre-feet; however, that figure does not present an accurate picture of CVP water use due to the wide gap among CVP contractor allocations. In addition, the allocation is subject to change and we cannot predict the final water supply to be made available at this time. For instance, the Class 1 allocation to Friant Division contractors was raised from 30% to 40% on April 8, 2016, and from 40% to 50% on April 21, and from 50% to 60% on May 5.

North-of-Delta Contractors

- Agricultural water service contractors North-of-Delta are allocated 100 percent of their contract supply.
- M&I water service contractors North-of-Delta are allocated 100 percent of their contract supply.
- Sacramento River Settlement Contractors are allocated 100 percent of their contract supply.

In-Delta

- The Contra Costa Water District, which receives water directly from the Delta, is allocated 100 percent of its contract supply.

South-of-Delta Contractors

- Agricultural water service contractors South-of-Delta are allocated 5 percent of their contract supply. Reclamation will have to work closely with these contractors on the timing for delivery of this supply.
- M&I water service contractors South-of-Delta are allocated 55 percent of their historic use.
- San Joaquin River Exchange and Settlement Contractors are allocated 100 percent of their contract supply.

Wildlife Refuges

- Wildlife refuges (Level 2) North- and South-of-Delta are allocated 100 percent of their contract supply.

Friant Division Contractors

- Reclamation's March 18 notification to Friant Division contractors based upon Millerton Lake storage and current and forecasted hydrologic conditions in the Upper San Joaquin River Basin, and the Friant Division allocation was 30 percent of Class 1 supplies. This was updated on April 11 to 40 percent, and again on April 21 to 50 percent, and again on May 5 to 60 percent.
- An Uncontrolled Season supply of 100,000 acre-feet and Unreleased Restoration Flow supply related to the San Joaquin River Restoration Program of 85,000 acre-feet are being made available as blocks that need to be scheduled and delivered by May 1 and May 15, respectively, to avert flood management concerns.

Eastside Water Service Contractors

- Eastside water service contractors (Central San Joaquin Water Conservation District and Stockton East Water District) will receive 0 percent of their contract supply due to a lack of available CVP supplies from New Melones Reservoir.

2. QUESTION: During the recent El Nino weather pattern, has the Bureau of Reclamation increased pumping levels, when conditions permit, to the maximum level allowed under the biological opinions of -5,000 cubic feet per second in Old and Middle River reverse flow?

RESPONSE: Yes; to the extent that conditions allowed for this level of pumping. As stated during the February 24, 2016, hearing on California's Water Supply Outlook during El Nino, State and Federal agencies that supply water, regulate water quality, and protect California's fish and wildlife have worked closely together to manage through the drought and problem-solve with the larger stakeholder community. Reclamation, the California Department of Water Resources, California Department of Fish and Wildlife, State Water Resource Control Board, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, (collectively, the State and Federal Agencies) have coordinated CVP and State Water Project operations to the greatest

degree possible, to manage water resources through both forward-thinking and real-time efforts. During the winter and spring of 2016, this allowed Reclamation to work with its partner agencies to maximize pumping under the Biological Opinions to the greatest extent possible given the status of the species, information gained from real-time fisheries surveys, and other real-time information on operating conditions in the Delta.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY - 5 2016

The Honorable John Barrasso
Chairman
Senate Committee on Indian Affairs
Washington, DC 20510

Dear Chairman Barrasso:

Enclosed are responses prepared by the Assistant Secretary- Indian Affairs in response to questions received following the October 7, 2015, hearing before your Committee regarding "Seven Tribal Lands Bills for Tribes in Oregon, Nevada, and California."

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 Jon Tester
Vice Chairman

Questions for the Record
Mr. Michael Smith
U.S. Senate Committee on Indian Affairs
Legislative Hearing on Seven Tribal Lands Bills for Tribes in Oregon, Nevada,
And California
October 7, 2015

Submitted by Senator Jon Tester

In your testimony, you noted that authority presently exists for federal land to be transferred among agencies and held in trust for tribal governments but that it could be helpful, especially on the local level, for legislation to strengthen that authority.

Question 1.

Which statutory authorities permit the transfer, exchange, sale, or other conveyance of land from agencies within the Department of the Interior to the Bureau of Indian Affairs for entrustment on behalf of tribes?

Draft Response: Several statutes permit the conveyance of land from agencies within the Department of the Interior to the United States in trust for tribes, either directly, or through the Bureau of Indian Affairs.

- Federal Property and Administrative Services Act (FPASA) of 1949, as amended Pub. L. 152, Ch. 288, 63 Stat 377 (Codified as amended in scattered sections of 40 U.S.C. and 41 U.S.C.)
- Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA) 25 U.S.C. § 450 et seq.
- Base Realignment and Closure Act 10 U.S.C. § 2687
- Indian Reorganization Act 25 U.S.C. § 461 et seq.
- Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq.
- Reorganization Plan #3 of 1950, 5 U.S.C. App 1.

These statutes impose various limitations and requirements on the Department's authority however. For example, the FPASA only mandates transfer of excess property located within a Tribe's Reservation. In addition, some statutes need to be used together to accomplish a trust transfer, for example, the ISDEAA and the IRA. The ISDEAA regulations at 25 C.F.R. Part 900 allow the donation of excess or surplus Federal real property to tribes, subject to applicable Federal law and regulations. The IRA provides transfer authority and applicable regulations at 25 C.F.R. Part 151.

Question 2.

Which statutory authorities permit the transfer, exchange, purchase, or other conveyance of land from agencies outside the Department of the Interior to the Bureau of Indian Affairs for entrustment on behalf of tribes?

Draft Response: Several statutes permit the conveyance of land from agencies outside of the Department of the Interior to the United States in trust for tribes, either directly, or through the Bureau of Indian Affairs.

- Federal Property and Administrative Services Act (FPASA) of 1949, as amended Pub. L. 152, Ch. 288, 63 Stat 377 (Codified as amended in scattered sections of 40 U.S.C. and 41 U.S.C.)

- Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA) 25 U.S.C. § 450 et seq.
- Base Realignment and Closure Act 10 U.S.C. § 2687
- Indian Reorganization Act 25 U.S.C. § 461 et seq.
- Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq.

These statutes impose various limitations and requirements on the Department's authority however. For example, the FPASA only mandates transfer of excess property located within a Tribe's Reservation. In addition, some statutes need to be used together to accomplish a trust transfer, for example, the ISDEAA and the IRA. The ISDEAA regulations at 25 C.F.R. Part 900 allow the donation of excess or surplus Federal real property to tribes, subject to applicable Federal law and regulations. The IRA provides transfer authority and applicable regulations at 25 C.F.R. Part 151.

In addition, Congress has enacted tribe- and site-specific statutes to place land in trust status. For example, in the National Defense Authorization Act for Fiscal Year 2015, Congress transferred approximately 1,553 acres located within the boundary of the former Badger Army Ammunition Plant near Baraboo, Wisconsin, to the Secretary of the Interior in trust for the Ho-Chunk Nation of Wisconsin. The legislation effectuated the acquisition of the land in trust and clarified responsibility and liability with regard to conduct or activities that took place on the land before the transfer.

Question 3.

What types of legislative measures would streamline uncontroversial federal land transfers, exchanges, sales, or other conveyances between federal agencies and the Bureau of Indian Affairs for the benefit of tribes?

Draft Response: There are already several statutes that take into consideration streamlining transfers, exchanges, sales or other conveyances, as best as practicable given the situation of such transfers. However, due to the ambiguity of the term "uncontroversial", any legislative proposal would need to take into consideration the definition of "uncontroversial" for that given situation, the classification of such land, and that respective agency's ownership or management of such land.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY - 9 2016

The Honorable Don Young, Chairman
House Natural Resources Subcommittee on
Indian, Insular and Alaska Native Affairs
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Bureau of Indian Affairs in response to questions received following the March 22, 2016, hearing before your Committee regarding "The President's Fiscal Year 2017 Funding Priorities and Impacts on Indian Country and Insular Areas."

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 Raul Ruiz
Ranking Member

Committee on Natural Resources
Subcommittee on Indian, Insular and Alaska Native Affairs
1334 Longworth House Office Building
March 22, 2016
11:00 a.m.

AGENDA

Oversight Hearing on:

"The President's Fiscal Year 2017 Funding Priorities and Impacts on Indian Country and Insular Areas."

Questions from the Honorable (Raul Ruiz)

PANEL (#): Mr. Lawrence Roberts) – (Acting Assistant Secretary—Indian Affairs, U.S. Department of the Interior)

(1). It has been brought to my attention that the database the Bureau of Indian Affairs (BIA) utilizes to record tribal rights-of-way may be inadequate given the number of tribal ROW's throughout Indian country. What steps is BIA taking to ensure the Agency has comprehensive records of tribal ROWs?

Answer:

The Bureau of Indian Affairs (BIA) has a comprehensive records database of tribal Right of Ways (ROWs). The Trust Asset and Accounting Management System, known as TAAMS, is the Department of Interior's "System of Record" in the recording of Indian trust land data and the management of trust assets. TAAMS has the capability and capacity to track all Rights of Ways (ROW) for all trust and restricted lands, tribal and allotted, once entered into the system. TAAMS is the only system that is able to record highly fractionated owner interests, both on and off reservation. TAAMS contains data on trust land and restricted (tribal and allotted) lands for both Title and Beneficial interest types.

(2). It has also been brought to my attention that there have been various disputes throughout the country related to disputed tribal ROWs. Since this has proven to be an issue for tribal and non-tribal communities nation-wide, how much funding is allotted to maintain and update the BIA database on tribal ROWs?

Answer:

Renewals and grants of right of ways over Indian lands is a common occurrence. The President's FY2017 budget requests \$37,070,000 for real estate services, a one percent increase from FY2016 enacted, which would be used to efficiently serve the volume of work relating to right of ways and other real estate services.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 12-2016

The Honorable Tom McClintock
Chairman
Subcommittee on Federal Lands
Committee on Natural Resources
United States House of Representatives
Washington, D.C. 20515

Dear Chairman McClintock:

Enclosed are responses to follow-up questions from the legislative hearing held on February 11, 2016, on H.R. 87, H.S. 295, H.R. 1621, and H.R. 2817. 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 Niki Tsongas
Ranking Member

Committee on Natural Resources
1324 Longworth House Office Building
Thursday, February 11, 2016
10:00 A.M.

Legislative Hearing on:

H.R. 87, H.R. 295, H.R. 1621, and H.R. 2817

Questions from Chairman Tom McClintock

1. As many of our military installations' building continue to age into the National Register criteria, do you believe the discretion to designate these properties should be left to the defense agency's Federal Preservation Officer (FPO)?

Answer: Section 110(a)(2) of the National Historic Preservation Act (54 U.S.C. 306102) provides that Federal agencies are to ensure that historic properties under their jurisdiction or control are identified, evaluated and nominated to the National Register of Historic Places. Most federal properties listed in the National Register are nominated in accordance with this requirement by the respective federal agency's Federal Preservation Officer. As nominating authority, the Federal Preservation Officer is responsible for the agency's nomination process, which necessarily reflects that agency's concerns and mandates. Moreover, agencies have the ability to explain why properties are not eligible for nomination to the National Register. Members of the public and other agencies and organizations, participate in and assist Federal agencies in the identification of potential National Register eligible properties. They also can provide important support to an agency's efforts to comply with their historic preservation responsibilities and ensure transparency in the National Register decision making process.

The listing of a property in the National Register of Historic Places, or the designation of a property as a National Historic Landmark, does not limit any agency's decision making authority. Agencies decide how to manage the property under their jurisdiction or control, aided by the information gained about that property's significance and integrity. The planning processes of the Department of Defense and other Federal agencies are informed and enhanced, not constricted, by an understanding of the potential effects of proposed actions on their historic properties.

2. Do you believe there should be exemptions to register properties in which national security is concerned?

Answer: In the 50 years since Congress enacted the National Historic Preservation Act, the Department is not aware of even one instance where National Register designation has adversely affected national security. The National Register does not limit a Federal agency's decision-making authority, a point repeatedly affirmed by the courts which often refer to the National Historic Preservation Act as a requirement to "stop, look and

listen.” The National Historic Preservation Act provides a process for Federal agencies to take into consideration the historical values which may be affected by any planned project.

Exempting properties in which national security is concerned raises questions about how a threat to national security would be defined and at what level decisions about impacts to national security would be made. Further, it could open the door for federal agencies to seek other exceptions, thereby weakening of the successful and widely admired historic preservation programs created by Congress to recognize and protect our shared heritage.

Questions from Representative Ryan Zinke

3. How does the National Park Service plan to address the inadequate funding for the Tribal Historic Preservation Officers (THPOs) program? With new THPOs recognized by the NPS, the overall funding amounts continue to decrease for all THPOs participating in the program. Will the NPS conduct an overall reevaluation of the redistribution formula methodology of the existing Historic Preservation Fund, and take into consideration the increasing trend of unmet THPO funding needs?

Answer: The Department of the Interior continues to support full funding of the Historic Preservation Fund at \$150 million per year. In its FY 2017 budget, the National Park Service requests an additional \$2.0 million to support Tribal Historic Preservation Offices (THPOs). This request builds on the additional \$1.0 million this program received under the Consolidated Appropriations Act of 2016. Between FY 2010 and FY 2015, the number of THPOs receiving funds grew from 100 to 154, while the average grant award dropped from \$72,500 to \$57,000. The number of THPOs continues to grow, with approximately 10 new THPOs coming into existence each year. The NPS estimates 175 tribes will receive funds in FY 2017. Without this increase, the average grant award will drop to approximately \$53,000.

The NPS continues to examine options related to funding, including the possible reallocation (subject to reprogramming guidelines) of unobligated HPF funds to tribal grants. The NPS has also convened a task force made up of THPOs, representatives of the National Association of Tribal Historic Preservation Officers, and National Park Service employees to reexamine the existing appropriation formula used to divide the available funding among qualified THPO programs. The task force met from March 31-April 1, 2016, to discuss the current apportionment formula and future options, and will make recommendations to the NPS concerning the funding formula.

4. What is the National Park Service's plan to review alternative strategies to increase the overall funding for cultural resource projects with other federal agencies that have Historic Preservation Funds to support the THPOs?

Answer: The National Park Service is currently the only Federal agency that administers Historic Preservation Funds appropriated by Congress. Under the National Historic Preservation Act, the Secretary of the Interior is responsible for administering the funds

provided by the Historic Preservation Fund to meet the entire federal government's obligation and not merely those of Interior or the NPS. While this does not preclude other agencies from providing additional or separate funding for the Tribal Historic Preservation program, it does not require other agencies to provide funding for THPOs.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

MAY 17 2016

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
Washington, DC 20515

Dear Chairman Bishop:

Enclosed are responses prepared by the Department of the Interior to the Committee's written questions received after the November 18, 2015, hearing on the discussion draft of the "Protecting America's Recreation and Conservation 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 Raúl M. Grijalva
Ranking Member

**Committee on Natural Resources
1324 Longworth House Office Building
Wednesday, November 18, 2015
10:00 A.M.**

Hearing on:

"Protecting America's Recreation and Conservation Act"

Questions from Chairman Bishop for Deputy Assistant Secretary Sarri

- 1) What percentage of the total acquisitions using LWCF money has resulted in increased or new access for recreational activities?**

Response:

The Land and Water Conservation Fund (LWCF) supports numerous programs that enhance conservation and outdoor recreation outcomes, including conservation fee and easement acquisitions, grants to States and localities, and partnerships that leverage funds to achieve durable conservation, improved public recreational access, historic preservation, and economic development.

Our Nation's federal lands play an important role in the health of the United States' economy. In 2014, the Department of the Interior's activities contributed \$358 billion to the U.S. economy, supporting more than two million jobs nationwide. Our national parks, monuments, wildlife refuges, and other federal lands managed by the Department hosted an estimated 423 million recreational visits in 2014 – up from 407 million in 2013 – and these visits alone supported \$42 billion in economic output and about 375,000 jobs nationwide.

The Federal, State, and local lands and waters strengthened by the LWCF support an overall outdoor recreation economy that generates \$646 billion in consumer spending and over six million jobs in the United States, according to the Outdoor Industry Association. The FY 2016 Omnibus spending bill allocated \$20.5 million specifically for Sportsmen/Recreational Access programs under the land acquisition component of the LWCF, which translates to nine percent of discretionary funding for LWCF land acquisition set asides, and 4.5 percent for programs funded out of the LWCF. The President's FY 2017 budget requests an additional \$21.2 million for Sportsmen/Recreational Access programs. However, LWCF programs have made increased or new access for public recreational activities a priority overall. For example, tied to this effort is the conservation of open space through fee and easement acquisitions that keep habitat intact for elk, deer, and other game, which not only helps ensure that healthy populations thrive so that future generations can continue to hunt and fish, but also supports the \$90 billion in economic contributions that hunting and fishing make to our U.S. economy every year.

One example where the LWCF strengthens the outdoors recreation economy is the Chattahoochee River National Recreation Area, extending from Lake Lanier's Buford Dam

to Peachtree Creek in the greater Atlanta, Georgia, area, which welcomes more the three million runners, hikers, cyclists, birdwatchers, anglers, tubers, kayakers, and canoeists each year. This park encompasses nearly 10,000 acres of land and provides more than 65 percent of the public greenspace in the greater Atlanta area. LWCF land acquisition funding requested in FY 2017 would continue efforts to protect land along the Chattahoochee River, further improving access to the river, connecting lands, protecting Atlanta's drinking water, and creating more recreational opportunities.

The Dakota Grassland Conservation Area is another example where LWCF supports local interests. LWCF investments in FY 2017 would protect approximately 14,500 acres of grassland and wetland habitats in eastern North Dakota and South Dakota. Popular with hunters and fishermen, this highly diverse and endangered ecosystem consists of large, unique grassland and wetland complexes that provide habitat for migratory birds, shorebirds, grassland birds, the endangered piping plover, and other wildlife. The Dakota Grassland Conservation Area relies on purchasing conservation easements from private landowners, which prevent habitat fragmentation and plowing and drainage of the land, but allow grazing, haying, and traditional ranching uses, as well as sportsmen and other recreational access.

And in the Bridger-Teton National Forest in Wyoming's Greater Yellowstone Area, LWCF funding would provide excellent opportunities for public recreational access, including hunting and fishing. The Greater Yellowstone Area has the largest intact ecosystem, known for wildlife, healthy watersheds, wildlands and backcountry recreation. Wildlife habitat and crucial migration routes would be secured for special status wildlife species (grizzly bear, lynx, wolverine, goshawk, willow flycatcher, sage grouse, elk, pronghorn, deer and moose). Tourists travel from around the world (375,000+ visitor days) to hike, horseback, hunt, fish, and view wildlife.

In addition, since 1965, the stateside LWCF program provided more than 42,000 grants to States and tribal governments for acquisition, development, and planning of public outdoor recreation opportunities in the United States. The \$4.1 billion in grants, which are matched, provide \$8.2 billion to support purchase and protection of three million acres of recreation lands and more than 29,000 projects to develop basic public recreation facilities in every State and territory, and 98 percent of counties in the Nation. Seventy five percent of the total funds obligated went to locally sponsored projects to provide close-to-home recreation opportunities that are readily accessible to America's youth, adults, senior citizens, and the physically and mentally challenged.

2) What percentage of the total acquisitions using LWCF money has been for ecological, or some other reason unrelated to recreational access?

Response:

When evaluating a parcel for acquisition, the Bureau of Land Management considers all resource values associated with that parcel that would provide the most benefit to the public domain. While many parcels proposed for acquisition have natural resource value, the public

can also enjoy recreational access to these lands consistent with approved land use plans. The mission of the National Park Service is to preserve and protect the natural, scientific, historical and cultural resources of units within the National Park System. The Federal acquisition of one property within such units may serve to protect and preserve many different resources. The mission of the Fish and Wildlife Service is to work with others to conserve, protect, and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people. The FWS acquires lands primarily to conserve important wildlife habitat; however, the overwhelming majority of FWS fee acquisitions also expand public opportunities for wildlife-dependent recreation.

3) Does DOI have any ability to account for and assure recreational use of a parcel or easement after it has been acquired?

Response:

Yes. If land or an easement has been acquired for recreational purposes, Department will manage the lands in accordance with the local management plans of the BLM, FWS and NPS.

In fact, when considering a parcel for acquisition, FLPMA requires that the acquisition be consistent with any approved land use plan and the LWCF evaluation process seeks to build on recreational opportunities for the public in the use and enjoyment of their public lands. Through BLM's record notation system, LR2000 and Master Title Plats, BLM flags parcels that are acquired with LWCF and therefore, not available for disposal.

Similarly, when the FWS, who's mission is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people, acquires land in fee, the land becomes part of the fabric of the refuge, and is managed in accordance with the refuge's overall Comprehensive Conservation Plan. If the stated purpose of a refuge is compatible with wildlife-dependent recreation, the refuge is typically open to the public. While the vast majority of refuges are open to the public for wildlife-dependent recreation, there are instances where portions of a refuge or an entire refuge cannot be opened for recreation because recreational activity would be unsafe or would jeopardize fragile wildlife habitat. Furthermore, the FWS acquires the minimum interest necessary to reach management objectives. Therefore, acquisition of conservation easements may be the best option for the FWS and the community. However, easements may not permit public recreation if property owners do not wish to have people on their land, especially if the landowners are still actively farming the land or using the land for livestock.

And finally, the NPS provides for visitor enjoyment of the resources located within each of the units of the National Park System. If a national park unit includes lands that were purchased with LWCF funds specifically for recreational purposes, the management plan would reflect that. NPS maintains records of visitation for each unit.

- 4) **According to the Congressional Research Service, the deferred maintenance backlog facing federal agencies is almost \$19 billion. How much of this backlog can be attributed to lands acquired using LWCF funding?**

Response:

Acquisition of land utilizing LWCF funding does not significantly contribute to the Department's deferred maintenance backlog. For example, in the FY 2016 request, only 11 of the 40 line-item land acquisition requests anticipate costs for operations and maintenance, while 9 project savings and 20 are neutral. And in the FY 2017 NPS request, one of the 32 requests had structures that will be maintained. Furthermore, acquisition of inholdings can reduce maintenance and management costs by decreasing boundary conflicts, simplifying resource management activities, and facilitating access to and through public lands.

- 5) **When DOI agencies purchase land using LWCF money, does it commit to performing short or long-term maintenance on that parcel?**

Response:

When the Department's agencies acquire land by any means, those agencies become responsible for the acquired lands. The Department is committed to the long-term management of federal lands.

We also note that BLM generally avoids acquisition of land encumbered with facilities, and, more often than not, the parcels acquired within specially designated areas require no additional maintenance and provide the ability to more efficiently manage the landscape. Similarly, when FWS acquires property in fee, it manages the property as wildlife habitat and typically incurs no annual maintenance costs. And, for the NPS, the need to protect and preserve the resources and enhance visitor safety and satisfaction within units of the National Park System will determine what, if any, maintenance will be performed.

- 6) **Please provide a list of all properties and easements acquired by the federal government using LWCF funds over the past fifty (50) years, including the acreage, cost, location and prior ownership. Please also include the aggregated acreage and cost of those acquisitions. If a third party, such as a land trust, was involved please include the name of the land trust. If the prior ownership was held as a "purchase option" by the land trust prior to acquisition, please include that information as well. For each of the acquisitions identified above, please indicate the following:**

- **If there are wildfire risks or invasive weed problems and/or risks, have those projects to eliminate or control such risks been planned or accomplished? If so, please describe such plans in detail;**
- **If the land was acquired for recreational access purposes, has the road, trail or trailhead been constructed or planned and if so, please indicate the frequency of use for recreational purposes;**

- **Describe boundaries that have been surveyed, delineated and marked on the ground;**
- **For those properties which were acquired as inholdings, please indicate what amount or percent of the land that abuts existing federal land (for example, was 50% of the inholding bordered by federal land or just 25%?).**

Response:

As authorized by the Land and Water Conservation Act of 1965, the LWCF remains the principal source of funds for Federal acquisition of lands for outdoor public recreation. Most Federal lands are acquired and managed by four agencies (BLM, FWS, and NPS at the Department, and the U.S. Forest Service at the U.S. Department of Agriculture), which play essential roles in acquiring and managing our Nation's sensitive areas and natural resources.

Properties acquired with LWCF funds are publicly reported in several locations. In the President's Budget submission to Congress, each agency submits a list of proposed acquisitions. Details of each project are located in the Greenbooks for BLM, FWS, NPS, and USFS with full page profiles of each acquisition, including cost, acres, location, and the ecological, economic, and cultural values the project conserves. These documents can be found at: <https://www.doi.gov/bpp>. Congress authorizes these acquisitions, and, in a continuing effort to provide user friendly data, the Department provides an interactive map of the properties it submitted for consideration to Congress for the 2016 Budget at: https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/LWCF_BIB_map_FY2016.pdf. The properties the Department submitted for consideration to Congress for the 2017 budget can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/LWCF_BIB_map_FY2017.pdf.

In addition to the President's Budget and Department-wide publications, NPS, FWS and BLM provide more detail on each year's acquisition data in their annual reports. For NPS, a national summary and park listing of acreages can be obtained by both calendar and fiscal year at: <http://waso-lwcf.ncrc.nps.gov/public/index.cfm> and <https://irma.nps.gov/Stats/>. The FWS summarizes its properties in the *FWS Annual Report of Lands Statistical Data Tables*. This report includes various data tables summarizing the acres and locations of the FWS lands. In addition, the *FWS Annual Report of Lands* contains an illustrated report of all fiscal year acquisitions. The BLM also captures its acquisitions at: http://www.blm.gov/wo/st/en/prog/more/lands/land_tenure/purchase.html.

Land Trusts (LTs) and similar non-governmental organizations (NGOs) serve a legitimate and important role in the acquisition of land, sometimes acquiring land and holding it until LWCF acquisition funds become available or other times donating the land.

There were 634 total valuation/appraisal cases tracked by the Department's Office of Valuation Services in the sample (FY 2015), of which 469 were acquisition cases of one sort or another. After accounting for duplicates, there were (at least) 25 different LTs/NGOs that were part of (at least) 172 cases (36.7% of acquisition cases and 27.1% of total cases). However, the NPS/BLM project on the Mojave Desert included 103 cases where the Mojave Desert Land Trust was involved. Taking those out of the mix (due to the number of cases – 60% of all acquisitions – and the relatively unique nature of that project), LTs/NGOs were part of 16.2% of acquisition cases and 10.9% of all cases. See accompanying chart for a breakdown. These numbers represent only cases where appraisals were completed. Not all acquisitions may have been complete in FY 2015.

The Department's land management agencies maximize conservation efforts by focusing limited resources on achieving the greatest conservation impact by acquiring lands near and/or adjacent to other conserved lands. This results in larger areas of unfragmented conserved lands and supports collaborative partnerships with non-federal entities, including States, land trusts and other conservation partners.

Over the last five years, 99 percent of the federal lands acquired with LWCF funds were inholdings, lands within the authorized boundaries of a conservation unit, such as a national park or wildlife refuge. Acquisition of inholdings can reduce maintenance and management costs by decreasing boundary conflicts, simplifying resource management activities, and facilitating access to and through public lands. Since 2011, Congress has appropriated funding for four projects where acquisitions did not lie completely within the boundary of an existing conservation unit at the time of the appropriation, but were adjacent to or bisected by the boundary (known as "edgeholdings"). In all instances, acquisitions using LWCF funding were authorized by the LWCF Act and by Congressional appropriations.

FWS defines all land within approved acquisition boundaries as inholdings. The authorized acquisition boundary for a refuge is created either by Congressional legislation or as the result of extensive planning process that includes meaningful opportunities for public input. FWS policy is to acquire inholdings within approved acquisition boundaries from willing sellers only, and FWS has not condemned land – except at the request of a landowner to clear title – in nearly 30 years. As a result, FWS ownerships reflect past willing sellers as well as conservation partnerships with NGOs and States to create large contiguous blocks of protected wildlife habitat. FWS uses "inholdings" funds to purchase lands that create larger contiguous blocks of protected wildlife habitat, which may include Federal land on one side and/or private or State-conserved lands on other sides. FWS also uses these funds to acquire conservation easements, including conservation easements adjacent to other easements, which may or may not be federally owned.

The NPS is authorized to acquire lands within the boundaries of a unit of the National Park System. Since January 1, 1965, when the LWCF Act became effective, the United

States has acquired approximately 112,000 tracts of land totaling 55,155,247 acres within the National Park System.

Questions from Rep. Lummis for Deputy Assistant Secretary Sarri

7) How much money has been given for urban parks, and what is the source of that funding?

Response:

Funding for Urban Park Recreation and Recovery (UPARR) grants has not been appropriated since Fiscal Year 2002. However, since the program's inception in 1978, \$307.1 million was appropriated for grants to improve and protect more than 1,520 recreational sites in over 300 physically and economically distressed urban communities nationwide, and to help create and launch new innovative programming. UPARR rehabilitation grants have been used to overhaul inner-city outdoor playgrounds, parks, ball fields, tennis and basketball courts, and swimming pools. The grants also have enhanced other recreation facilities such as recreation centers and indoor pool facilities that were unsafe and in many cases closed.

The President's FY 2017 budget request includes a legislative proposal to make the LWCF a mandatory spending program. This proposal includes \$25 million in mandatory funds for UPARR grants. These funds would reestablish and reinvigorate the UPARR program, utilizing monies derived from the LWCF, to provide competitive grants that improve existing recreational opportunities in urban communities, including indoor opportunities. This program aligns with the America's Great Outdoors (AGO) initiative goal of creating and enhancing a new generation of safe, clean, accessible urban parks, and community green spaces.

Through targeted rehabilitation projects consistent with AGO goals, the NPS would renew an emphasis on improving recreation services to inner-city minority and low-to-moderate income populations and improving indoor and outdoor recreation facilities at specific sites, resulting in the overall enhancement of a community's recreation system. These projects would focus on connecting and engaging communities, especially young people, to their neighborhood parks through projects that would revitalize and rehabilitate park and recreation opportunities. In addition to revitalizing these spaces, there would be an emphasis on making sites accessible and more usable. Projects would include objectives to directly engage underserved populations with an emphasis on youth. A project should involve and expand partnerships, as well as connect with broader neighborhood to city-wide initiatives to improve recreation opportunities for all.

Requests for grant funding would be rated by a national panel using established criteria. The criteria consider factors such as project cost and leveraging; the affected community; existing condition of and anticipated improvements in recreation services (particularly cases where services are seriously impaired or health and safety is at risk due to deteriorated infrastructure); new employment opportunities created; community and partner involvement; and long-term commitment to the project.

Based on prior UPARR competitions, the NPS anticipates applications from 150 to 200 urban localities requesting funds totaling up to approximately \$90.0 million. At the \$25.0 million level, NPS would likely be able to award funds for 40 to 50 projects. The NPS has established competitive criteria and procedures for awarding Rehabilitation and Innovation grants, and anticipates that it could be ready to consider applications for such grants by June 1, 2017 with all but a few projects completed by 2019.

Questions from Rep. Young for Deputy Assistant Secretary Sarri

- 8) **The Chairman’s bill prevents the acquisition of land unless that land is surrounded by existing federal lands on at least 75% of its border. Does DOI oppose this restriction? If so why?**

Response:

Section 6 of the draft discussion bill provides that 75 percent of a proposed land acquisition’s boundary abut existing Federal lands. The Department opposes this restriction because it conflicts with the current collaborative, landscape-scale acquisition strategy being implemented throughout the Department. The Department’s bureaus – BLM, FWS, and NPS – maximize conservation efforts by focusing limited resources on achieving the greatest conservation impact, by acquiring lands near and/or adjacent to other conserved lands. This results in larger areas of unfragmented conserved land and supports collaborative partnerships with non-Federal entities, including States, land trusts, and other conservation partners.

In addition, this restriction prohibits the acquisition of land from willing sellers within the boundary of a Federal unit with “checkerboard” land ownership when the land does not adjoin Federal land on three or more sides. “Checkerboard” lands are very difficult to manage, especially when dealing with hunting, visitors potentially unknowingly trespassing, controlling invasive species, etc. Eliminating checkerboard ownership within Federal units simplifies nearly every aspect of land management – as well as simplifying recreational access for the public.

- 9) **According to your testimony, over the last five years 99 percent of the Department’s acquisitions were inholdings and already within existing park or wildlife refuge units. What percentage of the total acquisitions using LWCF money have been inholdings, meaning a parcel that has abuts federal land on at lease majority of its border?**

Response:

Over the last five years, 99 percent of the Federal lands acquired by with LWCF funds were inholdings, lands within the authorized boundaries of a conservation unit, such as a national park or wildlife refuge. Acquisition of inholdings can reduce maintenance and management

costs by decreasing boundary conflicts, simplifying resource management activities, and facilitating access to and through public lands. Since 2011, Congress has appropriated funding for four projects where acquisitions did not lie completely within the boundary of an existing conservation unit at the time of the appropriation, but were adjacent to or bisected by the boundary (known as “edgeholdings”). In all instances, acquisitions using LWCF funding were authorized by the LWCF Act and by Congressional appropriations.

10) What percentage of the total acquisitions using LWCF money have been used to acquire land that does not border existing federal land at all, but is within a federal management area, like a National Forest?

Response:

As noted above, over the last five years, 99 percent of the Federal lands acquired by with LWCF funds were inholdings, lands within the authorized boundaries of a conservation unit, such as a national park or wildlife refuge. Acquisition of inholdings can reduce maintenance and management costs by decreasing boundary conflicts, simplifying resource management activities, and facilitating access to and through public lands. Since 2011, Congress has appropriated funding for four projects where acquisitions did not lie completely within the boundary of an existing conservation unit at the time of the appropriation, but were adjacent to or bisected by the boundary (known as “edgeholdings”). In all instances, acquisitions using LWCF funding were authorized by the LWCF Act and by Congressional appropriations.

We also note that land within a conservation unit need not adjoin existing federal land to achieve resource protection goals. For example, certain federally listed species occur only on specific sites, and do not require large contiguous blocks of habitat. A FWS refuge’s acquisition boundary might contain 10 different sites that support self-sustaining or potentially self-sustaining populations of a federally-listed species, and the FWS may want to acquire all of these separate sites, in fee or easement. In such instances, it may not be necessary or cost-effective to acquire even more land simply to connect these sites to existing federal land.

Questions from Rep. LaMalfa for Deputy Assistant Secretary Sarri

11) How often does the Department of the Interior purchase land that is already in an easement using LWCF funds from a land trust that already owns that land or easement? Do these purchases ever result in the government paying a higher price for that land?

Response:

Land Trusts and similar NGOs, serve a legitimate and important role in the acquisition of land, sometimes acquiring land and holding it until LWCF acquisition funds become available, or sometimes donating it.

There were 634 total valuation/appraisal cases tracked by the Department's Office of Valuation Services in the sample (FY 2015), of which 469 were acquisition cases of one sort or another. After accounting for duplicates, there were (at least) 25 different LTs/NGOs that were part of (at least) 172 cases (36.7% of acquisition cases and 27.1% of total cases). However, the NPS/BLM project on the Mojave Desert included 103 cases where the Mojave Desert Land Trust was involved. Taking those out of the mix (due to the number of cases – 60% of all acquisitions – and the relatively unique nature of that project), LTs/NGOs were part of 16.2% of acquisition cases and 10.9% of all cases. See accompanying chart for a breakdown. These numbers represent only cases where appraisals were completed. Not all acquisitions may have been complete in FY 2015.

The United States is required by the Constitution's "just compensation clause" to pay just compensation, interpreted as fair market value, to the property owner. DOI's Office of Valuation Services determined just compensation by appraising or reviewing and approving appraisals of property. The existence of easements is taken into consideration in the appraisal.

Questions from Rep. Graves for Deputy Assistant Secretary Sarri

12) How does the agency prioritize which properties to acquire and which projects to fund using LWCF money?

Response:

The NPS, BLM, and FWS each have their own criteria that are used to evaluate and prioritize proposed land acquisitions.

For example, the NPS utilizes a nationwide priority ranking system, the Land Acquisition Ranking System (LARS). The initial information for each project is provided by the park unit and reviewed by regional or field offices of the Land Acquisition Program. Land Acquisition staff in each office assists the Regional staff in ranking the requests received using guidelines provided by the Washington (WASO) Program Office. The LARS incorporates several criteria, including, but not limited to, threat to and preservation of the resource; commitment has been made to acquire; involvement of partners, non-profit groups or availability of matching funds; recreational opportunities; existence of legislative authority to acquire; and ability to obligate appropriated dollars.

For BLM, submissions include a completed project narrative, fact sheet, questionnaire, representational map(s) and digital color images – are limited to no more than twenty (20) projects per State Office (SO). To be eligible projects must be (1) within or contiguous to, a unit of the National Landscape Conservation System (with the exception of Wilderness Study Areas), an Area of Critical Environmental Concern or a Special Recreation Management

Area, (2) in compliance with Section 205 (b) of the Federal Land Policy and Management Act (identified for acquisition within an approved land use plan), and (3) available for purchase from a willing seller owner. BLM Headquarters then collects and processes SO submissions, reviews and prioritizes recommendations.

FWS' 2014 Strategic Growth Policy directs FWS to focus on acquiring lands and waters in fee, conservation easement, and/or donation that support three conservation priorities: (1) recovery of threatened and endangered species; (2) implementing the North American Waterfowl Management Plan; and (3) conserving migratory birds of conservation concern. Based on these three priorities, to evaluate proposed NWRS land acquisitions FWS uses the Targeted Resource Acquisition Comparison Tool (TRACT). The TRACT provides a biological, science-based, and transparent process for ranking proposed NWRS land acquisitions.

TRACT biological evaluation plays a role in LWCF budget formulation, but is not the only factor considered when making decisions about where to request LWCF funds for NWRS land acquisition. The LWCF project list submitted by FWS reflects additional non-biological considerations, such as Director, Department, and Presidential priorities, partner and Congressional support, potential sources and levels of funding, appropriation history and carryover, unique land acquisition opportunities, and the latest information on willing sellers.

For all agencies, land acquisition projects proposed for the FY 2017 budget reflect additional important factors, including contribution of leveraged funds, conservation partner participation, and urgency of project completion to protect natural areas from development or other incompatible uses.

13) Could you please provide the Committee with a breakdown of the amount of LWCF funds used for stateside programs through the various grants and the amount you are spending on federal acquisitions (including the amount on easements)?

Response:

A breakdown of the purchases for easements versus acquisitions for the period FY 2011 - FY 2015 is attached. A total of 137,393 were acquired at a cost of \$75.4 million and 349,419 acres purchased in fee at a cost of 346.2 million.

LAND AND WATER CONSERVATION FUND
2011 through 2015 Federal Land Acquisition
Land Acquired in Easement vs. Fee

Bureau	Fee or Easement	2011			2012			2013			2014			2015			Total		
		Acres Acquired	Federal Acq.	Funding Spent on Donation or Other	Acres Acquired	Federal Acq.	Funding Spent on Donation or Other	Acres Acquired	Federal Acq.	Funding Spent on Donation or Other	Acres Acquired	Federal Acq.	Funding Spent on Donation or Other	Acres Acquired	Federal Acq.	Funding Spent on Donation or Other	Total Acres Acquired	Total Federal Acq.	Total Funding Spent on Donation or Other
BLM	Easement	1,177	\$2,022,348	\$253,652	309	\$396,500		1,079	\$1,345,000										
	Fee	11,491	\$16,683,749	\$686,505	12,724	\$21,903,700	\$2,475,000	11,469	\$23,991,526	\$855,000	9,822	\$8,310,850		805	\$985,000		3,370	\$4,748,848	\$253,652
BLM														15,252	\$12,238,500		60,759	\$83,128,325	\$4,016,505
	Total	12,668	\$18,706,097	\$940,157	13,033	\$22,300,200	\$2,475,000	12,548	\$25,336,526	\$855,000	9,822	\$8,310,850		16,058	\$13,223,500		64,129	\$87,877,173	\$4,270,157
FWS	Easement	19,138	\$6,628,125		11,880	\$6,008,190		28,481	\$16,616,186		27,872	\$13,185,865		43,762	\$24,236,409		131,132	\$66,674,775	
	Fee	15,121	\$41,277,124		23,784	\$32,616,371		18,612	\$21,014,398		4,896	\$18,346,800		4,784	\$9,578,826		67,197	\$122,833,519	
FWS																			
	Total	34,259	\$47,905,249		35,663	\$38,624,561		47,093	\$37,630,584		32,768	\$31,532,665		48,546	\$33,815,235		198,329	\$189,508,294	
NPS	Easement	735	\$530,529		10	\$0		1,546	\$1,075,000		106	\$1,647,000		494	\$451,320		2,891	\$3,703,849	
	Fee	73,628	\$81,125,876		7,804	\$19,651,528		7,241	\$12,822,770		7,067	\$11,927,937		125,724	\$10,669,850		221,464	\$136,197,961	
NPS																			
	Total	74,362	\$81,656,405		7,814	\$19,651,528		8,787	\$13,897,770		7,173	\$13,574,937		126,218	\$11,121,170		224,355	\$139,901,810	
Grand Total		121,289	\$148,267,751	\$940,157	56,511	\$80,576,289	\$2,475,000	68,428	\$76,864,880	\$855,000	49,763	\$53,418,452		190,821	\$58,159,905		486,812	\$417,287,277	\$4,270,157

137,393	75,127,472	253,652
349,419	342,159,805	4,016,505
486,812	417,287,277	4270157



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 20-2016

The Honorable Don Young, Chairman
House Natural Resources Subcommittee on
Indian, Insular and Alaska Native Affairs
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Bureau of Indian Affairs in response to questions received following the February 24, 2016, hearing before your Subcommittee regarding "The Native American Tourism and Improving Visitor Experience Act" and the "Eastern Band Cherokee Historic Lands Reacquisition Act."

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 Raul Ruiz
Ranking Member

Questions from the Honorable Raul M. Grijalva, Ranking Member

PANEL 1: Ms. Ann Marie Bledsoe Downes, Deputy Assistant Secretary- Indian Affairs 'for Policy and Economic Development.

(1). H.R. 3599 seeks to take lands into trust for the benefit of the Eastern Band of Cherokee Indians. This land, however, is the ancestral homeland of not just the Eastern Band of Cherokee Indians, but also the Cherokee Nation. As historic occupants of this land, these tribes have a joint interest in both the land and activities described in the bill. Has the Department of the Interior, or the Tennessee Valley Authority, or the Eastern Band of Cherokee Indians, spoken with the Cherokee Nation about this effort?

Response: Our understanding is that this land transfer has been under discussion between the Tennessee Valley Authority (TVA) and the Eastern Band of Cherokee Tribe (EBCI) since the construction of the Tellico Dam and Reservoir in the 1960's and 70's.

The Department of the Interior, to our knowledge, has not spoken with the Cherokee Nation about this effort. Also, we are unaware if either TVA or EBCI have consulted with the Cherokee Nation.

(2). Would you commit today to conduct future consultations with the Cherokee Nation to make certain its voice is heard as this bill moves forward?

Response: Any future consultations should be led by the TVA given that the property is being transferred by them. The Department of the Interior would be happy to participate in such consultations on discretionary actions that trigger consultation.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 20 2016

The Honorable Louie Gohmert
Chairman
Subcommittee on Oversight and Investigations
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Chairman Gohmert:

Enclosed are responses prepared by the Department of the Interior to questions submitted following the Subcommittee's February 24, 2016, oversight hearing titled "The Imposition of New Regulations Through the President's Memorandum on Mitigation."

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 Debbie Dingell
Ranking Member

Committee on Natural Resources
Subcommittee on Oversight and Investigations
1334 Longworth House Office Building
Wednesday, February 24, 2016
2:00pm

Oversight Hearing on

"The Imposition of New Regulations Through the President's Memorandum on Mitigation"

Questions from Chairman Gohmert (TX-01) for Mr. Michael Bean, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior:

1. Once your agency's regulations for the implementation of the memorandum go into effect, will those projects who are in the midst of the permitting process be required to resubmit or revise their project plans to meet the "net benefit/no net loss" standard retroactively?

Response: As directed by the memorandum, the U.S. Fish and Wildlife (Service) and Bureau of Land Management (BLM) are revising and developing mitigation policies. Neither agency is undertaking rulemaking related to this issue.

Section 3.3 of the Service's proposed revised mitigation policy (March 8, 2016; 81 FR 12380-12403) states:

"This policy does not apply retroactively to completed actions or to actions specifically exempted under statute from Service review. It does not apply where the Service has already agreed to a mitigation plan for pending actions, except where: (a) new activities or changes in current activities would result in new impacts; (b) a law enforcement action occurs after the Service agrees to a mitigation plan; (c) an after-the-fact permit is issued; or (d) where new authorities, or failure to implement agreed-upon recommendations warrant new mitigation planning. Service personnel may elect to apply this policy to actions that are under review as of the date of its final publication."

If the Service has agreed to a mitigation plan, and none of the exceptions listed above apply, the Service will not request that project proponents submit revised project plans to be consistent with the revised policy.

The BLM released interim policy on mitigation in 2013, which encompasses many of the same principles as the memorandum. Even though the BLM maintains the discretion to consider revised or additional mitigation requirements at most points

in the permitting process, in order to uphold the statutes and regulations that guide its actions, the BLM anticipates that only a small minority of projects that they authorize would receive renewed attention on mitigation due to the memorandum or the finalized BLM mitigation policy. In these rare cases, the BLM would not require the project proponent to revise their plans; rather, it is likely that the BLM would analyze different mitigation requirements in action alternative(s) in the applicable National Environmental Policy Act (NEPA) analysis.

2. If a project has been approved, begun construction or operation, and has mitigation measures in place already by the time agency rules and regulations are enacted, will those mitigation measures have to be revised or supplemented to meet the “net benefit/no net loss” standard?

Response: Under the Service’s proposed revised mitigation policy, if a project has been approved and mitigation measures are in place, the Service would not revise or supplement a project’s mitigation measures unless one of the exceptions applies, as described in section 3.3 of the proposed policy (described above in response to question 1).

For the BLM, if a project has been approved and mitigation measures are in place, mitigation measures would not be revised or supplemented for that authorization. If additional authorizations are necessary for a project, then there is a possibility that new mitigation measures would be required, subsequent to applicable NEPA analysis.

3. The memorandum requires agencies to “set measurable performance standards” to assess the effectiveness of mitigation. How will you implement this, and what kind of performance standards are your agencies likely to enact?

Response: The Service’s proposed revised mitigation policy states that mitigation options delivered through any compensatory mitigation mechanism should include, among other things, performance standards to determine whether the measure has achieved its intended outcome. Compensatory mitigation recommendations and requirements will include a provision for the development of a mitigation plan or equivalent that specifies: measurable objectives; effectiveness monitoring; additional adaptive management actions as may be indicated by monitoring results; and reporting requirements. In this context, Agencies will establish measurable objectives and use monitoring to assess if those objectives are being met. Adaptive management will be used to adjust the mitigation as needed to meet the specified objectives, and Agencies will track the effectiveness of the mitigation through reports submitted by those carrying out the mitigation.

The proposed revised mitigation policy is intended to be an umbrella policy under which the Service may issue more detailed policies or guidance documents covering specific activities in the future. For example, as specified in section 4(c) of the

memorandum, the Service will finalize a policy focused on compensatory mitigation processes under the Endangered Species Act. Standards presented in that policy, when published for public comment, will align with standards in the memorandum and the proposed revised mitigation policy.

For the BLM, performance standards are an important part of ensuring that mitigation is effective in achieving its outcomes. Performance standards help the BLM interpret monitoring data on mitigation measure to know if the outcomes are being achieved. These performance standards will vary by resource and by project and will generally be based on the BLM's understanding of the impacts to the resource that warranted mitigation and the desired condition for the resource. The performance standards will typically be identified through NEPA analysis, decision documents, and/or in the term and conditions of land use authorizations.

4. The memorandum states that "agencies should give preference to advance compensation....prior to harmful impacts of a project." Many times third parties get involved in these situations and litigate permits from ever existing. What will paying up front, before any impact even occurs, do to provide certainty for an organization seeking a permit?

Response: Mitigation implemented in advance of impacts through the use of mitigation banks is based on demonstrated achievement of project goals and therefore reduces the risk and uncertainty inherent in compensatory mitigation. Mitigation that is successfully implemented in advance of impacts provides ecological and regulatory certainty that is rarely matched by a proposal of mitigation to be accomplished concurrent with, or subsequent to, the impacts of the actions. It is for these reasons that the 2008 compensatory mitigation rules under the Clean Water Act give preference to the use of mitigation bank credits over other forms of mitigation. Timely and high-quality compensatory mitigation provides greater assurances that mitigation will be successful and reduces legal risks. In addition, in authorizing mitigation using shared common principles, Agencies act with greater consistency, which also reduces litigation risks.

Questions from Rep. Dingell for Michael Bean, Principal Deputy Assistant Secretary, Fish and Wildlife and Parks

Your testimony emphasizes the Department's desire to promote competition among different providers of mitigation offsets, and to have a level playing field for all the providers.

What problems have you encountered in creating fair markets so far?

A critical barrier to creating consistent and equivalent markets for compensatory mitigation for resources managed by the Department has been the lack of comprehensive

policy and guidance in this area. While the Department has always been committed to hold mitigation providers to equivalent standards and ensure a level playing field, doing so has been challenging without comprehensive policy or guidance to our field staff.

Applications for permits and authorizations typically come into specific field offices. While these offices work to ensure mitigation requirements are consistent across other field offices in similar ecosystems or landscapes, further policy and guidance will be helpful.

The Department has spearheaded several actions to create more consistency and equivalency when permitting, including work to establish consistent mitigation policies across bureaus, particularly the Fish and Wildlife Service and the Bureau of Land Management, and efforts to use landscape-scale planning (such as sage grouse conservation, Solar Energy Zones, among others). Planning at landscape-scales allows bureaus to work with stakeholders and industry to transparently identify likely impacts of future projects, and better characterize the rules-of-the-road for compensatory mitigation requirements. Such work is then used to help make more transparent decisions at the project scale, and promote markets for mitigation providers that are fairer, more accessible, and less risky.

Are there specific steps you anticipate taking to make sure that your program doesn't create de facto monopolies for particular agencies or investors or organizations?

The Department's mitigation policies are all directed at creating equivalent markets for mitigation providers and ensuring the best compensatory mitigation possible for impacted resources. The Department recently released a Departmental Manual (DM) on Implementing Mitigation at the Landscape-scale (600 DM 6), which states "to implement effective and consistent compensatory mitigation measures, bureaus and office should: (a) hold all mechanisms for compensatory mitigation (e.g. mitigation banks, in-lieu fee programs, permittee-responsible mitigation, and others) to high, and equivalent standards..."

Using equivalent standards reinforces the policy that the Department is not in the business of bolstering one type of compensatory mitigation provider over another. Rather we are most keen on developing a level playing field for all mitigation providers, and in ensuring the best compensatory mitigation possible for impacted resources.

The DM further elaborates on the equivalency between compensatory mitigation providers by stating that all providers must, at a minimum, be held to 13 identified standards. The use of stated standards furthers the equivalency, consistency, and

efficiency of the permit process. These standards are also identical to the standards identified and used by the highly regarded mitigation framework developed by the Army Corps of Engineers and the Environmental Protection Agency for Section 404 of the Clean Water Act (CWA 404). Any forthcoming mitigation policies from the Department's bureaus and offices will also use these standards.

Should government agencies or private investors or NGOs or maybe other parties be given some kind of preference in order to make the market competitive or to ensure the most successful conservation results or should everyone play by the same rules?

As noted above, all mitigation providers should play by the same rules and we will use consistent, equivalent standards to ensure a level playing field. With that said, Department and bureau policies do provide a stated preference for mitigation conducted in advance of project impacts (known as 'advance mitigation'). If bureaus can document actions by mitigation providers that deliver an additional benefit to targeted resources (through restoration and/or protection), such actions can be certified as a mitigation credit. These credits can then be sold to project developers in need of such restoration and/or protection, *in advance* of allowable impacts from their projects. Any mitigation provider who can deliver advance mitigation (and adhere to the aforementioned standards) is eligible for this type of preference.

The Department and bureau policies provide a preference to this form of compensatory mitigation, as advance mitigation benefits (1) the impacted resource by reducing or eliminating the time lag between the impact and the uplift, and (2) the project developers by allowing them to purchase credits rather than conduct the compensatory mitigation themselves, thereby saving time and money. Again, this model of a stated preference for advanced mitigation is consistent with the mitigation requirements of CWA 404.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 3 1 2016

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

Dear Chairman Murkowski:

Enclosed are responses prepared by the Office of Insular Affairs to the questions for the record submitted following the April 5, 2016, oversight hearing on *Issues Facing U.S.-Affiliated Islands and to Consider Two Measures Related to U.S.-Affiliated Islands: S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve an Agreement between the United States and the Republic of Palau.*

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 Maria Cantwell, Ranking Member
Committee on Energy and Natural Resources

**U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina**

Questions from Ranking Member Maria Cantwell

Question 1: Would you update the Committee on OMB's efforts to find an offset, and tell us whether there are specific options the Committee should consider?

RESPONSE: Approving the results of the September 3, 2010, Compact Review Agreement between the United States and the Republic of Palau is of critical importance for United States' national security, including our bilateral relationship with Palau and our broader strategic interests in the Asia Pacific region. On February 22, 2016, the Administration transmitted legislation to the Congress that would approve the Agreement. The Administration has offered several mandatory savings proposals that could be used to offset the funding required in proposed legislation, including terminating payments to states that have been certified as completing the reclamation of abandoned coal mines, and production incentive fees on non-producing Federal oil and gas leases. The Administration stands ready to continue working with Congress toward the approval of the Palau agreement, a vital issue.

Question 2: Toward the end of each fiscal year there are unobligated funds in agency budgets. Was using a portion of these unobligated funds as an offset an option considered by OMB?

RESPONSE: The Administration has not proposed using year-end unobligated funds as an offset. However, the Administration has proposed several mandatory savings proposals that could be used as offsets for the proposed legislation.

Question 3: The federal government spends billions of dollars each year on fuel for cars, trucks, ships and aircraft. Has consideration been given to using some of the savings the government has recently seen in cost of fuel as the offset to the Palau bill?

RESPONSE: The Administration executes the Federal budget, including expenditures on fuel, in line with congressional appropriation line items. In the event that a Federal entity does not fully obligate its annual appropriation for fuel, the budget authority would expire and the funds would remain at Treasury. The President's fiscal year 2017 budget contains requests for funds sufficient to meet anticipated fuel needs. No extra funds are included in the projection.

Question 4: Has the Government of Bikini indicated where they intend to resettle, in what numbers, and whether they intend to resettle as one group, or several groups?

RESPONSE: Last year, the former Mayor of Bikini suggested relocating to three U.S. locations, Arkansas, Oklahoma, and the island of Hawaii in the State of Hawaii because these locations have established populations of persons of Bikini connection and ancestry. While locations may have been suggested, no relocation or resettlement plan has been formally adopted by the Kili/Bikini/Ejit Local Government Council.

**U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina**

Question 5: Do you think that consideration should be given to modifying Section 2 of S. 2360 to require that the use of Resettlement Funds shall be tied to a resettlement plan that is developed in cooperation with the community into which they intend to resettle?

RESPONSE: Public Law 97-257 directed the establishment of a trust fund for the relocation and resettlement of the people of Bikini. This law also gives the Secretary of the Interior the authority to disapprove payments from the trust fund. The Department believes this is sufficient authority to ensure the resettlement plans take care of the desires of the people of Bikini and the intent of the trust fund.

Question 6: Do you think that consideration should be given to limiting the use of the Bikini Resettlement Fund to specific community purposes such as the purchase of real estate and group health insurance, so that the Fund isn't depleted for expenses of individuals?

RESPONSE: The Department believes the disapproval authority given to the Secretary of the Interior in Public Law 97-257 is sufficient to ensure the resettlement plans and wishes of the people of Bikini are carried out.

Question 7: Please explain in how Section 3 of S. 2360 would change the current requirement that a foreign carrier must get a 30-day emergency capability authorization to provide this service, and explain how the bill would affect the ability of a domestic carrier to assume this service in the future?

RESPONSE: The change would provide the U.S. Department of Transportation (DOT) an option of authorizing a foreign air carrier to provide service within American Samoa between the islands of Tutuila and Manu'a under 14 CFR Part 375. The existing service would no longer have to be authorized as an emergency cabotage exemption under 49 USC 40109(g), which requires a new application and DOT approval every 30 days.

The bill would not affect the ability of a properly licensed domestic carrier from obtaining authorization from the Federal Aviation Administration to operate the Tutuila-Manu'a route at any time.

Question 8: To ensure that domestic carriers that might want to provide this service at some point in the future have that opportunity, and at the same time reduce the current burden of applying for emergency authorization every 30 days, wouldn't it work to simply lengthen the period between applications for the emergency authorization from 30 days, to say, 6 months, or a year?

RESPONSE: As explained in the answer to question 7, a United States domestic carrier could enter the Tutuila-Manu'a market at any time. In that event, the foreign carrier would be required to exit.

**U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina**

Question 9: When did a domestic carrier last provide this service and what are the prospects for a domestic carrier to provide it in the future?

RESPONSE: Domestic carrier operations have been conducted intermittently since 2009, and most recently ceased in the summer of 2014. The prospects for future operations by a domestic carrier are unknown.

Question 10: How many flight and passengers are there each week between Tutuila and the Manu'a Islands?

RESPONSE: Polynesian Airlines, incorporated in the country of Samoa, is currently the only provider of air service between Tutuila and the Manu'a Islands. There is one daily flight to Fitiuta on the island of Tau (the larger island in Manu'a) on Monday, Tuesday, Wednesday, and Friday, and only one flight on Thursday to Ofu (the smaller island on which the Marine Park is located). There are no flights to Manu'a on Saturdays and Sundays.

Polynesian Airlines uses a 19-seat Twin Otter Aircraft for its flights to Manu'a. The plane flies at full capacity each way. On occasion, Polynesian has provided charter service for the following agencies: the American Samoa Department of Health, the American Samoa Telecommunications Authority and the American Samoa Power Authority. The airline also responds to government emergencies and has provided medical evacuation services when requested.

Question 11: Are the aircraft used by Polynesian Air to fly between Tutuila and the Manu'a Islands each day also used to fly domestic routes to or within the nation of Samoa routes on those same days?

RESPONSE: Yes, Polynesian Airlines uses the same aircraft that they use to fly within American Samoa to or within the nation of Samoa.

Question 12: What efforts have been made, or are planned, to restore or extend eligibility for federal assistance programs to Compact migrants?

RESPONSE: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, established comprehensive limitations and requirements on the eligibility of all noncitizens for means-tested public assistance. Reinstating direct assistance for citizens of the freely associated states (FAS) through Medicaid, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, and other means-tested public assistance programs would require an act of Congress to amend PRWORA.

U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina

Question 13: Given the structure of the Compacts, what more can the U.S. do to encourage the island governments to make more progress on tax reforms and attracting more investment? For example, Interior has the authority to establish grant conditions and to withhold funds for non-performance. Is that a practical strategy?

RESPONSE: The nature of the Compacts places practical limits on the ability of the U.S. to encourage progress on tax reforms and in attracting more investment. Most Compact funding goes to the health, education, and public infrastructure sectors. Although the U.S. has on occasion used grant conditions to affect policy in health, education, and public infrastructure by reallocating grant resources within those sectors, it would be untenable to withhold education and health funding, for example, to force changes in economic policy. The U.S. has withheld public sector infrastructure funding from each country to enforce better capital planning and administration, but again, those actions were sector specific and designed to address specific sector problems. However well-intentioned, the use of grant terms and conditions to impact economic policy would be seen by the RMI and the FSM as heavy-handed and a violation of their countries' sovereignty.

The FSM and the RMI receive economic policy advice not only from the U.S., but from the World Bank, the International Monetary Fund, and the Asian Development Bank. They have developed internal plans that would lead to tax reform and increased investment, if implemented. The current conditions reflect choices made by the political leadership of each country.

Question 14: On page 19 of Dr. Gootnick's testimony he said that "staffing shortages have affected (Interior's) ability to ensure that Compact funds are used efficiently and effectively." Would you elaborate on this -- how many staff currently oversee the roughly \$200 million in annual Compact grant funding and how many more staff should be employed to reasonably ensure that the funds are used effectively and efficiently?

RESPONSE: The Office of Insular Affairs currently has six full-time employees in the field dedicated to managing grant funding. Two are assigned to the U.S. embassies (Republic of the Marshall Islands and the Federated States of Micronesia) and four are based in Honolulu, Hawaii. Another six employees in headquarters spend roughly 50% of their time on Compact related issues. This equates to nine full-time employees, roughly 25% of the staff at the Office of Insular Affairs. This percentage exceeds an office work plan that was developed in 2010 which identified that 22% of staff was needed for compact related activities. Although additional personnel based in the field would be useful, the allocation of budgetary resources and personnel is currently adequate.

**U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina**

Question from Senator Joe Manchin III

Question: As you know, S. 2610 approves the September 23, 2010 agreement between the United States and the Republic of Palau including a phase-out of financial assistance and revisions to the Compact of Free Association that governs our relationship with this island.

As a member of the Armed Services Committee, I am very aware that our country's continued relationship with Palau is vital. In particular, the original Compact provides exclusive access for U.S. military forces to the territory and allows us to establish defense sites on Palau should we so choose. This Compact, along with other regional agreements, enables the United States to maintain important access to the Asia-Pacific region.

Furthermore, Palau has been a constant ally of the United States before the United Nations. The Departments of Defense and State continue to express the importance of approving this agreement. This legislation has come before this Committee more than once since I've been a member; I encourage the Committee to pass this bill with bipartisan support in recognition of the importance of the Republic of Palau to our strategic posture in Southeast Asia.

Would you discuss any other concerns before the committee if this Legislation is not passed?

RESPONSE: Approving the results of the September 3, 2010, Compact Review Agreement between the United States and the Republic of Palau is of critical importance for United States national security, including our bilateral relationship with Palau and our broader strategic interests in the Asia Pacific region. Continued failure by the U.S. to approve the September 23, 2010 agreement erodes the trust between our nations; thereby, creating an opening for other nations to try to exert influence in the region.

Additionally, the 2010 Compact Review Agreement advances specific mutually agreed upon goals including maintaining the viability of Palau's trust fund and keeping the Government of Palau's spending stable while they enact policy reforms to increase the long-term economic stability of Palau and to maximize the benefits of the economic assistance provided by the Government of the United States. Achievement of these goals becomes increasingly difficult with each year that passes without Congressional approval of the 2010 agreement.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



JUN - 1 2016

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

Dear Chairman Cassidy:

Enclosed are responses to follow-up questions from the legislative hearing on March 17, 2016, before the Senate Subcommittee on National Parks. These responses were prepared by the National Park Service.

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

Sincerely,

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

cc: The Honorable Martin Heinrich, Ranking Minority Member
Subcommittee on National Parks

Enclosure

**U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell**

Questions from Senator Martin Heinrich

Questions: Do existing national service programs like AmeriCorps have exemptions from prevailing wage, minimum wage, and child labor laws?

If so, are they identical to the provision in S. 1993?

If not, how do they differ?

Answer: The National Park Service (NPS) participates in national service programs under the American Conservation and Youth Service Corps (AmeriCorps), the Public Lands Corps (PLC), the Volunteers in Service to America (VISTA), and the Youth Conservation Corps (YCC). These programs are all exempt from prevailing wage and minimum wage laws, but not child labor laws.

Federal youth programs whose authorizing statutes empower the Secretary of the Interior to determine compensation of their participants are not covered by Davis-Bacon labor (prevailing wage) standards. Section 4 of the Davis-Bacon Act, 40 U.S.C. § 3146, provides that the statute “does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.” The authorizing statutes for the Youth Conservation Corps (16 U.S.C. 1703(a)(3)) and the Public Lands Corps (16 U.S.C. 1726) specifically require the Secretaries of the Interior and Agriculture to set the rates of pay or living allowances for the Corps’ participants. The statutory authority for other youth programs, such as the AmeriCorps (42 U.S.C. 126551*l*) and VISTA (42 U.S.C. 4995), specify the living allowances and other benefits that must be provided. Because the programs are designed as a work and learn experience, the participants are not considered employees for purposes of pay and hours and are not entitled to wages from the program that meet the requirements of the Fair Labor Standards Act (minimum wage).

AmeriCorps and VISTA (42 U.S.C. 12591*a*), and the PLC (16 U.S.C. 1723(b)), comply with child labor laws by requiring a minimum age of 16 for year-round programs and either a high school diploma equivalent or a commitment to seek to finish high school. The child labor laws allow a greater flexibility in hours and age when school is out so all of the above programs and YCC allow youth as young as 14 to participate (16 U.S.C. 1702(a)) in summer programs.

S. 1993 requires the participating organization to provide compensation to each 21st Century Service Corps (21CSC) participant that shall include one or more of the following: a wage, a stipend, a living allowance, an educational credit that may be applied towards a program of postsecondary education at a participating

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell

institution of higher education that agrees to award such credit for participation in a 21CSC project. The bill provides an explicit exclusion from the Davis-Bacon prevailing wage law, and it references the National and Community Service Act to categorize participants as other than federal employees, so that 21CSC participants would be treated identically to AmeriCorps and VISTA participants in terms of being exempt from the minimum wage law. And, although the heading of section 6(c) suggests there is an exemption in the bill to child labor laws, there is no exemption.

In summary, in terms of rules for compensation standards and child labor standards, there is no practical difference between the way participants are treated under existing national service programs that the NPS participates in and the way they would be treated under S. 1993.

Questions from Senator Barrasso

Question 1: Does the National Park Service take into account all future management costs when considering supporting a new addition to the National Park System?

Answer: Yes, future management costs are considered as part of the NPS evaluation of potential new units to the National Park System. When the NPS conducts congressionally authorized special resource studies, four criteria are evaluated: national significance, suitability, feasibility, and the need for direct NPS management or administration instead of alternative protection by other agencies or the private sector. If a site is found to be nationally significant and suitable, the NPS must then evaluate feasibility. Feasibility criterion is defined in section 1.3.3 of NPS Management Policies as:

To be feasible as a new unit of the national park system, an area must (1) be of sufficient size and appropriate configuration to ensure sustainable resource protection and visitor enjoyment (taking into account current and potential impacts from sources beyond proposed park boundaries) and (2) be capable of efficient administration by the NPS at a reasonable cost.

The feasibility evaluation also considers the ability of the NPS to undertake new management responsibilities in light of current and projected availability of funding and personnel.

When evaluating feasibility, NPS special studies consider the fiscal impact of adding new units and/or management responsibilities to the national park system. The fiscal impact may include costs for operations, maintenance of existing

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell

facilities, resource protection, and interpretation; the construction of necessary new facilities and development of associated infrastructure; and the repair or rehabilitation of existing facilities within a potential park boundary area. As an agency, the NPS recognizes that newly authorized areas have to compete with more than 400 existing units of the national park system and other NPS responsibilities, all dealing with substantial funding needs.

Question 2: Please describe the process the agency takes when determining whether it is a financially responsible decision support an addition to the National Park Service portfolio.

Answer: If all four new unit criteria are met, study teams develop management alternatives that include cost estimates for facility acquisition and or construction, facility operations, and maintenance costs over the life of the potential unit and its assets. A Total Cost of Facility Ownership (TCFO) approach has been developed to analyze the life cycle of facilities costs—from planning and design, to long-term maintenance and disposition.

A TCFO analysis provides a comprehensive projection of facilities costs over a 50-year horizon, and it contributes to projections of annual operating costs and one-time facilities costs. For instance, annualized preventative maintenance, facility operations, and unscheduled maintenance costs can be produced using a TCFO calculator tool and then built into base-funded annual operating costs.

The TCFO approach informs the consideration of life cycle costs in the evaluation of feasibility. Should extreme and/or unanticipated costs be uncovered through the TCFO analysis, the feasibility analysis is reassessed and the revision of findings considered. This is often also a prompt for a close look at the boundary configuration options, to determine if only the most critical resources have been included in the potential boundary and whether feasibility would be enhanced by a modified boundary.

Question 3: Has the agency ever opposed an addition to the National Park System for financial reasons?

Answer: Yes, some special resource studies have come to a negative finding based on financial reasons within feasibility analysis. One example of a study with a negative finding based on feasibility from 2015 is the Battle of Camden and Historic Camden Special Resource Study. The costs associated with acquisition, development, restoration, and operation of these sites in South Carolina led to the determination that addition to the National Park System is not feasible.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell

Overall, about two-thirds of authorized studies in recent years have come to a negative conclusion. Of these studies, many came to a negative finding based on evaluation of national significance and/or suitability criteria prior to the feasibility analysis. The NPS does not track how many studies conclude with negative findings based specifically on feasibility criteria, but this has occurred in several cases.

Question 4: How many feasibility studies has the Park Service completed since 2010 and how many of those resulted in support for additions to the Park System?

Answer: Thirty-five authorized studies have been completed since January 2010. Twelve of these studies had a positive finding for potential new national park units, additions to existing units, National Heritage Areas, and Wild and Scenic Rivers, or National Trails.

As a clarifying note, studies consist of primarily two types: congressionally authorized studies, which include special resource studies for new units (also called new area studies) as well as studies for National Heritage Areas, Wild and Scenic Rivers, and National Trails; and reconnaissance surveys. A reconnaissance survey is either requested by a member of Congress or by the Secretary of the Interior, and is a study effort of limited scope that the NPS is authorized to conduct without prior Congressional approval and without public involvement. By law, reconnaissance surveys are limited to a cost of less than \$25,000. Reconnaissance surveys are used to present preliminary assessments of the eligibility of a site or resource for inclusion in the national park system, or may focus on one of the new unit criteria (for instance, a review of feasibility).

Question 5: In your testimony on Senator Boxer's bill to allow for a land donation to add to the John Muir National Historic Site, you indicated that some lands added to the Site include critical habitat for the whipsnake, a species listed as threatened under the Endangered Species Act. You went on to say that the acquired land would be open to new public, recreational uses but assured this Committee that the habitat would be protected. What analysis has the agency undertaken to assess critical habitat and what sort of activities does the agency feel are compatible with species conservation? Has the Fish and Wildlife Service been involved in the assessment?

Answer: A detailed habitat management plan for the Alameda whipsnake on this 44-acre parcel has been prepared by the John Muir Land Trust, the current owners of the property. This plan includes a detailed analysis and indicates that recreational use (hiking, horseback riding and biking) on current roads and trails will not have an impact on the species or the critical habitat. The Trust's plan is consistent with the current recreational activities allowed in the park, which is also part of the critical habitat for the Alameda whipsnake. The plan was

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell

completed in consultation with the California Department of Fish and Wildlife, and is consistent with the current draft recovery plan prepared by the US Fish and Wildlife Service.

Questions from Senator Elizabeth Warren

Question 1: As you know, March is Women's History Month, and the National Park Service plays a critical role in recognizing the occasion and telling the story of women in America. Senator Barbara Mikulski's S. 1975, the Sewall-Belmont House Act of 2015, would establish the Sewall-Belmont House and Museum as a National Historic Site. As the headquarters of the National Woman's Party, the Sewall-Belmont House is a key location in the civil rights history of this country, and I am a cosponsor of Senator Mikulski's legislation. Could you describe how the Sewall-Belmont House Act could enhance the Park Service's celebration of Women's History Month and other NPS initiatives to recognize women's history?

Answer: On April 11, 2016, President Obama designated the Sewall-Belmont House as the Belmont-Paul Women's Equality National Monument, making the site a unit of the National Park System. With this designation, the intention of S. 1975 has been fulfilled.

Inclusion of the house as a NPS unit fills identified gaps in the representation of women's history in the national park system. Where Seneca Falls, a NPS site, marks the beginning of the women's rights movement in the United States, the Belmont-Paul Women's Equality National Monument represents the continued story to secure women's equal rights and protections in this nation. Under the leadership of Alice Paul, the works of the National Woman's Party (NWP) led to the passage of the 19th Amendment giving women the right to vote. The NWP remained a critical political force for women's rights throughout the 20th century with both the NWP and the National Organization for Women advocating for the Equal Rights Amendment, which would constitutionally protect women from discrimination. In 1929, the NWP established their headquarters in the Sewall-Belmont House and used its Washington, D.C. location to help lobby for women's political, social, and economic equality on a national stage.

Inclusion of the site in the National Park System increases the number of women's history units and strengthens the overall interpretation of women's history. The designation supports the NPS goal of including sites representing more diversity. It recognizes an important American story of our continued struggle for equality thereby enhancing our ability to recognize the contributions of the women from Seneca Falls until today. In addition, having an iconic site

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell

commemorating the struggle for women's rights in a prominent location in the nation's capital offers a wealth of opportunities to recognize this movement. Overall, inclusion supports telling the full story of our nation and provides opportunities for the NPS to share a more complete story of women's history in America for women's history events and initiatives.

Question 2: Beyond the potential Sewall-Belmont House National Historic Site, many units of the National Park System directly relate to the rich history of women in America. As we approach the 2020 centennial of women winning the right to vote nationwide, could you describe how the Park Service is preparing for this important anniversary?

Answer: The NPS launched its Women's History Initiative in 2011 with the goal of furthering the representation of diverse stories within the National Historic Landmarks Program and exploring how the legacy of women can be recognized, preserved, and interpreted for future generations. Since the initiative's inception, six properties that reflect and tell important stories about women's history in America or about the construction of gender roles in American culture have received National Historic Landmark designation. They are:

- Dr. Bob's Home (Dr. Robert and Anne Smith House), Akron, OH (2012)
- Stepping Stones (Bill and Lois Wilson House), Katonah, NY (2012)
- Casa Dra. Concha Meléndez Ramírez, San Juan, PR (2013)
- Harriet Beecher Stowe House, Hartford, CT (2013)
- Perkins Homestead, Newcastle, ME (2014)
- Lydia Pinkham House, Lynn, MA (2014)
- Marjory Stoneman Douglas House, Miami, FL (2015)

In addition to identifying potential NHL designations, the NPS is also using this initiative as an opportunity to improve upon the interpretation of women's history within national parks. The NPS is asking all of its more than 400 sites to include the forgotten and untold stories—those stories include the role of all women in the making of this nation, inclusive of women-of-color and First Nations' women. Women's Rights National Historical Park (NHP), in Seneca Falls, N.Y., is preparing to celebrate 2017, when New York State granted women the right to vote, and the national anniversary in 2020. In New York, legislation has been passed to create a state centennial commission. Noemi Ghazala, Superintendent of the Women's Rights NHP, serves as the NPS liaison to the commission. Regarding a national celebration, Women's Rights NHP is in the early stages of planning. Among the projects being considered are monthly art exhibits by women artists representing the diversity of this nation, educational outreach programs centered on diverse women's roles in the nation, and a special presentation related to the new \$5, \$10, and \$20 bills when their concept designs will be released in 2020. Harriett Tubman will be featured on the \$20 bill and the other two bills will also feature images of important women or significant

**U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
Hearing on March 17, 2016 regarding Pending Legislation
Questions for the Record Submitted to Ms. Peggy O'Dell**

events related to women's roles in our democracy. The addition of women on our currency has sparked a national conversation on the history of women in our nation which the NPS can cultivate further for this historic anniversary.