

# KEMPTHORNE NOMINATION

---

---

HEARING  
BEFORE THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED NINTH CONGRESS

SECOND SESSION

TO

TO CONSIDER THE NOMINATION OF DIRK KEMPTHORNE TO BE  
SECRETARY OF THE DEPARTMENT OF THE INTERIOR

---

MAY 4, 2006



Printed for the use of the  
Committee on Energy and Natural Resources

---

U.S. GOVERNMENT PRINTING OFFICE

28-971 PDF

WASHINGTON : 2006

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON ENERGY AND NATURAL RESOURCES

PETE V. DOMENICI, *New Mexico, Chairman*

|                                  |                               |
|----------------------------------|-------------------------------|
| LARRY E. CRAIG, Idaho            | JEFF BINGAMAN, New Mexico     |
| CRAIG THOMAS, Wyoming            | DANIEL K. AKAKA, Hawaii       |
| LAMAR ALEXANDER, Tennessee       | BYRON L. DORGAN, North Dakota |
| LISA MURKOWSKI, Alaska           | RON WYDEN, Oregon             |
| RICHARD M. BURR, North Carolina, | TIM JOHNSON, South Dakota     |
| MEL MARTINEZ, Florida            | MARY L. LANDRIEU, Louisiana   |
| JAMES M. TALENT, Missouri        | DIANNE FEINSTEIN, California  |
| CONRAD BURNS, Montana            | MARIA CANTWELL, Washington    |
| GEORGE ALLEN, Virginia           | KEN SALAZAR, Colorado         |
| GORDON SMITH, Oregon             | ROBERT MENENDEZ, New Jersey   |
| JIM BUNNING, Kentucky            |                               |

BRUCE M. EVANS, *Staff Director*  
JUDITH K. PENSABENE, *Chief Counsel*  
BOB SIMON, *Democratic Staff Director*  
SAM FOWLER, *Democratic Chief Counsel*

# CONTENTS

## STATEMENTS

|  | Page |
|--|------|
| Akaka, Hon. Daniel K., U.S. Senator from Hawaii .....                | 6    |
| Alexander, Hon. Lamar, U.S. Senator from Tennessee .....             | 7    |
| Allen, Hon. George, U.S. Senator from Virginia .....                 | 16   |
| Bingaman, Hon. Jeff, U.S. Senator from New Mexico .....              | 4    |
| Bunning, Hon. Jim, U.S. Senator from Kentucky .....                  | 9    |
| Burr, Hon. Richard M., U.S. Senator from North Carolina .....        | 13   |
| Burns, Hon. Conrad R., U.S. Senator from Montana .....               | 15   |
| Cantwell, Hon. Maria, U.S. Senator from Washington .....             | 12   |
| Craig, Hon. Larry E., U.S. Senator from Idaho .....                  | 1    |
| Crapo, Hon. Michael D., U.S. Senator from Idaho .....                | 2    |
| Domenici, Hon. Pete V., U.S. Senator from New Mexico .....           | 1    |
| Dorgan, Hon. Byron L., U.S. Senator from North Dakota .....          | 7    |
| Kempthorne, Hon. Dirk, Nominee to be Secretary of the Interior ..... | 19   |
| Landrieu, Hon. Mary L., U.S. Senator from Louisiana .....            | 10   |
| Martinez, Hon. Mel, U.S. Senator from Florida .....                  | 18   |
| Menendez, Hon. Robert, U.S. Senator from New Jersey .....            | 17   |
| Murkowski, Hon. Lisa, U.S. Senator from Alaska .....                 | 8    |
| Salazar, Hon. Ken, U.S. Senator from Colorado .....                  | 13   |
| Smith, Hon. Gordon, U.S. Senator from Oregon .....                   | 10   |
| Thomas, Hon. Craig, U.S. Senator from Wyoming .....                  | 5    |
| Wyden, Hon. Ron, U.S. Senator from Oregon .....                      | 9    |

## APPENDIXES

### APPENDIX I

|   |    |
|---|----|
| Responses to additional questions ..... | 53 |
|---|----|

### APPENDIX II

|  |    |
|--|----|
| Additional material submitted for the record ..... | 99 |
|--|----|



## **KEMPTHORNE NOMINATION**

---

**THURSDAY, MAY 4, 2006**

U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:08 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Pete V. Domenici, chairman, presiding.

### **OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO**

The CHAIRMAN. The hearing will please come to order. Good morning, everyone.

We are here this morning to consider the nomination of Idaho Governor Dirk Kempthorne to be Secretary of the Department of the Interior. Before we begin, our colleagues, Senator Craig of this committee and Senator Crapo, have asked to make a few remarks. Senator Craig, would you please proceed? And then, Senator Crapo, would you follow.

Senator Craig.

### **STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO**

Senator CRAIG. Mr. Chairman, thank you very much for allowing us to introduce our Governor.

Let me start with this quote, "This is the way the Federal land management should work. Cooperation, not confrontation, should be the hallmark of conservation efforts." That is a quote from our Governor, Dirk Kempthorne. In a nutshell, this quote by Governor Kempthorne summarizes his approach to difficult issues and demonstrates, in my opinion, that he is a leader.

Mr. Chairman and members of the committee, it is my honor and privilege to introduce my friend and colleague of long standing, Governor Dirk Kempthorne. Governor Kempthorne is the best person for the position of Secretary of the Interior. He is a problem solver, a leader, and has demonstrated that he is a good steward of the land. Idaho is the perfect training ground for the issues Dirk will deal with as the Secretary of the Interior.

From management of public lands to energy development to endangered species, Idaho has it all. As a public servant whether it was mayor, U.S. Senator or Governor, Dirk has demonstrated he can bring opposing groups to the table to solve problems. Letters of support from far and wide have come in. Mr. Chairman, you have 40 Governors who have signed a letter in support of this

nominee, Democrat and Republican. We are joined today by the chairman of the Coeur d'Alene Tribe of Idaho, Chief Allan. Gentlemen, Chief Allan's support states this about Dirk Kempthorne, that he has immersed himself in issues related to public lands and natural resources. Has provided him, the chief says, with a foundation of experience to be our next Secretary of the Interior.

Last, I would like to share what President Bill Clinton said as he signed the Kempthorne Safe Drinking Water bill, some years back. "Senator Kempthorne," he said, "thank you, especially for your effort on this issue. I know how long and hard you have worked on it. This legislation represents a real triumph because it demonstrates what we can achieve, here in Washington and in this country, when we turn away from partisanship and embrace shared values." So it is with great pride that I introduce to you, my fellow committee members, the Governor of the State of Idaho and President George W. Bush's nominee to be our next Secretary of the Interior, Governor Dirk Kempthorne. Thank you all.

The CHAIRMAN. Thank you very much, Senator.  
Senator Crapo.

**STATEMENT OF HON. MICHAEL D. CRAPO, U.S. SENATOR  
FROM IDAHO**

Senator CRAPO. Thank you very much, Chairman Domenici, Ranking Member Bingaman, and members of the committee.

It is my pleasure to be here to introduce to you my good friend and our Governor, Dirk Kempthorne. He is the President's nominee to be the new Secretary of the Interior. As some of you know from your service together, Dirk is a man of many accomplishments and is a man of the highest character and integrity. I have known Dirk since the 1980's, when we both serviced the public in Idaho. Dirk was then the mayor of the city of Boise and I served in the Idaho State Senate. In fact, we came to Congress together, Dirk as a Senator and I as a Congressman. I sort of owe my current job to him, as I won his seat when he left the Senate to go back to the State of Idaho to become our Governor.

As we all know, Dirk has dedicated his life to public service. From his time in the Idaho Department of Lands, as mayor, as Senator, and as Governor, he has always been recognized by those from all sides of all issues for his unique character and his ability as a leader. He combines a thorough understanding of policy with the consensus-building abilities required to see that the right policies are carried out through legislation and executive action. These qualities will serve the Nation well as he takes on the many challenges facing the Department of the Interior in the 21st century.

The diversity of his public service, especially as mayor and Governor, helped teach Dirk the real value of federalism, one that recognizes that the Government closest to the people is to do the most, and often with the fewest resources. I like to think that his service as mayor taught him the lessons that ultimately led to his leadership in enacting the Unfunded Mandates Act during his time in the Senate.

A further reflection of that approach is his pioneering work on the Endangered Species Act issues. In the Senate, Dirk preceded me as chairman of the Subcommittee on Fisheries, Wildlife and

Water in the Committee on Environment and Public Works, with jurisdiction over species conservation. In that capacity, he lead a bipartisan effort to update and improve our Nation's laws to better protect and promote the recovery of endangered and threatened species while recognizing the funding challenges and the need to protect people in the process.

As Governor, Dirk has kept up his beacon call and has launched a successful public education initiative through both the National Governors Association and the Western Governors' Association on the importance of ESA issues. Dirk has become a respected national authority on resource issues and a promoter of collaborative decisionmaking to solve environmental conflicts.

As Governor, he also forged a strong working relationship with the five Native American tribes that reside in Idaho. As Senator Craig has indicated, the chairman of one of those tribes is here today in support. Dirk recognizes the complexity of our trustee relationships with our Nation's tribes and has continuously sought to work corporately on matters that affect both the State and Native Americans. As chief steward of the State for the past 8 years, Dirk has been a vigorous champion of innovation in environmental and natural resource sciences. Through his leadership, the State has taken a leading role in applying scientific and technological innovation and research to the complex world of environmental and natural resource management. Dirk has also worked to advance the environmental mission of the Department of Energy's Idaho National Laboratory.

I know many of you have worked with Dirk over the years and I am confident that you found him to be an effective leader and a valuable colleague. Mr. Chairman, I whole-heartedly support Dirk Kempthorne's nomination as Secretary of Department of the Interior. There is no question in my mind that he will make a superlative Secretary and be one of whom we can be proud. Chairman Domenici, again I thank you for providing me the opportunity to speak on behalf of Dirk's nomination. I urge you and the committee to swiftly and favorably report his nomination to the full Senate. I look forward to working with you and Dirk and others in Congress on the pressing natural resource issues facing our Nation today. Thank you.

The CHAIRMAN. Thank you very much, Senator. Now, before the two of you Senators leave, do any Senators up here at the dais have a question of either of the two Senators who have spoken on behalf of Senator Kempthorne? Anybody desire to speak or ask a question of Larry Craig or Mike Crapo?

You are excused, Senators. Thank you very much for your testimony.

Now, Governor, it comes time, a pleasant time before a hearing when we permit you, if you have members of your family present, to introduce them so that they can share with you in this event. If they are with you, would you please introduce them to us.

Mr. KEMPTHORNE. Yes, Mr. Chairman, thank you very much.

It is a great joy and pleasure for me to introduce to this committee my wife, Patricia, of 28 years. Twenty-nine this year. And our daughter, Heather, and our son, Jeff.

The CHAIRMAN. We are delighted that you came and joined in. We remember when you were with us before, when you left us to go home and I assume you made this big decision to come back. You have smiles on your faces, so it must be with joy that you made that decision. At least I say that to you as his wife. We hope it is going to be a joyful time here. Thank you for joining us.

Now, we are going to proceed with the hearing. I welcome you back to the Senate and to this committee, Dirk. I want to thank you for your willingness to undertake the responsibilities of this magnitude in this administration. Everyone around here—and in particular the members of this committee—knows the importance of the issues that you will receive if you are confirmed: Issues important to our energy policy, our parks, our memorials, our national treasures of all types, our western water policy, and on and on. I think I speak for everyone here, certainly everyone on this side of the dais that we could not be more pleased to have someone with the experience that you have willing to take the helm of the Department of the Interior.

That confidence in you has also been reflected in numerous letters of support that we have received, one of which I want to note and ensure its inclusion in the record. This letter, fellow Senators, is the letter of support of 40 Republican and Democratic Governors. That is a tremendous vote of confidence and an indication of the caliber of expertise and judgment and willingness to work together and the ability to work together that you would bring to this Department.

It is my hope that we can get you quickly confirmed to this position. The Department needs to have an experienced Secretary, one who can take the helm running and do that as soon as possible. Major decisions that must be made are on hold. Many more will be coming down the pike in the next few months. I don't say that in any way to frighten you. You are fully aware of it or you wouldn't have taken this job. There are a load of decisions to be made, some ready and some waiting just waiting to come across your desk.

We can't afford to leave the department without permanent leadership, so this chairman will do everything that he can to get you in the place the President has asked you to be as soon as possible. But we all know this is a process, a process that the Constitution provides, and it may take some time, that is the prerogative of the U.S. Senate.

Now, with that, I am going to yield to Senator Bingaman, who may want to make opening remarks, and then I am going to yield in due course to any other Senator who would like to comment. I would only ask, please, if other Senators desire to comment, unless they have something extraordinary, would you please make the comments as brief as possible. Senator Bingaman, this does not apply to you. Senator.

[Laughter.]

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR  
FROM NEW MEXICO**

Senator BINGAMAN. Thank you, Mr. Chairman. I assure you I have nothing extraordinary to say here, but I appreciate the chance

to welcome Governor Kempthorne back to the Senate, and to make a couple of obvious points that I am sure he is aware of. We have a great deal of debate and discussion going on here in Washington, here in the Congress and in the administration about the soaring price of gas and what is needed to deal with our energy needs. That is an important issue, as I believe you said, Mr. Chairman, for the Secretary of the Interior. The Department of the Interior manages the lands and waters that generate a third of our domestic energy, so it is a significant issue, but obviously, the Secretary of the Interior is not the Secretary of Energy. The Secretary of the Interior's job is a different job and I would sum it up—and I think this is consistent with what Senator Craig was saying in his comments. I would say the Secretary of the Interior's job is that of steward and chief, perhaps, of our Nation's lands and natural resources. I think, more clearly, to be the faithful steward of the parks, the monuments, the wildlife refuges, the wilderness areas, the public lands, the wild and scenic rivers, to protect historic sites that have been designated by the Congress and natural areas that have been designated, and to leave those unimpaired for future generations to enjoy.

There has been criticism of the Department of the Interior in the last several years. In particular, that there has been too much emphasis on commercial exploitation of the resources and not enough on stewardship of the resources. I just cite that as an issue that you are clearly going to have to grapple with and make decisions on. If confirmed, Governor Kempthorne will have the opportunity to put his own imprint on these policies and actions of the Department. It is my great hope that in this new position you will be able to work to repair the lines of communication with this committee, which I don't think have been all that they should have been in recent years, and restore the balance—and ensure the balance, I should say, between development and conservation, which is appropriate, and, of course, review policies of the Department to be sure that this important role of being the steward of our national resources is given the priority it deserves.

Thank you again for the chance to speak, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bingaman.

Now we are going to proceed on our side. Senator Thomas of Wyoming, would you like to comment, please.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR  
FROM WYOMING**

Senator THOMAS. Yes, thank you, Mr. Chairman. I will be very brief. I want to tell the Governor how pleased we are to have him here and look forward very much to it. Wyoming, of course, is a State where over half of our land is owned by the Federal Government and managed by Interior agencies. Seventy percent of the sub-surface minerals are managed and run by the Government, so this is very important to us. We have a number of conflicts going on out there now, with respect to wolf management and some of those things that need to be resolved. We can do this and we certainly look forward to it.

So, I am very pleased that you are here. I am very pleased that you have had the experience of working in the West in public land

States with the kinds of things that we are all faced with, and certainly we look forward to working with you. I invite you to come to Wyoming and get acquainted a little more closely with our issues. Thank you for being here. Thank you for being able to take this on. We look forward to working with you. Thank you.

[The prepared statement of Senator Thomas follows:]

PREPARED STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

I would like to welcome Governor Kempthorne to the hearing today. This nomination is very important to my state as well as the nation, and I appreciate you being here today.

The Department of the Interior is the next-door neighbor to nearly everyone in Wyoming. Just over half of our land is owned by the federal government. When you look at subsurface mineral ownership the federal share jumps to 70%. The vast majority of that federal land is managed by Department of the Interior agencies, including the Bureau of Land Management (BLM), National Park Service, Bureau of Indian Affairs, Fish and Wildlife Service, and Bureau of Reclamation. Wyoming is home to two of the nation's most spectacular National Parks—Yellowstone and Grand Teton. It is also home to the third largest Indian reservation—the Wind River Reservation.

Obviously the people of Wyoming are very concerned with how their neighbor, the Department of the Interior, manages their land. Our National Parks are special places that need special protections and attention. Our reservation is also unique, and the people who live there have many needs. Interior's management the land influences almost every sector of our economy, from coal and oil and gas development, to agriculture, to tourism and recreation.

I understand that some of Interior's management decisions are controversial.

For example, the listing of the wolf continues to be a contentious issue in the West. The wolf population in the northern Rocky Mountains is ready to delist, however, the State of Wyoming and the Department of the Interior remain at odds over the management and delisting of wolves. As the Governor of Idaho, you understand this issue from the states' perspective, and I am hopeful that perspective and your experiences will lead to an agreeable resolution. Continued conflict is not good for the Department or Wyoming. One of the problems, and the source of much of the conflict, has been getting Interior officials with decision-making authority to come to the Wyoming. As a result, public trust and confidence in Interior remains low in Wyoming.

Another issue is oil and gas development in Wyoming. Interior's role in the current energy boom being felt in Wyoming is clear, as much of the development and production involves Interior owned mineral and Interior-issued permits. Energy production is important to Wyoming and the nation. The people of my state are doing their part to help meet the nation's appetite for energy. Development is needed, but at the same time we must remember that there are costs to the land and the people who live there.

Governor Kempthorne, I would like to invite you to come to Wyoming after you are confirmed to meet with people on the ground to talk about the many issues your agency is facing. I would like a commitment from you today that you will visit my state. It will be important to get out of Washington and meet and talk with the residents, employees, and officials who are impacted by these issues. As a Governor, you know how critical it is to be a hands-on leader willing to go out in the field to talk to the people. I truly believe that your success depends on it.

The CHAIRMAN. Thank you very much, Senator.  
On the Democrat side, Senator Akaka.

**STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR  
FROM HAWAII**

Senator AKAKA. Thank you very much, Mr. Chairman. I am so pleased to see my good friend and colleague, Governor of Idaho Dirk Kempthorne. I want to say hello to you and welcome and also to Patricia and the family here.

I would like to take this opportunity to thank you for being here today. I know you so well and know that you have the experience—

great experience as a public servant, in your State as well as here in the Senate. When you are confirmed, I know your wisdom will help our country, as being steward of our country's land and natural resources. As guardian of the national parks and our most sacred historic sites, as well as much of this fish and wildlife, it will be your job to protect these valuable resources for our children and our children's children. So, it is very important to me and to our country. I look forward to working with you. My questions—I just want to tell you that I have an important issue to mention to you and hopefully will have your commitment. I look forward to hearing you and your testimony.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Back on our side, Senator Alexander.

**STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR  
FROM TENNESSEE**

Senator ALEXANDER. Thank you, Mr. Chairman. Governor Kempthorne, we welcome you. You should be a terrific Secretary of the Interior. The three areas that I am most interested in we have already talked about. I will mention them in a total of about 60 seconds here.

One is your interest in the State side of the Land and Water Conservation Fund. Senator Salazar and I and many others have worked on that and look forward to working with you on that. Second is the revision of the management policies in the Department. We have talked about that. Senator Thomas and his subcommittee have held hearings on that. We will be holding more. That is very important to a number of us here. Third is you have an important decision to be making on the so-called "Road to Nowhere" through the Great Smoky Mountain National Park, which if it were built would take 75 years of funding from the park road budget and build three bridges the size of the Brooklyn Bridge through the wilderness area. I hope you will decide that is a bad idea and instead compensate Swain County, which has been recommended by the Governors of North Carolina, Tennessee and me. But we will talk about those issues. I look forward to working with you. I thank you for being willing to serve.

The CHAIRMAN. Thank you very much, Senator.

Senator Dorgan.

**STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR  
FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, first of all, let me confess to liking Dirk Kempthorne. He and I and many on this committee have worked together in the Senate, and I am pleased to support his nomination.

I want to mention two things very quickly. One, Senator McCain and I and others in our role in the Indian Affairs Committee have worked very hard to try to begin to resolve the *Cobell* case, the systematic mismanagement of Indian trust funds over many, many years. This is a very big issue, a very important issue. I have talked to you about it previously, Governor Kempthorne. I hope it

will be a priority for you, as it is for us, to see if we can finally resolve this.

Second and last point, it has been since February of last year that there has been an Assistant Secretary for Indian Affairs. We really need to have someone appointed to be Assistant Secretary for Indian Affairs. It has traditionally been a Native American. My hope is that you would also see that as a priority and that as your choice. I hope we can move quickly. There are just so many pressing issues: The crisis and health care, housing and education on Indian reservations.

I look forward to working with you. While we might disagree from time to time, I feel very strongly that Senator—and now Governor—Kempthorne is the kind of person that will work with all of us on issues and try to find the right result. So, thank you very much.

The CHAIRMAN. Senator, on that vacancy, you can rest assured that I am working on it also. I think it is shameful. We have to find someone and we have to do that. This may be the catalyst to get it done. It is very important that we find somebody.

On our side, please. The Senator from Alaska.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR  
FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. Good morning, Governor Kempthorne, nice to have you here. And again I also thank you for your willingness to serve. I enjoyed the conversation that we had several weeks back for me to share some of Alaska's concerns that are perhaps not new to you, but just again a reminder. And I don't want to quibble with my colleague here from Wyoming about which State might have a greater interest in this position of Secretary of the Interior, but I think it is fair to say that we in the Western States look very, very carefully at this position because you are our Federal landlord. I guess if I would have to pick a Federal landlord, I am certainly much more comfortable with one who has been managing lands in the West and who understands so many of our issues. I look forward to working with you on that.

As you know, we are approaching our 50th anniversary of statehood. We would really like to think that some of the promises made to us on statehood would be complete when it comes to our conveyances of the lands. We have not yet completed the conveyances of the 104 million acres that were promised to Alaska under our Statehood Act. Our native corporation still has not received the full 44 million acres of land and there are far too many applicants for our native allotments under the Act of 1906 that are still waiting to receive the lands that they are entitled to.

When we look at those lands designed as wilderness, we have half, one full half of all the federally designated wilderness is in the State of Alaska. We have 57 million acres. When you add the land that is managed as wilderness, it is 76 million acres total. It is about 16% of our State, of Alaska's entire landmass, which is managed as wilderness. A lot of people don't recognize this, but again, that puts your responsibility in the Department of the Interior right up there in terms of those that we look to for assistance.

When we recognized that  $\frac{2}{3}$  of the total acres managed by the National Park Service are located in the State of Alaska—84% of the acres managed by the Fish and Wildlife Service are in Alaska. I can go on and give the statistics and once again impress how big and how important Alaska is, but our relationship with the Department of the Interior is exceptionally key.

I look forward to your visit this summer, so that we can walk through some of these acres and again impress upon you the importance of your position, your role as our landlord. I look forward to working with you in many, many capacities and again for your willingness to serve.

Thank you, Mr. Chairman.

The CHAIRMAN. The distinguished Senator from the State of Oregon.

**STATEMENT OF HON. RON WYDEN, U.S. SENATOR  
FROM OREGON**

Senator WYDEN. Thank you, Mr. Chairman. Governor, you and I go back a long way and I have always enjoyed working with you. I am going to be asking you about a number of topics this morning over the course of our discussion. I am particularly concerned about the fate of a law that Senator Craig and I wrote. It is called the Secure Rural Schools and Communities Self-Determination Act. And what the administration proposes to do is to sell off hundreds of thousands of acres of our public lands, while at the same time turning off the lights in much of rural America. We are not going to be able to pay for our schools and law enforcement and other services if the administration is successful in cutting this program back 60%, as has been proposed, while at the same time selling off America's treasures.

And what Senator Craig and I did 6 years ago, for the first time in decades, was break the polarization in the debate over natural resources. We have something that works, and yet the administration wants to abandon it, sell off America's treasures, and whack our rural schools and communities. It was a bipartisan effort between Senator Craig and I. I will be asking you about that and other topics, but I want you to know as we go into these hearings that I very much enjoyed our working relationship in the past and I will look forward to continuing that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

The Senator from Kentucky.

**STATEMENT OF HON. JIM BUNNING, U.S. SENATOR  
FROM KENTUCKY**

Senator BUNNING. Thank you, Mr. Chairman. Welcome, Dirk. I want you to know up front that I am going to be 100% behind your nomination. Rather than talk about legislation, I want to thank you for saving my life and my wife's life in Boise. When the University of Louisville came up to play Boise State, it was 9 degrees. If I hadn't gotten in a—not your box, but some enclosure in the second half, I would not have made it to the end of the game.

[Laughter.]

Senator BUNNING. And I want to thank you for that. You will do the same job at the Department of the Interior. Save what we have of natural resources and do the things that are necessary. Thank you for being here. I thank you for your willingness to serve.

The CHAIRMAN. Thank you very much, Senator.

Who is next? You are next, Senator Landrieu.

**STATEMENT OF HON. MARY L. LANDRIEU, U.S. SENATOR  
FROM LOUISIANA**

Senator LANDRIEU. Thank you, Mr. Chairman. Governor, I want to extend my sincere appreciation for the quality of your public service and the extent of your public service, and I look forward to working through your nomination and the process that we have started.

As you know, the State of Louisiana—in the meeting that we had, and you were very gracious to come and visit with us on the subject—plays host to about 30% of the Nation's oil and gas production. Since I think a picture speaks a thousand words and we just got this new picture developed, this is what the State of Louisiana's pipeline system looks like. That keeps the oil and gas flowing into the country and keeps a lot of the lights on, most of the lights around the Nation.

Mr. Secretary, as you know, we had two monster storms hit this coast. We are losing the equivalent of 33 football fields a day. We have lost over a million square miles of wetlands, and if we don't act immediately to correct this situation, we will lose one of the greatest treasures in the United States of America, which is the last coastal wetland in the United States. This wetland contributes more to oil and gas production in the country than any place, including Alaska or the West. The only solution that we have been able to come up with is a revenue sharing or coastal impact assistance that will help not just Louisiana but the gulf coast States. My questions through this hearing and through your nomination will be about what your position is regarding leading the effort for equity and for common sense when it comes to energy production and responsibility to our environment as we proceed forward. Thank you.

The CHAIRMAN. Thank you very much.

Senator Smith.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR  
FROM OREGON**

Senator SMITH. Dirk, welcome. You are a good neighbor to Oregon and a good friend of mine. I look forward enthusiastically to voting in the affirmative when your confirmation comes to the floor. I want to echo what Senator Wyden said, about how important these county payments are to States like Oregon and Idaho, Washington State, Montana, even Mississippi.

I also want to link with the past, which is related to much of the stewardship you are about to assume. The Department of the Interior is responsible for the management of probably about 25% of the State of Oregon. The Forest Service takes another 25%. Our State, like many of my colleagues', is more than half owned by the Federal Government. Your Department, specifically under the

BLM, manages 2 million forested acres in western Oregon known as the O&C lands. By statute, these lands are to be managed for the permanent timber production for the benefit of those counties there. They have received in the past not just family-waged jobs, but 25% of the value of the timber production, known as timber receipts.

This all went away in the 1990's. The spotted owl was listed under the Endangered Species Act. We were told that it was listed because of overharvesting. I won't comment on whether it was overharvested or not. I suspect it was overharvested, but the linkage was made between harvest and the survival of the spotted owl.

But 16 years later, we have learned that the real threat to the spotted owl is the barred owl. The barred owl is bigger than the spotted owl. It competes with it for territory. It eats it when it can. And it is driving down its numbers and the barred owl numbers are increasing. The barred owl is not native to the Pacific Northwest, it is from the Midwest, but it is flourishing there at the expense of the spotted owl.

The CHAIRMAN. Isn't that amazing?

Senator CRAIG. Yes.

Senator SMITH. But in the meantime, these communities have suffered devastating losses to their livelihood, to their survival. And the U.S. Fish and Wildlife Service, under your jurisdiction, is responsible for the recovery of the spotted owl. And yet, 16 years later we still don't have a recovery plan for the spotted owl. We need you to have one. We need it fast, because until we have a path to return to the old ways, Senator Wyden and I and many of our other colleagues are going to fight with all the tools available for us to preserve some safety net. When the Federal Government owns you and makes commitments and then it changes the deal, the change comes with a cost, and we face it in human terms every time we go home. We need a plan. We need a recovery plan for the owl.

We also need to add some common sense management to the recovery of these enormous wildfires that we have that have consumed approaching a million acres of spotted owl habitat, left unattended just to nature to take its course after these catastrophic fires that burn hotter than anything that we have known in natural history because of the overgrowth, the blowdown, the snowdown. The volatility of these fires will leave these places moonscapes for a century or more. We need something better than that as the answer.

I hope you will review the status of the whole issue of the owl. People are counting on you. I look forward to working with you to find a defensible recovery strategy. I applaud the Bureau of Reclamation for the way they have worked on the burning issue of water in eastern Oregon, and places like Klamath Falls in southern Oregon. I hope we will see a continuation of that collaborative effort. They have done an outstanding job. Thank you, Mr. Chairman. Thank you, Dirk—Mr. Secretary, almost.

The CHAIRMAN. Thank you very much. Senator Cantwell.

**STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR  
FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. Governor, Mr. Chairman, I was going to just enter a statement for the record, but seeing where we are going with time, I think I will make a few comments about questions that I want to ask you, because we need to get to a vote. First of all, welcome. I know you do understand regional issues in the Northwest, having grown up in Spokane and serving as a steward of the region as Governor and working with our Governor in Washington State. I plan to ask you about the National Park System, something that we are very proud of in the Northwest and a key component of Washington State's \$200 million outdoor recreation industry. I would like to ask you about your predecessors' policies, particularly as they relate to the parks and the ongoing rewrite of the Park Service's management policies. I want to be clear with you on my concerns about this new rewrite as it relates to increased use of snowmobiles, ATVs, and jet skis. I'd like to know your feelings about the original charter and mission of the Park Service and how you view that and view the conflicts in the rewrite.

I guess when you have friends on the committee you get an advance of the questions that are going to be asked, so that is what I think some of my colleagues have been doing and I am going to continue that.

Royalty relief is a big issue for the Secretary of the Interior. I am very concerned that the Department of the Interior's estimates are that taxpayers will lose about \$9.5 billion in royalty relief and yet the GAO has come up with a much larger number. So, why is there a discrepancy and how aggressive will you be as Secretary of the Interior in pursuing this issue?

My colleague from Louisiana just talked about the issues that have faced that region related to dealing with coastal erosion.

One of the things that I have been most proud of as a Washingtonian is the work that the long-time Senator from Washington State, Scoop Jackson, did in the creation of the Land and Water Conservation Fund in 1965. I am very concerned about the administration's short-sighting of the state-side grant program of the Land and Water Conservation Fund. I would like to know where you are with that, because I don't think it is a program that deserves to be eliminated in the budget.

Last, obviously my colleagues have talked about the Bureau of Indian Affairs, but I want to get your sense of that agency, an agency that has long, I believe, been underserved. The BIA is in need of better oversight and management to require more efficiency to get back on the right track. I want to hear your ideas on that. I hope that we will get time to get back to questions, but again I appreciate your interest in serving in this position and certainly your service to the Northwest region. Thank you.

The CHAIRMAN. Thank you very much. I would appreciate it if you would keep the remarks a little bit shorter. Senator, I understand what you are doing and I compliment your wisdom.

Now we are going to have the distinguished Senator, Senator Burr.

**STATEMENT OF HON. RICHARD M. BURR, U.S. SENATOR  
FROM NORTH CAROLINA**

Senator BURR. I thank the Chairman. I won't take it personally that he has reminded Senators of time as he yielded it to me. Governor, welcome and make no mistake about it, I enthusiastically support and will do everything to expedite your nomination. I thank your family for their unbelievable commitment to a number of years of public service.

North Carolina is made up of 10% Federal lands, over two million acres. It is important to us. My support does not go without questions, and we will get into those, but I think that Senator Landrieu very eloquently talked about two devastating storms in Louisiana, the fact that those storms did things that no part of an imagination could have ever envisioned. The reality is that North Carolina relies on an infrastructure that is driven off of tourism. Our Outer Banks receive over a million visitors a year. In the middle of our Outer Banks is a wildlife refuge. It is one that Fish and Wildlife is in charge of.

Our responsibility and the country's responsibility is to make sure that if, in fact, there is ever an emergency, that we can evacuate people, something we learned over and over last year. We take that very seriously in North Carolina. To remove visitors from our Outer Banks is absolutely essential, but to do that, it means that we have to address the infrastructure needs and the deterioration. We are faced with that right now. You know about this, and we will talk about some questions.

The number one thing I hear when I come home is, is there any common sense in Washington? When I see decisions like I am faced with, I have to question the same thing. I heard Senator Crapo describe you very eloquently. He said that you recognize the need to respect funding and to protect the people. That is what we are faced with in North Carolina, the need to respect how much it is going to cost to fulfill the infrastructure needs to take care of the security of the people that are there.

A 17-mile bridge has been proposed in the Outer Banks of North Carolina, the second longest bridge, behind Lake Pontchartrain in Louisiana. I have visions of the Lake Pontchartrain bridge after the devastating hurricane. That happens not very regularly in Louisiana, but it happens every year in North Carolina. Not on the magnitude that we have seen, but we get a tremendous amount of practice. I am not sure whether common sense plays a part of that decision, much less a \$900 million bridge versus a \$300 million option. I will ask you some questions about it later on. I want you to know that this is something that I will stay engaged in and I feel very confident that you will engage in and that we can go home and say common sense does exist in Washington, DC. Thank you, Governor.

The CHAIRMAN. Thank you very much, Senator.  
Senator Salazar.

**STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR  
FROM COLORADO**

Senator SALAZAR. Thank you very much, Chairman, and thank you very much, Governor Kempthorne, for being here and for your

willingness to serve. Thank you to your family as well, because I know the sacrifice that goes into the kind of service that you are providing. You and I had a great meeting less than 30 days ago. I won't review all of the issues, but we talked about the National Park Service Management Policy, bark beetle infestation, the fire emergencies that we are facing in the West, public land sales, payment the lieu of taxes, the Land and Water Conservation Fund, BLM leasing policies, oil shale development in Colorado, and the Endangered Species Act. So, that gives you a sense of the portfolio of it. I hope to be able to work with you in your position as Secretary of the Interior.

I want to just make two brief comments. One, with respect to parks, for the life—after multiple hearings here, including Senator Thomas and others, I still have no way of understanding why it is that the National Park Service has decided to change its policy of “do no harm.” That is something that I want to work with you on. I want you to revisit that issue.

Second, the Land and Water Conservation Fund, Senator Alexander has been a leader in this effort, along with others on this committee. I know that in June, I think, of 2001, you issued a press release supporting the \$450 million funding to the Land and Water Conservation Fund. That is going to be a subject that I hope we get to revisit here as we move forward with some of the energy proposals that we are dealing with today. I look forward to working with you on that very, very important program that you know has benefited Idaho and benefited every one of the 50 States of the Nation. Thank you.

[The prepared statements of Senators Salazar and Burns follow:]

PREPARED STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Thank you, Mr. Chairman and Ranking Member Bingaman.

Welcome, Governor Kempthorne. Congratulations on your nomination as the Secretary of the Department of Interior. I am confident that you, as a westerner, a former senator and the current governor of the great state of Idaho, understand the importance to my State of Colorado of the issues managed daily by the Interior Department.

The Department of the Interior manages over eight million surface acres of public land and over five million subsurface acres in Colorado. These lands include four National Parks, seven National Wildlife Refuges, vast Bureau of Land Management holdings, and numerous National Monuments, Recreation Areas, and Historic Trails.

Millions of Coloradans visit the National Parks, hike the Historic Trails, hunt on BLM lands, or heat their homes with natural gas extracted from land covered by a BLM lease.

There are dozens of important issues facing Colorado, relative to the Department of Interior's management of public lands in my state, for which you will have responsibility if confirmed. I look forward to working with you on each and every one of those issues.

I will mention briefly just a few examples, and I look forward to asking you further about these later.

Governor, over the past five years under Secretary Norton there has been a distinct shift in management emphasis of our federal lands within the Department of the Interior from one of stewardship and conservation of lands managed by the Park Service, Fish and Wildlife Service and Bureau of Land Management, to an emphasis on development—principally energy development—and on other commercial uses. This shift to the commercial exploitation of our public lands over all other uses is apparent in both the articulated policies of the Administration as well as in the budget proposals sent to Congress. For example, the FY 2007 Interior budget includes over \$467 million for energy development, while the amounts for important

conservation, operations, research and maintenance programs of the National Park Service, Fish and Wildlife Service, USGS and BLM have been cut dramatically.

I am in favor of balanced development of energy resources on our public lands. And I believe our National Parks and other conservation lands must be managed so they can be enjoyed by the public. But I think it is fair to say the overall management direction of the Department lacks the right balance between the conservation and protection of natural resources and the development and commercial exploitation of those resources.

Nowhere is this trend more apparent than in the oil and gas fields in the Rocky Mountains. Many of Colorado's rural counties are experiencing rapid growth in energy production on BLM lands. These communities understand that we must move our country toward energy independence, but they are also very concerned about the serious impacts that this stepped-up development is having on their land, water and infrastructure. They want to contribute to expanded domestic energy production while still preserving their natural heritage and a quality of life that attracts residents, visitors, and businesses. If you are confirmed, I hope I can count on you to provide BLM with all of the resources it needs not only to issue drilling permits, but also to conduct vigorous oversight when producers are drilling on public lands in these counties. Our rural communities deserve high standards and safeguards if they are to help carry us toward energy independence.

Most important, BLM is charged with leasing millions of acres of minerals that lie under private lands, and I look forward to working with you and the Department to find ways to work more cooperatively with those surface owners—including providing notification to each surface owner before parcels are leased and making sure that the rights of surface owners are addressed.

In Garfield County, where much of the oil and gas and oil shale activity is located, a group of citizens and communities came together and created an innovative development plan with Antero Resources, an oil and gas company that has a number of leases on private property in that county. This plan, while not legally binding, provides a framework for responsible development. The goal is to create a working relationship built on trust and goodwill between the community and industry whereby each entity accepts a level of responsibility and holds its partner accountable. I believe this plan provides a blue print for how BLM might work more effectively with surface owners. I would be glad to provide you and your staff with a copy of the plan.

Recreation and tourism is also a growing segment of the economic base in Colorado's rural counties. I am therefore very troubled by the Department's proposed revisions to the National Park Service management policies—policies which were updated just five years ago to make them consistent with legal developments at that time. The 2001 policies reaffirmed the commitment of previous management policies and the 1916 Organic Act to protect park resources above all else. The proposed revisions to the NPS management policies, however—especially when combined with cuts to the National Park Service's maintenance and construction budget—threaten to exacerbate the deferred maintenance backlog in the Parks and to erode the integrity of our entire National Park system.

Finally, the President's FY07 budget proposes—for the second year in a row—to eliminate the Land and Water Conservation Fund stateside grants program, which provides matching funds for Great Outdoor Colorado (GOCO)'s parks, recreation, and open space projects. The elimination of a broadly supported and highly effective program would limit recreation options for all Coloradans and will hurt rural communities that want to protect open spaces and parks for future generations. We discussed the LWCF stateside grant program when you and I met last month, and I was reassured when you told me you would work with me to restore full funding to this important program.

Governor, I hope in your testimony today you will reaffirm your continuing commitment to good stewardship and protection of America's public lands.

Thank you, Mr. Chairman.

---

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Thank you, Mr. Chairman, for the opportunity to address the Committee this morning. I welcome Governor Kempthorne to this hearing and look forward to our discussion today.

Montanans are affected very deeply by decisions regarding federal land, because they are the ones trying to make a living on the land, live next to it, or use it for recreation. As a former colleague of ours and Governor of Idaho, Governor Kemp-

thorne fully understands the decisions we make will have significant impact at the local level.

Right now everyone is talking about the high price of oil, gasoline, and natural gas. Our public lands can play a large role in moving our country towards energy independence. I trust Governor Kempthorne will work with Secretary Bodman and Congress to make sure we are making wise use of our public lands. We have the resources available and we need to be able to access them.

During his time as a Senator and Governor, he has faced many contentious issues head-on and has proven that he is able to bridge the gap and help people come to the table even if they do not always see eye to eye. There will be challenges ahead that will require common sense and educated answers, and I am confident Dirk Kempthorne is the right person to lead the Department of Interior in that effort.

There is one specific issue in Montana I would like to bring to your attention. In April, we visited about the looming emergency facing the St. Mary Canal and Diversion Facilities and my intent to introduce legislation to rehabilitate the project. I again invite you to come to Montana and see the facilities for yourself.

I am here today to offer Governor Kempthorne my wholehearted support in his nomination to be the 49th Secretary of the Interior. As a member of this committee and as Chairman of the Senate Interior Appropriations Subcommittee, I look forward to working closely with him as the next Secretary of the Interior.

The CHAIRMAN. Thank you very much, Senator.  
Senator Allen.

**STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR  
FROM VIRGINIA**

Senator ALLEN. Thank you, Mr. Chairman. Governor, it is good to see you again. I welcome you and your family back to the Senate. Hopefully, you will move back to Virginia as well.

Senator Bunning was thanking you for saving his life. I have a special affection for Idaho, not for saving my life, but they called me up from working on a ranch near Onanmuck on BLM land and they had cattle up near Carey and had to work the round-up up there. Hopefully, you won't have to go like those cattle being herded, culling the cows from the calves, branding them, turning bulls into steers, and all the rest, as you go through this.

Let me just briefly mention something—and this is a very important job. You just listen, Mr. Chairman, to all the different comments how important this position is. For Virginia, we are not like Western States that are run by the Federal Government, in all respects, you have Forestry land and some national parks.

One measure that is coming up has to do with the founding of America's representative democracy at Jamestown, the 400th anniversary of the founding of the Jamestown settlement, the oldest permanent English settlement in the New World will be next year. It is not as old as Santa Fe and the Spaniards, but the longest, oldest and the first permanent English settlement in North America.

John Smith had these fascinating voyages and mapping of the Chesapeake Bay and its tributaries. We have worked together—Senator Warner, myself, Senators Sarbanes and Mikulski in Maryland, Senator Biden in Delaware, as well as those in Pennsylvania—to have a recognition not just of the Jamestown commemoration—the President has been very helpful in that commission—but we also want to establish a Captain John Smith Chesapeake National Historic Trail recognizing these exploratory voyages in the Chesapeake Bay and its tributaries. Chairman Thomas will soon have a hearing on the bill later this month and I look forward to working with my colleagues and the Bush administration to pass this important legislation. Next year is the 400th anniversary. The

sooner we can get this accomplished, the better the preparation and planning will be for the 400th anniversary of the founding of Jamestown, which is indeed the cradle of American democracy.

So, I thank you. I think your experience as a Senator and a Governor uniquely prepare you for this very important position for America. I look forward to working with you and your swift confirmation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator. Our last Senator, Senator Menendez.

**STATEMENT OF HON. ROBERT MENENDEZ, U.S. SENATOR  
FROM NEW JERSEY**

Senator MENENDEZ. Thank you, Mr. Chairman.

Governor, welcome. Congratulations on your nomination and on your service over a long period of time.

While I know my colleagues from Western States are intently interested on who the Secretary of the Interior Department is, I can tell you as the only Northeastern member of this committee that we are intensely interested in who the Interior Secretary is as well. By virtue of that, let me just tick off a few things, some of which I hope to pursue in requesting of others that may not have time to, but that are incredibly important to our region.

New Jersey's economy, the second largest part of our economy is tourism, \$22 billion, 10% of all of our jobs. I am concerned about both the Departments, and I believe that some of the positions that you have taken as it relates to drilling off the Outer Continental Shelf—that is a critical question for us in New Jersey and several of the coastal States along the Northeast and the East—that is something I hope to pursue with you. It is a vital issue.

Even in some of the most densely populated parts of the country, conservation is incredibly important. We have the highlands that have been preserved under Federal law. We look forward to the assistance to make sure that that is fully achieved. I spoke to you about the Great Falls of Patterson, the second largest waterfall that is East of the Mississippi, which is in pursuit of being listed under the National Park Service. Senator Salazar mentioned the Land and Water Conservation Fund for those of us in our State on the state-side program. It is over \$700 million in need, so we are also interested in the Land and Water Conservation Fund. We are very interested in the National Park Service's Management Policies and a shift away from what we perceive as conservation to usage, and real concerns about the significant cuts as it relates to maintenance that are critical to being able to fulfill the opportunity to achieve having Americans enjoy the National Parks.

Last, I hope that you will help us liberate Lady Liberty. The reality is that, notwithstanding a whole host of security measures that we have, we should not buckle into the fear of terrorism when we already have security measures, we should let Americans travel to the top of Lady Liberty and let us see that beacon of light that is seen throughout the world.

Finally, the National Park Service has delayed over 2 years in putting forth a plan on Ellis Island, a gateway to millions of Americans in this country, that we could work with a private sector enti-

ties that are willing to help restore it before we lose all of that section of Ellis Island that is virtually crumbling. We cannot get the Park Service, after 2 years of saying that they will come up with a plan, to be able to move forward with that plan and to help a non-profit private sector help us achieve the restoration of Ellis Island. It is a tremendous historical monument to our country and its history. So, we are from the northeast and we do care who the Interior Secretary is, and we look forward to working with you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

We have a Senator that has arrived from the State of Florida. Mr. Senator, would you like to make a few comments?

Senator MARTINEZ. Yes, sir. I would love an opportunity.

The CHAIRMAN. Please, do so.

**STATEMENT OF HON. MEL MARTINEZ, U.S. SENATOR  
FROM FLORIDA**

Senator MARTINEZ. Thank you. Governor, great to see you here today. I very much look forward to your confirmation. I am someone who very much identifies with where you sit today, having been there not so very long ago myself. I have great respect for the President and the process by which he selects his cabinet. I know in the past he has exercised brilliant judgment and I presume he did that as well today. But I also want to tell you how excited I was by our meeting and very positive opportunity we had to talk about issues of importance to my State. I think you are going to make a great Secretary. I look forward to working with you on those issues that are so important to our State of Florida.

Much as the Senator from New Jersey mentioned, Florida is very concerned about protecting our shoreline, making sure that our tourism industry continues to be vital and vibrant, that we do what we can for exploration and big bad area 181, where I know we will probably resolve those issues before too long. But the hope is that we can preserve a strong buffer around our State that will be secure from any exploration.

Beyond that, of great concern, of course, is our Everglades, our huge national park, an area where I hope you can come and visit us sometime because I know it is vastly different from where you come from. I hope that we can take you on an airboat ride and introduce you to a few alligators and other native species. It is a real wonder and a great place. We are in the process of a very aggressive restoration program to bring it back to where it should have been. It is a great, important project not only to Floridians from a standpoint of what this park represents, but also in terms of water management. Very important issues as it relates to that.

Also, is our concern about the sale of public lands. You know Florida is a fast-growing State. We value our Ocala National Forest. We want to make sure that all that is Ocala National Forest continues to be there for generations to come. The thought of any sales of public lands, frankly, does not meet with a lot of support in my State. We don't have the vastness of parklands that they do in the West. There are different issues in Florida. And while others may make different decisions about what is best for their State, I

certainly believe quite strongly that we should not engage in that in the State of Florida.

I look forward to working with you. I look forward to your swift confirmation. I know the Department needs your leadership and I know that on all of these issues that we discussed, you expresses a real willingness to stay in touch, to be communicating with us on them and to be a partner and a friend. So, I look forward to working with you. I commend you for your willingness to serve in this capacity. I know you will have a very exciting time and wish you the very best.

The CHAIRMAN. Thank you very much, Senator. Now, I guess the time has come that we proceed. We have to now swear you in. The rules of the committee, which apply to all nominees, require that they be sworn in, in connection with their testimony. Would you please rise and raise your right hand. Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth, and nothing but the truth?

Mr. KEMPTHORNE. I do.

The CHAIRMAN. Please be seated. Before you begin your statement, I will ask you three questions that are addressed to any nominee before this committee. Please respond separately to each question. One, will you be available to appear before this committee, and other congressional committees, to represent departmental positions and respond to issues of concern to the Congress?

Mr. KEMPTHORNE. I will.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such, should you be confirmed and assume the office to which you have been nominated by the President?

Mr. KEMPTHORNE. Mr. Chairman, my investments, my personal holdings, and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest or appearance thereof, to my knowledge.

The CHAIRMAN. Are you involved with, or do you have any assets held in, blind trusts?

Mr. KEMPTHORNE. No, sir, I do not.

The CHAIRMAN. We will now move to the presentation of your statement and then we will proceed with questions. So, it is your opportunity now to take about 5 minutes and tell us why you want to be the Secretary.

**STATEMENT OF HON. DIRK KEMPTHORNE, NOMINEE TO BE  
SECRETARY OF THE INTERIOR**

Mr. KEMPTHORNE. Mr. Chairman, thank you very much. To all members of this distinguished committee, thank you for the courtesy, for the welcome that you have expressed to me. Sitting here listening to the issues, having the opportunity as I did to visit each of you personally helps ground me in the enormous responsibility that comes with this assignment. I want to thank the President for this opportunity to serve and for the confidence that he has shown in me at this time.

I am grateful to have served with many of you in the U.S. Senate. This is absolutely a wonderful institution. It is a tremendous honor to appear before you in your constitutional capacity of advise and consent. I respect that enormously.

I am humbled to have represented the great citizens of Idaho as Mayor, U.S. Senator and as Governor. My people of Idaho are awesome, and I thank them for the faith, the trust, and the friendship, which they have provided to me and to my family over these many years.

I appreciate the fact that my wife, Patricia, and our children, Heather and Jeff, are here. I thank you, Mr. Chairman, that I was able to introduce them. There is one other member of the family that is not here, that is Heather's husband, Drew. He is finishing up and has about one more week at Army boot camp.

These loving members of the family have allowed me to pursue my passion of public service. When we think about the sacrifice of public service, I think often the sacrifice is by the members of your family, for those occasions that you are not there. All of you have experienced this as well.

While Idaho will always be my home, I have a little sense of homecoming as I sit here before this committee. This hearing room is directly across the hall from what was my first Senate office. As I watched the public line up to attend hearings, I remember thinking that this committee seemed a lot more fun than some of my committee assignments.

Sitting here today reminds me, Mr. Chairman, of when we did the Unfunded Mandates Reform Act. Bob Dole had designated the legislation as S. 1. He asked me to be the floor sponsor.

Mr. Chairman, you were the Chair of the Budget Committee then, and I came to you and as a rookie Senator, and I asked if I should be the floor manager or if, in fact, you, as chairman, shouldn't be the floor manager. You said, let me think about it overnight. You came back the next day and you said to me, and I quote, "You do it, and we'll see whether or not you are up to it." Eleven days and nights later, the Senate finally approved S. 1 on a bipartisan vote.

One of the things that I pledged to the President is that, if confirmed, I would reach out to constituent groups, to seek bipartisan support, to find common ground, and to build consensus. That is my approach.

You saw that when I fought for the Unfunded Mandates Reform Act. My number one co-sponsor was the Democrat from Ohio, John Glenn. You saw that on the Safe Drinking Water Act. The first Democrat Senator signed on as a co-sponsor was Bob Kerrey of Nebraska. That, significantly, was the first environmental bill that contained cost-benefit analysis.

You saw that we worked in a bipartisan effort on the Endangered Species Act. We made great progress, and, if confirmed, I'll look forward to again being at the table discussing ways to improve the Act and to make it more meaningful in helping the very species that we are trying to save.

In my visits with many of you, you have told me that Interior should restore habitat for fish and wildlife, improve economic de-

velopment and education in Indian country, resolve long-standing water conflicts, and provide responsible energy development.

In Idaho and in the Senate I have worked on the very issues that you have raised during our visits. I fought and won consensus solutions. And if I may, Mr. Chairman, I would like to list just a few examples.

The Northwest once had so many salmon that it is legend that you could walk across the river on the backs of salmon and not get your feet wet. In recent decades, salmon have declined. When I became Governor, I saw that each of the four Northwest States were developing their own separate restoration strategies.

Rather than four separate approaches, I asked my fellow Governors in Montana, Oregon, and in Washington if they would consider working together to explore policy consensus that would be acceptable to our states on salmon recovery. And that's exactly what we did. I sat down with my fellow Governors and in a collaborative effort we crossed State lines and political lines to come up with a regional consensus strategy for salmon restoration.

If confirmed as Secretary, I want to help foster that same collaborative approach on issues that you care about, whether it is the silvery minnow in the Middle Rio Grande, the pallid sturgeon in the Missouri, or the endangered fish in the Klamath.

Many of you have expressed interest in water rights and claims made concerning those water rights. That was true in our State with the claims of the Nez Perce Indian Tribe dating back to the 1800's. I was intent that we would find a solution. So with the great leadership of the Tribe, surface and groundwater users, agricultural interests, municipalities and the Interior Department, we began a dialog that was, in all honesty, at times acrimonious, tough, and on the verge of collapse. I thought then that the alternative—several more years of litigation—was no alternative at all.

Our discussions transformed adversaries into allies. We crafted a solution that everyone could lay claim to, instead of a process that would determine winners and losers. Today, we have an historic agreement. I thank Senators Craig and Crapo and Representatives Otter and Simpson who brought it forward to the Senate and the House for approval.

I commit to bringing the same energy and concern that I had for this settlement to other Indian and water rights issues. Necessity and practicality require that we adopt holistic approaches to water issues. Much of the Nation has endured the worst 5 years of drought in the past 500 years.

When I came into the office as Governor, the Department of Health and Welfare had a Division called Environmental Quality. I created the Idaho Department of Environmental Quality and gave it full department status. I elevated environmental issues to their rightful place in my administration, and if ask anyone in the industry or the environmental community, I believe that they will tell you that it was the right decision and that we made it work.

I do not believe in bigger government, but I do believe in better government. As Governor, I created a State Office of Species Conservation that was designed to provide Idaho a voice on species protection. The Office of Species Conservation elevated Idaho's concern over listed species to a new level. I am intent upon saving spe-

cies. I am not content with triage, where you simply say that they are endangered and then you move on to list the next species. I will always ask, "What are we doing to actually restore the species, instead of just listing them?"

I am proud of the fact that one of the few species that has been removed from the endangered species list is the peregrine falcon. Yes, it is de-listed—in part because of the hard work of the Peregrine Fund, a private organization. Idaho is proud to be home to the Peregrine Fund and the World Center for Birds of Prey. Their accomplishments show that species recovery is possible when we work together.

That gives some idea of what I believe in, Mr. Chairman, my style, the kinds of accomplishments that result from collaboration.

If I may, I would like to just mention tribal relations, because it has been raised here today. Because maintaining good relations with Indian country will be important to me if confirmed as Secretary. I am honored that Chief Allan, the chairman of the Coeur d'Alene Tribe, is here with us today. He knows my respect for the government-to-government relationships and the sovereignty of tribes.

As Senator and Governor, I recognize that tribes should be partners in discussions on that matter. There can be no more important issue than educating Indian children. The Secretary of the Interior, working with tribes, is responsible for 48,000 Indian school children, and I take that responsibility very seriously.

If confirmed, I look forward to the opportunity to continue the emphasis on educating children, as I did as Governor. I commend you and I commend the President for investing \$1.6 billion in Indian school construction over the past 5 years that has funded 37 new schools and 45 major repair projects.

I want to raise the level of awareness, as we diligently work to heighten the expectations of parents, and inspire hopes and affirm dreams of children in Indian country so that they can achieve anything that they put their minds to.

Another great responsibility of the Department of the Interior is its management of public lands and waters that produce 30% of the Nation's domestic energy. All of America is experiencing pain at the pump with high gas prices. This is an issue of economic security as well as national security. I pledge to work with you and stakeholders on responsible energy development.

I appreciate your work on the Energy Policy Act of 2005, which identified significant initiatives for the Department of the Interior, initiatives that would pertain to traditional energy sources as well as new sources. I am committed to implementing these initiatives and keeping you informed of our progress. It is noteworthy, the importance that the President and Congress have placed in developing alternative energy sources. I am also mindful of the great potential that alternative energy sources can play in providing for our citizens and furthering environmental protection.

Also, because of the new world that we have entered, the Department will be mindful of its obligations to homeland security and its responsibilities to protect our national icons and access to those icons and to our waterways.

Finally, let me affirm my love of the outdoors. Idaho is home to spectacular scenery, and we welcome hunters, anglers and all outdoor enthusiasts who want to enjoy its natural beauty.

When the President announced his intention to nominate me as Secretary of the Interior, he referenced that Patricia and I were married in northern Idaho on Moscow Mountain at sunrise. There is no more beautiful cathedral than the outdoors. And our entire Nation is blessed with countless natural cathedrals, and we should be mindful of those great treasures.

This year, I asked the Idaho legislature to make a once in a generation investment in our State parks. Just a few weeks ago, I was proud to sign the largest appropriation ever for our State parks system. If confirmed as Secretary, the Department of the Interior's emphasis will continue its responsibility for parks and recreation, which certainly includes wildlife refuges and access for citizens to enjoy parks and refuges.

Mr. Chairman, and members of the Committee, I humbly, and I respectfully, ask for your support. All I can pledge is that, if confirmed, I will do my best.

This Nation, its people and natural beauty are well worth all of our collective efforts to preserve and protect.

I look forward to your questions, Mr. Chairman. I also look forward to your comments. And I know that I will be more grounded, based upon the comments which you make today. May I also thank Senators Craig and Senator Crapo for their courtesy and their friendship for so many, many years. Thank you very much.

[The prepared statement of Mr. Kempthorne follows:]

PREPARED STATEMENT OF GOVERNOR DIRK KEMPTHORNE, NOMINEE TO BE  
SECRETARY OF THE INTERIOR

Mr. Chairman and distinguished Members of the Committee, it is an honor to come before you today as you consider my record and qualifications to become the 49th Secretary of the Interior. I thank the President for this opportunity to serve and for the confidence he has shown in me as his nominee.

I am grateful to have served with many of you and to have been one of your colleagues. This is absolutely a wonderful institution and it is a tremendous honor to appear before you in your Constitutional capacity for advice and consent.

I am humbled to have represented the great citizens of Idaho as Mayor, U.S. Senator and Governor. Their support is deeply gratifying and I thank them.

I appreciate the fact that my wife, Patricia, and our children, Heather and Jeff, are with me today. They have been by my side throughout my public service, and continue to be a source of great encouragement. One other individual who would have been here is Heather's husband, Drew, who is finishing up this week at Army boot-camp.

They have allowed me to pursue my passion of helping people, finding solutions to problems, and making our communities and our state a better place to live, to work and to raise a family. I thank my family for that love and support.

While Idaho will always be my home, I have a sense of homecoming being here with you today. This hearing room is directly across the hall from my first Senate office. As I watched the public line up to attend hearings, I remember thinking that this committee seemed a lot more fun than some of my committee assignments.

Sitting here today reminds me, Mr. Chairman, of when we did the Unfunded Mandates Reform Bill. Bob Dole had designated that legislation as Senate Bill 1, and I was asked to be the floor manager.

Mr. Chairman, you were the Chair of the Budget Committee then, and I came to you and, as a rookie Senator, asked if I should do this or whether it would be better for you to be the floor manager. I remember you said, "I'll think about it overnight." And then, the next morning you came back to me and said, quote, "You do it, and we'll see whether or not you are up to it." Eleven days and nights later, the Senate finally approved Senate Bill 1 on a bipartisan vote.

One of the things that I pledged to the President is that, if confirmed, I would reach out to constituent groups, to seek bipartisan support, to find common ground, and to build consensus.

Mr. Chairman, throughout my public service, I have worked to reach out to both sides of the aisle, to different interests and to different viewpoints. The twelve Senators on this committee who served with me saw my consensus approach.

You saw that John Glenn, a Democrat from Ohio, was my partner on the Unfunded Mandates Bill. You saw that on the Safe Drinking Water Act, the first Senator to sign on as a co-sponsor was Bob Kerrey of Nebraska. That, significantly, was the first environmental bill that contained cost-benefit analysis.

You saw that we worked in a bipartisan effort on the Endangered Species Act. We made great progress, and, if confirmed, I'll look forward to again being at the table discussing ways to improve the Act and make it more meaningful in helping the very species that we are trying to save.

In my visits with many of you, you have told me that Interior should restore habitat for fish and wildlife, improve economic development and education in Indian country, resolve longstanding water conflicts, and provide responsible energy development.

If confirmed, I will be the first Mayor, United States Senator and Governor to become the Secretary of the Interior. In Idaho and in the Senate, I have worked on the very issues you raised during our visits. I have sought and won consensus solutions. Here are a few examples:

The Northwest once had so many salmon, it is legend that you could walk across the river on the backs of salmon and not get your feet wet. In recent decades, salmon have declined. When I became Governor, I saw that each of the four northwest states were developing their own separate restoration strategies.

Rather than four separate approaches, I asked my fellow Governors in Montana, Oregon and Washington if they would consider working together to explore policy consensus that would be acceptable to our states on salmon recovery. And that's exactly what we did. I sat down with my fellow Governors and in a collaborative effort, we crossed state lines and political lines to come up with a regional, consensus strategy to salmon restoration.

If confirmed as Secretary, I want to help foster that same collaborative approach on issues you care about—whether it is the silvery minnow in the Middle Rio Grande, the pallid sturgeon in the Missouri or the endangered fish in Klamath.

Many of you have expressed interest in water rights and claims made concerning those water rights. That was true in our state with the claims of the Nez Perce Indian Tribe dating back to the 1800's. I was intent that we would find a solution. So with the great leadership of the Tribe, surface and ground water users, agricultural interests and municipalities and the Interior Department, we began a dialogue that was—in all honesty—at times acrimonious, tough, and on the verge of collapse. I thought then that the alternative—several more years of litigation—was no alternative at all.

Our discussions transformed adversaries into allies. We crafted a solution that everyone could lay claim to—instead of a process that would determine “winners and losers.” Today, we have an historic agreement. I thank Senators Craig and Crapo and Representatives Otter and Simpson who brought it forward to the Senate and the House for approval.

I commit to bringing the same energy and concern that I had for this settlement to other Indian and water rights issues. Necessity and practicality require that we adopt holistic approaches to water issues. Much of the nation has endured the worst five years of drought in the past five hundred years.

When I came into office as Governor, the Department of Health and Welfare had a division called environmental quality. I created the Idaho Department of Environmental Quality and gave it full department status. I elevated environmental issues to their rightful place in my administration, and if you ask industry or the environmental community, they will tell you it was the right decision and we made it work.

I do *not* believe in bigger government, but I believe in better government.

As Governor, I created a state Office of Species Conservation that was designed to provide Idaho a voice on species protection. The Office of Species Conservation elevated Idaho's concern over listed species to a new level. I am intent upon saving species. I am not content with this “triage,” where you simply say they're endangered and then move on to list the next species. I will always ask, “What are we doing to actually restore the species instead of just listing them?”

I am proud of the fact that one of the few species that has been removed from the Endangered Species list is the Peregrine Falcon. Yes, delisted—in part because of the hard work of the Peregrine Fund, a private organization. Idaho is proud to

be home to the Peregrine Fund and the *World* Center for Birds of Prey. Their accomplishments show that species recovery is possible when we work together.

That gives some idea of what I believe in, my style, and the kinds of accomplishments that result from collaboration.

Let me talk about tribal relations, because maintaining good relations with Indian country will be important to me if confirmed as Secretary. I am honored that Chief Allan, Chairman of the Coeur d'Alene Tribe, is here with us today. He knows my respect for the government-to-government relationships and the sovereignty of Tribes.

As Senator and Governor, I recognized that Tribes should be partners in discussions that matter. There can be no more important issue than educating Indian children. The Secretary of Interior, working with Tribes, is responsible for 48,000 Indian school children and I take that responsibility seriously.

If confirmed, I look forward to the opportunity to continue the emphasis on educating children as I did as Governor. I commend you and commend the President for investing \$1.6 billion in Indian school construction over the past five years that has funded 37 new schools and 45 major repair projects.

I want to raise the level of awareness as we diligently work to heighten the expectations of parents, and inspire hopes and affirm dreams of children in Indian country so that they can achieve anything they put their minds to. We must work so they have the skills and the education they need to accomplish that.

Another great responsibility of the Department of the Interior is its management of public lands and waters that produce 30 percent of the nation's domestic energy. All of America is experiencing pain at the pump with high gas prices. This is an issue of economic security as well as national security. I pledge to work with you and stakeholders on responsible energy development.

I appreciate your work on the Energy Policy Act of 2005 which identified significant initiatives for the Department of the Interior—initiatives which pertain to traditional energy sources as well as new sources. I am committed to implementing these initiatives and keeping you informed of our progress. It is noteworthy of the importance that the President and Congress have placed in developing alternative energy sources. I am mindful of the great potential that alternative energy sources can play in providing for our citizens and furthering environmental protection.

Also, because of the new world we've entered, the Department will be mindful of its obligations to homeland security and its responsibilities to protect our national icons and our waterways.

Finally, let me affirm my love of the outdoors. Idaho is home to spectacular scenery, and we welcome hunters, anglers and all outdoor enthusiasts who want to enjoy her natural beauty.

When the President announced his intention to nominate me as Secretary of the Interior, he referenced that Patricia and I were married in northern Idaho on Moscow Mountain—at sunrise. There is no more beautiful cathedral than the outdoors. And our entire nation is blessed with countless natural cathedrals, and we should be mindful of those great treasures.

This year, I asked the Idaho legislature to make a once-in-a-generation investment in our state parks. Just a few weeks ago, I was proud to sign the largest appropriation ever for our state parks system. If confirmed as Secretary, the Department of the Interior's emphasis will continue its responsibility for parks and recreation—which certainly includes wildlife refuges and access for citizens to enjoy parks and refuges.

Mr. Chairman, and members of the Committee, I humbly, and respectfully, ask for your support. All I can pledge is that, if confirmed, I will do the best I can, and I will be honored in making that effort.

This nation, its people and natural beauty are well worth all of our collective efforts to preserve and protect.

I look forward to your questions. Having participated in many Senate hearings, it will be a different experience answering questions rather than asking them. I also look forward to your comments and know that I will come away from this hearing better grounded on the issues facing the Department of the Interior.

The CHAIRMAN. Thank you for a very eloquent opening statement.

Senators, let me try to bring you current. We have been told that the voting would start about 11:15. I don't know whether it will or will not, but is it fair to assume that Senators do want—whatever the voting schedule on the floor, do you want us to remain open for long enough here for any of you who want to ask questions,

even if that goes into the noon hour? Is that a fair assumption? That is kind of what I had planned to do.

So, I am going to start now. If Senator Bingaman is ready, I will let him open with a few questions and then I will take some and we will move right out from that and see what we can get done before we go vote. If the vote starts—any of you who are down the line some, you might just go vote. That would, I think, help matters. Senator Bingaman.

Senator BINGAMAN. Thank you very much, Mr. Chairman, and thank you for your excellent statements, Governor.

One point that I wanted to raise, initially, is I think the issue was raised that the Assistant Secretary for Indian Affairs is a position that is currently vacant. You indicated a desire to get that position filled. In fact, as I read the organizational chart of the Department of the Interior, nearly half of the senior policy positions are vacant or have acting people in those positions. The President nominates people for those positions. I hope you have an agreement that you will have a substantial say in who is nominated.

I also hope that you are keenly aware—and I am sure you are—of the need to get people in those positions whose commitment to the public interest is above reproach. There has been, as you undoubtedly know, in the last few years, questions on some of the nominees that have been made in the Department, about their ties to particular special interests and how that might affect their ability to carry out their public responsibilities. I hope that we don't have any of that. I am sure you are very sensitive to that and I know you will be able to deal with that in the future.

Let me ask about something Senator Wyden raised, this proposal to sell off public lands in order to fund annual operating expenses of the Government. That is a troublesome concept to me, as well. I think that as a matter of just general policy, selling your permanent assets in order to fund your annual operation is not a good way to stay in business. I hope that that is something you will be able to resist. I don't know if you are in a position to give us a statement today as to your views on that general kind of proposal, but I would be anxious to hear it if you are.

Mr. KEMPTHORNE. Senator Bingaman, thank you very much. Let me affirm that I believe that there are situations where the sale of public land is appropriate: if you have enclaves, if you could assemble land that is not efficiently being able to be managed because it is so widely dispersed. So, I believe that we want to retain that option. Specific, though, to your question, on the sale of public land for deficit reduction or for operating expenses, I do not favor that. That would be the position that I would take to those opportunities, if confirmed, to represent that view.

Senator BINGAMAN. Well, thank you. I appreciate that clear statement. And I certainly agree with that position.

Congressman Hunter, in the House, has proposed turning Santa Rosa Island, one of the islands in the Channel Islands National Park, into a hunting preserve for military personnel and disabled veterans. I am concerned, because it is my view that our national parks need to be available to the entire public. That is the idea they were established for. I think trying to set up special reserves for the exclusive use of one group or another group is a very bad

precedent for us to get started on. I don't know if you have looked into this issue. If you have an opinion on that, I would be anxious to hear it.

Mr. KEMPTHORNE. Senator Bingaman, I am sorry, that is the first time I have heard that. I would say that I commend Congressman Hunter for thinking about our veterans and our disabled veterans. One of the things that I have always tried to do when I come back to Washington, DC, is to make a visit to Walter Reed Hospital or to Bethesda. I think, again, that the support of our veterans is critically important. This specific issue, no, sir, I have not looked at. Again, I appreciate his thinking about the veterans. Whether this is the right way to do it, I can't comment at this time.

Senator BINGAMAN. Well, that is fair. I also appreciate his concern for veterans, but as I said, I think the idea that we are going to take parts of the National Park System and in cordoning them off for the exclusive use of any group is a bad precedent. I hope we can avoid that, and I hope, after you look into it, you'll agree with that position.

Under current law, electric transmission lines cannot be sited through our national parks unless—and the statute says, “Directly and specifically provided by Congress.” The Energy Policy Act directed agencies to designate energy corridors under previously existing authorities and gave the President the power to overrule agency decisions, denying permits for projects within those corridors. It did not give the Secretary of Energy or the Interior or the President or anyone else the power to site electric transmission lines in national parks without specific congressional authority.

In fact, it specifically stated that in the energy bill last year, that the President's siting authority did not extend to national parks. In spite of that—what seems to me to be very clear language—there seems to be a misapprehension in the Department that somewhere in the Energy Act there was general authority provided that will allow establishment of power lines in national parks without Congress having approved it. I don't know if this is an issue that you have looked into; if not, obviously, I would not expect an answer, but it is one that I hope you will look into. And if you have a disagreement with the interpretation of last year's energy bill that I have just described, I hope you will let us know.

Mr. KEMPTHORNE. Senator Bingaman, thank you very much. I cannot comment. I have not looked into that detail which you have identified.

If I may, can I comment on a previous point that you raised, though?

Senator BINGAMAN. Certainly.

Mr. KEMPTHORNE. That was with regard to senior-level leadership in the Department of the Interior. I know that that is important to the President. I know that he does take an active, hands-on approach with regard to the appointment of those and has indicated that he wishes to have my active comments with regard to those personnel. We are going to make it a priority, so that we can bring those people on. You talked about the conduct of those that ultimately could be confirmed. I will tell you that the day that I was announced, one of the first meetings I had was with the ethics

officers of the Department of the Interior. And that is the style that we will continue with the Department of the Interior.

Senator BINGAMAN. Well, let me just say I am confident that that is the case. I plan to support your nomination and I look forward to working with you.

Mr. KEMPTHORNE. Thank you very much.

The CHAIRMAN. Thank you, Senator Bingaman.

We are going to proceed. Senator Thomas.

Senator THOMAS. Thank you very much, Governor. You mentioned endangered species and changes, and we are seeking to make some changes here. It seems as if, administratively, within the regulatory part, it just drags on and on—wolves and grizzly bears. Do you have any idea or do you think that this process, as it stands now, could be streamlined somewhat?

Mr. KEMPTHORNE. Senator Thomas, my approach is yes. If you have a process that is cumbersome, is bogged down, I would certainly hope that pragmatism can be part of this. So, again, if confirmed, I would welcome the opportunity to look at both the regulation side, but also what perhaps could be done legislatively.

Senator THOMAS. Sure. Well, we are working on that. One of the issues, of course, that I think confronts us is we are all very pleased and proud of our Park Service, but we seem to be—we have now 390 park sites. There are increasing numbers of various kinds of park sites and so on. We have a backlog that seems to be difficult. How do you see the future in terms of backlog and expansion of the parks activities?

Mr. KEMPTHORNE. Senator Thomas, I believe that we should acknowledge that the President made dealing with the maintenance of our parks a priority, some \$4.8 billion over 5 years. I believe some 6,000 projects at the different individual national parks have taken place. Some are fully completed, others yet to be done. Significantly, that inventory has now been committed to information technology so that it is identified, what progress has been made, significantly what has yet to be done. Again my enthusiasm for parks—when I talk about enthusiasm for parks, I think I should acknowledge, too, one of our great advocates is the First Lady, Laura Bush, who believes in the national parks. So, again this is something that we will continue, the energy of looking at how we can improve our parks and encourage people to enjoy their national parks and access them.

Senator THOMAS. That is great. I think we need to take a little look at the definition of what is the responsibility of the National Park Service, as opposed to local and State activities, as well. One of those interests is the National Mall. Each year there is requests for more and more. We passed a moratorium on future constructions. Do you have any feeling about how we might maintain this sovereignty of that Mall?

Mr. KEMPTHORNE. Senator, on the specifics of that, I must say I have not had a briefing as to expansion or what may even be being considered, but I would be very happy to work with you and seek your input on that as well.

Senator THOMAS. One of the core issues that is even more in front of us now is this energy issue and much of the production in the West is on public lands and particularly the BLM. And I cer-

tainly expect us to go through the routines that are necessary, but it does seem like we need to find ways to, a little more quickly, do the required procedure. The application process goes on and on and on. Would you think there is a way we can work together to speed that up and get the right results, but not take quite so long to do it?

Mr. KEMPTHORNE. Senator Thomas, one of the things that we were able to accomplish when we developed the Department of Environmental Quality in Idaho was to take a number of permits that had been outstanding and to move them toward completion. I believe that—and again, I cannot speak to the particulars of how these applications are being dealt with in the Department of the Interior today, but I would be happy to look at that with the attitude that we should move as expeditiously as is appropriate. It is both for the approval but also for the denial, not judging what the outcome would be.

Senator THOMAS. I appreciate that. Of course the production on the public lands and the royalties have increased greatly the income, so I think we need to also recognize that it requires more personnel from time to time in that job in BLM and so on. So, we look forward to working with you and I certainly support your affirmation and will be working on it. Thank you, sir.

Mr. KEMPTHORNE. Thank you, Senator, very much.

The CHAIRMAN. Thank you very much.

Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman. Governor Kempthorne, I want to tell you that you have my support.

Mr. KEMPTHORNE. Thank you, sir.

Senator AKAKA. We look forward to working with you. I wanted to let you know that I introduced legislation which would extend the Federal policy of self-governments and self-determination to Native Hawaiians and to recognize Native Hawaiians as indigenous peoples of the United States.

I worked very, very closely with Secretary Norton to address any concerns that the Department had on this measure. As a result, we have amended the bill to address concerns she has raised on behalf of the Department. I understand that you likely have not yet had a chance to review this legislation. I hope to work closely with you, because the bill gives the Secretary of the Interior the authority to review certain aspects of the process involving the reorganization of the Native Hawaiian governing entity.

As you may recall, Congress enacted Public Law 103-150, the Apology Resolution, in 1993. The resolution apologized, on behalf of the United States, to Hawaii's indigenous peoples, the Native Hawaiians, for the role of the U.S. officials and overthrow of the kingdom of Hawaii and committed to a process of reconciliation between the United States and Native Hawaiians.

The Department of the Interior played a significant role in the reconciliation process in 1999. Secretary Babbitt appointed the Assistant Secretary of Policy, Management and Budget to be the DOI representative in this reconciliation process. And in the year 2000, a report was issued by DOI and DOJ with recommendations resulting from consultations with the Native Hawaiians. I hope to work

with you and the Department to carry on the reconciliation process between Native Hawaiians and the United States.

And as you know, we have been successful in creating an Office of Native Hawaiian Relations in the Department of the Interior to serve as a liaison between Native Hawaiian and the United States. While the office is in its infancy, there is great potential for the benefit this office can provide to both the Department and to the people of Hawaii.

I hope that we can work together to ensure that this office is appropriately staffed so that it can accomplish its mission of benefiting both the Department and the people of Hawaii. I want you to know that we have the support of most of the Hawaiians. The Governor of Hawaii, presently; the legislature, who did two resolutions supporting it; the National Association of American Indians; the Alaska Natives; and the American Bar Association have supported us on this.

Governor, I look forward to working with you on this and ask for your commitment to work with me, should you have any questions or any concerns about this bill.

Mr. KEMPTHORNE. Senator Akaka, may I just say that you have my commitment to always work with you. You are a true gentleman. Those great occasions that we have had together, you have allowed me to have a greater vision of the rich cultural heritage and the history of the Native Hawaiians. You are one of their great Ambassadors. So, again, it would be a great pleasure to work with you on these issues.

Senator AKAKA. Thank you very much, Mr. Chairman. I have another question that I will submit.

The CHAIRMAN. You will submit another question? That is very good. Thank you.

Senator Burr.

Senator BURR. Thank you, Mr. Chairman. Again, Governor, welcome. I think you are aware of the Bonner Bridge issue that you and I have talked about in the past. I will stay focused on that, if I can. The Bonner Bridge was built in 1963 and designed to have a 30-year lifespan. It spans the Oregon inlet of the Outer Banks from just south of Nags Head to Pea Island and then Highway 12. It continues all the way down to where it takes a ferry to get to Ocracoke Island. That bridge was slated to be replaced 10 years ago, because of the determination by U.S. Fish and Wildlife. And that determination has been torturous, if not impossible, relative to their interpretation of what North Carolina has to go through. North Carolina recognizes the fact that over 2 million cars a year cross this bridge. Today, we have a safety problem. We have a bridge that is rated 4 on a 100-point scale. Anywhere else in the country a 4 would be taken out of service. You would find a way to reroute. We don't have a way to reroute.

The CHAIRMAN. That is a big problem.

Senator BURR. What reforms do you believe need to take place so that vital infrastructure can be replaced, like this bridge, and that improvements are not delayed, if, in fact, we are talking about human life?

Mr. KEMPTHORNE. Senator Burr, first of all, may I acknowledge and commend you for your efforts on emergency preparedness. I

know that that is near and dear to your heart. You are taking a great leadership role in that. As a Governor, that is something that I make one of the highest priorities, emergency preparedness.

What reforms? I don't feel that I am in a position today to itemize what I think reform should be, except to say that I believe that we need to take the data that is available. What are the facts? Facts, such as you have just stated. What are the implications? What are the projections? When we do have the hurricane season and, in fact, you may have to evacuate an area, what does that mean? I think part of what I would want to do is take a look at the lessons learned and then determine from that, can we now take proactive actions, so that we are not sitting here and wondering why we did not do it sooner.

Senator BURR. Governor, do you think—can a bridge be replaced without a negative impact on the environment?

Mr. KEMPTHORNE. You would like to think so.

Senator BURR. I think the American people would like to think so. But it can be done?

Mr. KEMPTHORNE. Yes.

Senator BURR. I think the interpretation is it can't. I am hopeful that your leadership will be, "Oh, we can." It is just a question of coming up with something that both sides can agree on—meet that end goal.

U.S. Fish and Wildlife has proposed a 17-mile bridge, as I said earlier, the second longest in the United States. You are familiar with the North Carolina coast and the uniqueness of the Outer Banks, but you are also, as Governor, aware of the frequency that we have Mother Nature visit us starting next month. I can't imagine what it is like to go through a category 5, but we have had our share of 3's and below and multiple visits each year. As one who does focus on emergency preparedness, I can't envision a scenario where I could confidently agree to a 17-mile evacuation bridge in an area that is as vulnerable as North Carolina or Louisiana, or for that fact any of the other coastal areas. Does it pain you at all that the Federal Government would propose this as the only option?

Mr. KEMPTHORNE. Senator, again, I need to be further backgrounded. This may be something that lends itself that perhaps a future visit to North Carolina would be helpful.

Senator BURR. I look forward—the invitation is extended. I look forward to having you there. Let me ask you this: Should Federal lands be accessible and available to the public in this country?

Mr. KEMPTHORNE. Yes.

Senator BURR. All Federal lands?

Mr. KEMPTHORNE. I would want to have a little more—you would think so. I mean, it is the land that belongs to the people.

Senator BURR. That is certainly their assessment of what their tax dollars go for. We attracted, as I said earlier, about a half a million individuals to Pea Island, a beautiful national wildlife refuge. The difficulty that we are presented is that if you remove the access to Pea Island and you limit it to only those Americans that can afford their own boat or that can afford the substitute, which would be some type of private vendors' access, excursion to Pea Island. In fact, you have cheated some segment of the American peo-

ple from enjoying that beauty, with over 2 million visitors a year to our coast. This is an attraction but it is also a highlight of what the Federal Government can do and can protect.

I would encourage you today to stay engaged with me on this issue, be a partner in trying to find a resolution. I don't think the State of North Carolina has been unwilling to entertain additional ideas, but when you are given a choice between this or nothing, it sets up a very difficult relationship between North Carolina and the Federal Government. As I said, we take very seriously our appointment—your nomination, because 10% of our State is in your hands. Help us resolve this little piece. I am confident that your leadership can achieve some type of conclusion on this.

Thank you, Mr. Chairman.

Mr. KEMPTHORNE. Senator, thank you.

The CHAIRMAN. Thank you, Senator Burr. Thank you for your observations, Mr. Secretary. Now we are going to proceed. We are still on the first light, so we have time.

Senator Wyden, do you have your questions?

Senator WYDEN. Thank you for your courtesy, Mr. Chairman.

Governor, Jack Abramoff used the Interior Department to perpetrate one of the biggest scandals in recent history. While Mr. Abramoff had the run of Interior the number two man at the agency was Steven Griles. The Inspector General has described Mr. Griles's service at Interior as an "ethical quagmire." The Inspector General goes on to say that the agency's ethics program—and I quote here—"is a wholesale failure." So, I would like to hear what you plan to do to prevent future "Jack Abramoffs" from ripping off the Interior Department, and specifically, will you support tightening the conflict of interest rules at the agency so that an appointee with an overly close connection to a regulated party on an issue more clearly removes or recuses themselves from consideration of that particular matter?

The reason I ask that is Mr. Griles's kept signing recusal agreements and then just kept meeting with all of these clients. So, the question is, will you support tightening the conflict of interest rules at the agency so that recusals are more clearly stated? And frankly, I would like to have the agency publicly release notice of a recusal. Will you support those two steps?

Mr. KEMPTHORNE. Senator Wyden, let me say that, first of all, it is apparent that a crime was committed. Someone is now serving time because of that. So there were laws that were there that were broken. As I indicated to Senator Bingaman, one of the first briefings that I received was with the ethics office. Also, I have met with the Inspector General of the Department of the Interior. It would be my intention to utilize the Inspector General as a key member of the management team of the Department. I also would like to say that from my experience and the individuals that I have met, there are outstanding individuals at the Department of the Interior. I cannot specifically address what I would support or not support because I do not yet know what all of those are. I will tell you, though, if confirmed, the first day that I am Secretary of the Interior I will also be sitting down with the Office of Ethics and will also discuss the topic of ethics with the employees of the Department of the Interior.

Senator WYDEN. I will just tell you that meeting with the Inspector General and implementing the Inspector General's recommendations are going to be essential. The Inspector General says your ethics program—and I quote here—“is a wholesale failure.” He talks about the prospect of future train wrecks. It is going to be important for you to go in there and drain the swamp. I would like to have you get back to me, say within your first 90 days, in writing, as to whether or not you will put in place the recommendations of the Inspector General on ethics. Would you do that within the first 90 days?

Mr. KEMPTHORNE. Senator, if you would agree with me, I will be happy to get back to you within 90 days. I can't tell you that it will be a letter that says I will do this or that until I know more.

Senator WYDEN. Fine. Mr. Chairman, do I have time for one additional question?

The CHAIRMAN. He won't get back to you, he will get back to the committee.

Senator WYDEN. Absolutely. I appreciate your clarifying that.

The additional question I wanted to ask involves royalty relief for energy producers. Now, Governor, Gail Norton used her authority to offer sweeteners to the oil and gas drillers under the Department's royalty program. She began that in 2001 by offering royalty relief incentives to shallow water producers who drilled more than 15,000 feet below the sea bottom. In 2004, she offered additional incentives when she raised the threshold prices. Now, what that meant, according to news reports, is that some of these drillers are going to be able to escape royalties in 2005 when the prices spiked to record levels, and according to news reports, these producers would escape royalties again this year. My first question to you on this point is if you are confirmed as Secretary, would you commit to not offering additional sweeteners to these producers the way your predecessor, Ms. Norton, did at a time of these record prices?

Mr. KEMPTHORNE. Senator Wyden, let me just affirm I have the greatest respect for Secretary Norton. I think she has served this Nation so well for 5 years. On this issue of the royalty relief, I would say to you that I believe that any leases that go forward need to have the price threshold, so that if in fact those prices go up, then there should not be the royalty relief. As you know, there had been—and I will call it unfortunate—errors that were made in the past during a previous administration, but that procedure has been corrected and that procedure remains in effect in the Department of the Interior. I think what is important is that we want to find an approach on this so that we can find additional sources of energy, so that we are not so dependant on foreign sources of energy, and included in that equation I want to put alternative energy as well.

Senator WYDEN. But, Governor, you won't do what Secretary Norton did, which is to offer these additional sweeteners at a time of record prices. I described to you specifically how at a time when prices were going through the roof she sweetened this program twice, in 2001 and 2004. I think what you have told me is that you won't do that and if that is the case I think that is constructive. I want to make sure we are clear on that.

Mr. KEMPTHORNE. Senator, again, I believe that—I will let my statement stand. I don't have a permit to dig today.

Senator WYDEN. I understand. Mr. Chairman, thank you for your courtesy. I am going to come back with additional questions.

The CHAIRMAN. Let me close. And we will indicate how we are going to open, but let me comment on your last statement, so we will know where we are. Senator, I am not aware that the statement, which you have now repeated today and yesterday about what Gail Norton did or did not do in the year 2001 and again in 2004. I am not aware of exactly what that is, what prompted it, under what power of authority it was done and we want to get that before us rather than talk about it, because it was just as if it were true, the only truth we have is it was reported some place, and you are gathering from that reporting what has occurred. We have to get that done and somehow this committee is going to have to find out and give to you and to us just what this so-called—you called it something; what did you call it?

Senator WYDEN. Mr. Chairman, again, with the utmost respect for you, because you have always been very fair with me, as you know, in the energy conference between the House and the Senate, it was sweetened even again at a time of record prices—not under something you led, but something that was led from the other body by Mr. Barton.

The CHAIRMAN. But that is not illegal.

Senator WYDEN. Of course, of course not.

The CHAIRMAN. So the point is, we have to get it before us and make a decision on what we as a committee think about it, not just because you think it is something we shouldn't be doing. It has been done and perhaps is legal and may have some validity that you don't like but may otherwise be valid. So we are going to get back to that. I appreciate your not answering the question, because indeed you have no way of knowing what the situation was. We are going to get the committee to dig that up.

Mr. KEMPTHORNE. Thank you, Mr. Chairman.

The CHAIRMAN. We are going to stand in recess, because there are going to be two votes. We will return within 10 minutes after the second vote and stay here for another hour or so and finish the questions, so you will have to remain here.

Mr. KEMPTHORNE. Thank you, Mr. Chairman.

The CHAIRMAN. We are in recess.

[Recess.]

The CHAIRMAN. Please come to order. I think we are going to announce now that we are not going to be here indefinitely. We are open now, so the Senators should get started thinking about coming up here. I would think something like 1 o'clock might be a reasonable time to get this concluded. With that, I am going to yield to Senator Larry Craig, if he would like to start questions at this point. Are you ready, Senator Craig?

Senator CRAIG. I am, thank you. Well, Governor, thank you very much again for accepting the nomination that the President has offered. We are proud of it and pleased that you would do so.

Mr. KEMPTHORNE. Thank you.

Senator CRAIG. I apologize, I lost my first round because I was doing what you probably would have done as a U.S. Senator in the

backroom here. A guy by the name of Stan Boyd and a few sheepherders came by to visit with me about some public land problems they were having. I recommended that soon we would have someone who, while I think the hats have changed, would at least appreciate and understand, in a way that maybe other Secretaries had not, the difficulty they find themselves in, grazing their livestock on public lands.

I am going to put this cup up because when I come to this committee, I drink out of it on a daily basis. It is a constant reminder of who I am and where I am from. When we bring you before this committee on probably a fairly regular basis, I will put this cup up.

Mr. KEMPTHORNE. That is nice.

Senator CRAIG. I think that's darned important.

Mr. KEMPTHORNE. Thank you.

Senator CRAIG. Now let me offer up at least one softball early on because of—

Mr. KEMPTHORNE. Don't limit yourself, please.

Senator CRAIG. You have a reputation that is deserving and I think important. How would you describe your approach to environmental enforcement and environmental protection?

Mr. KEMPTHORNE. Senator, first of all, may I thank you for your introductory remarks, which you made. I truly appreciate that. Also, I appreciate the sentiment that is expressed by that cup. It is fair to say Idaho loves you as well.

My approach to enforcement of environmental—

Senator CRAIG. You have done some distinctive things as Governor that I think ought to be repeated, that are demonstrative of your style and character and how you have dealt with sensitive issues in the State in relation to the environment.

Mr. KEMPTHORNE. Well, Senator, thank you very much. My approach is to, No. 1, identify, what is the objective. Because often—if we can leave the rhetoric behind and determine what is the result that we all want, that is the first big step. Then you bring the different diverse groups together, with the realization that if we can resolve this amongst ourselves as the stakeholders then all of us can have some claim of success and victory. If, instead, we pursue a course of litigation and confrontation, who knows when that will ever be concluded and at how much cost? What do you have to show for it? We have done things. We have gone into areas where—again, you talk about minimum streamflow with ranchers. That is a tough issue and yet we can show them the results. I believe that you simply need to be creative in your approach, and fair-minded, so that people believe that at least you have heard them. They may not like the final outcome, but at least they feel that they have had a fair hearing.

Senator CRAIG. Thank you. In our pre-hearing conversations, I made a comment that I think is probably consistent with what you will find yourself involved in over the next 2-plus years as Secretary of the Interior. I suggested that you might, as Secretary of the Interior, produce more energy for America's consumers than would the Secretary of Energy. It is a unique time and it is a bit of an anomaly as to where we are in energy production in this country.

I must tell you that the administration that you come to and the issues that you pick have—an effort that is well underway at the moment. Secretary Norton, I think, laid some very important groundwork toward streamlining applications for permits to drill on public lands, as well as working with the Minerals Management Service on open lands and off-shore issues.

We have some land use plans out in the Overthrust Belt of the West, where, when gas was \$2 a million cubic feet—I believe that is the term or the figure—we simply said that during sensitive times of the year, we would just shut down and go away. We didn't really try to work out what would be necessary to be done to sustain the environment, but to keep development underway. Now we are being challenged by a market and clearly we are losing our industrial base, our chemical base. It is going overseas because of our price of gas. We have got 3 trillion-plus cubic feet sitting in the Overthrust Belt that ought to be delivered and brought into the pipeline. We want to do it in an environmentally sound way. There is no question about that. It won't be done, if it isn't. But it deserves a new look to see what we can do collaboratively with all the stakeholders to keep these rigs in line, even in difficult or more sensitive times, and what we might do to mitigate. I believe that will be your challenge.

For a moment, if you would, just visit with us about that issue. As I mentioned to you, I think it is incumbent upon you, working with the director, our national director, the BLM, and others, to make sure that we keep this well on course over the next couple of years. It is a difficult time in long-term infrastructure development. It has a sense of immediacy to it that no other time would bring.

Mr. KEMPTHORNE. Senator Craig, I appreciate how you have phrased the issue. I also appreciate your expertise on it. I believe firmly that this Nation needs to be able to produce its energy supply to the extent that we can continue to lessen foreign dependence. It is an issue of both economic security and national security. You have talked about sensitive areas and that is part of it. We need to be sensitive. I do not believe that they are mutually exclusive with the technology, which we have brought about, with very, very effective environmental standards that then can be met. We can accomplish this. It also talks about different people that would be involved—those who like hunting, fishing—so that we take into account those activities. You can be more than one purpose in these areas. I would also just point out that, as you and the Chairman were great architects of the Energy Act of 2005, you have also identified some very straightforward areas that the Department of the Interior should be working on alternative energy. So I will not remain strictly focused on the traditional sources of energy. We will also, in a parallel path, be looking for alternative sources as well.

Senator CRAIG. Well, I think you for those comments. I sincerely believe that as I watch the cumbersome processes within the agencies of our Government, and with the sense of urgency that we brought to it with the enactment of the Energy Act that Senator Domenici lead so successfully this past year, I wish that were at the agency level. I think when the American consumer today paid their winter heating bill or now pays \$3-plus at the pump, they

have a sense of urgency as they see their pocketbook drained. But I am very fearful that our Federal agencies don't have that same sense. They remain almost as cumbersome. Now, having said that, Director Clark has moved very expeditiously and will continue to work with you to do so and will hope to have that relationship with you.

If I could have one more question, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Senator CRAIG. I don't want to run across my time. Governor, you have been involved as a western Governor and as the Governor of Idaho in activities that are directly related to the Department of the Interior. I was with you and Secretary Norton when we signed what I believe to be a very significant proposal as it relates to wolf management in an area where we had planted a number of wolves in the tri-State area—Montana, Wyoming and Idaho. I do also note that, if you get in, how you approach this will at times bring criticism from your critics—and you will have them.

You heard a few moments ago from the Senator from Oregon as it relates to ethics. Do you expect that you will have to rescue yourself on any of the issues that you have been involved in along the way, and if you do, has that been considered, and how will you handle that?

Mr. KEMPTHORNE. Senator Craig, that is an issue. I have been very forthright in saying I will abide by whatever the law is, whatever the regulations, the rules would be, if confirmed, to come from being an incumbent Governor that has dealt with a number of these issues to being the Secretary of the Interior. So, again, I will follow what is prescribed and what is appropriate. Therefore, there may be, for a period of 12 months, those issues that I may not be able to personally be involved with. But, again, I will abide by what is appropriate and determined by the laws of the land.

Senator CRAIG. You used the phrase there “may be a year or 12-month period”; is that the window that you are being advised, as it relates to a specific decision and action that you may have had a relationship with?

Mr. KEMPTHORNE. Yes, I would say that that is the identified timeline for different issues that would be Idaho-specific, that for 12 months I may have to rescue myself from.

Senator CRAIG. Last, what is your very favorite place on a public piece of property in Idaho?

Mr. KEMPTHORNE. I would tell you, Senator, that it is—I have many, but it is probably in Ponderosa State Park. It is a state park. We made some nice improvements to it recently. We will make additional improvements. I love all of our parks, but that one—the reason I say it is because seated behind me are Heather and Jeff and Patricia. Some years ago, Patricia and I went to that park. We reserved an area so that we would take the little children, Heather and Jeff, to camp. Before we could actually go, a few months later and enjoy that campsite, I became a candidate for the U.S. Senate. We never took that camping trip. We have missed a lot of camping trips because of the public service path I have taken. It is my hope that maybe my son and daughter realize now that that path has led to something positive and that maybe because of this—in this new role that the President has nominated me to,

maybe I can help more families access, enjoy, and realize what it is to be a family in the great outdoors in the United States of America.

Senator CRAIG. Well, come have a cup of coffee with me regularly. Thank you, Mr. Chairman. Thanks, Governor.

Mr. KEMPTHORNE. Thank you.

The CHAIRMAN. Now we are going to move over here to our newest Senator, the Senator from New Jersey. Do you have any questions?

Senator MENENDEZ. Thank you, Mr. Chairman. Thank you, Governor. Let me get right to some of my concerns. The recent 5-year plan put forth by the Minerals Management Service for oil and gas drilling on the Outer Continental Shelf, it is a real concern that I and others have. The first problem with the offshore administrative boundaries that were announced on January 3 is that they were announced without any comment from the public or the States. Do you believe it is appropriate for MMS to publish these boundaries without any public commentary?

Mr. KEMPTHORNE. Senator, again this is an area that I am coming up to speed on. Let me say that it is my understanding that before the proposed lease for the next 5 years can be placed—there have been 36,000 comments that have now been submitted. Those need to be reviewed before any final determination is made.

Senator MENENDEZ. I appreciate that, but the problem is they started off with defining administrative boundaries without even having the public input into it. So we start off with a determination before the public has any possibility. Would you consider revisiting those boundaries by consulting with the States, particularly those of us on the east coast, if you are confirmed as the Secretary?

Mr. KEMPTHORNE. Senator, if confirmed, I believe I will be certainly involved with that. I would be very happy to have further discussions with you in that event.

Senator MENENDEZ. Do you believe—I know the State of Florida has been talking about that it deserves to have a buffer zone around their beaches. Do you support that, and if so, do you support a minimum mileage?

Mr. KEMPTHORNE. Senator, again, I would rather be further grounded in this whole issue before I begin to make those types of commitments.

Senator MENENDEZ. Well, our problem is that, Governor, I have to cast a vote before you get grounded. So I am trying to get a sense from you as to what your vision is of drilling off the Outer Continental Shelf, what protections, what circumstances. I mean, we have a set of circumstances.

Let me ask you one other question. In this process, I and my colleague in the Senate from New Jersey and members of the New Jersey congressional delegation, during the comment period for the draft proposed program, asked MMS to hold a hearing in New Jersey. They held one hearing in the entire Mid-Atlantic region. And yet, we have not gotten an answer. And the people of New Jersey have not gotten an answer. Is that the way that you believe that the Department should act?

Mr. KEMPTHORNE. Senator, I do not. I mean, I believe that you deserve an answer. Also, you asked about what is my approach?

What is my philosophy? You stated in your opening comments the importance of tourism in New Jersey. I know of your concern. It is a beautiful State. I know of your concern that there is protection. I think protection does need to be a critical part of this. That protection meaning adhering to environmental standards that needs to be put in place and adhered to.

Senator MENENDEZ. Can we get from you, Governor, at least a commitment to have MMS hold a public hearing in New Jersey when the draft EIS statement comes out?

Mr. KEMPTHORNE. Senator, again, may I first find out what are the procedures? But I would be happy to respond to you in writing before we make that commitment.

Senator MENENDEZ. We'll ask a series of other questions in this regard to the chair in writing. We would love to hear your answers before we have to cast a vote.

Mr. KEMPTHORNE. Thank you.

Senator MENENDEZ. Because a simple public hearing should be something that the people of New Jersey and the northeast deserve, as a minimum. Let me just turn, very quickly—you heard me refer to Lady Liberty.

Mr. KEMPTHORNE. Yes.

Senator MENENDEZ. I heard your comments in your opening statement about access to public lands and security. The *Daily News*, in today's paper, says that all that is open—it says, "Liberate Lady Liberty. All that is open is a pedestal. Visitors can look up her skirts, but they cannot"—it has been the case since before September 11—"climb the spiral stairway to her crown. She has become the statue of cowardliness, thanks to the people who run Liberty Island, who are terrified of terrorism."

Now, we have had a whole host of security measures that have been implemented that let people into the pedestal—that let people onto the island and into the pedestal. So whatever it is that is screened has been screened. Why can we not allow the citizens of our great country—we have taken on terrorism and said we face it with courage and conviction, why can we not have the ability to have citizens go, as they have always done since the Statue of Liberty was opened, up to its torch and see its magnificent views and be part of that inspiration? I would hope that you would make a commitment to make sure that we do what is necessary to make that happen.

Mr. KEMPTHORNE. Senator, I appreciate that. I will tell you that last night in anticipation of this hearing, my wife, Patricia and I visited some of the national monuments here. Why? Because we wanted inspiration, to listen to all of the other citizens and their enthusiasm and reverence for these national icons, like the Statue of Liberty, what it means to all of us. Again, from a background as a Governor who believes deeply in emergency preparedness, I will take your counsel. I will look into this to see how can we further provide for the access of the citizens to enjoy their national icons, while understanding that we want to make sure that it is done safely.

Senator MENENDEZ. I appreciate that. And we want safety. That is why we lived with Lady Liberty being closed for a while. We just

simply want access to its crown, now that safety has been established.

And last, Governor, we have been working on Ellis Island, right across from New Jersey. We can almost touch Ellis Island. There is actually a bridge that connects it for construction work. For 2-plus years, the National Park Service has been talking about a development plan. We have a non-profit entity called Save Ellis Island that has raised over \$26 million. We cannot get the Park Service to, ultimately, after 2½ years, come to a conclusion so that we can save the deteriorating structures that are so much a part of the history of our country. I hope that when you become the Secretary, you will get them to finally, after 2½ years of inertia, be able to move, so that we can bring a public/private partnership together to save the crumbling parts of Ellis Island before it is too late.

Mr. KEMPTHORNE. Senator, I appreciate your passion for this. I also appreciate when you say that there is a non-profit organization that has raised some \$26 million, I think that is truly significant. The citizens want to help. They want to step in. So, again, I would be happy to look into this issue and get to the point that you can have some answers.

Senator MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. Finished? Thank you very much. Are you ready on this side?

Senator TALENT. Thank you, Mr. Chairman.

Welcome, Governor. Congratulations.

Mr. KEMPTHORNE. Thank you, Senator.

Senator TALENT. I hope you know what you are getting into.

Mr. KEMPTHORNE. I am beginning to.

Senator TALENT. I think you do. You have some experience. You know Senator Craig opened up the subject I was going to raise with you, which was energy. I would just ask you to step back and just share your thoughts on how we might be able to move forward on this issue. We clearly are in a situation that is not acceptable.

I get visited all the time by enterprises that are under enormous pressure, for example, because of the price of natural gas. The figures I have looked at suggest that we have lost almost 3 million jobs since 2000 because of the high price of natural gas. This at a time when we have reserves of 193 trillion cubic feet domestically that we are not exploring at all.

I don't say this, by the way, to be provocative to any way of thinking about this. I am just stating the situation that we are in. We have \$70 or higher than that, I guess, barrels of oil. We have reserves in the country, not just in the ANWR, but also in other places. That could produce enough to supply 5 to 10% of our domestic needs. You know the situation. It just seems to me it is so counterproductive for us not to be coming up with a way to explore and use these proven reserves. It is hard for me to think—and, again, with respect to everybody—of a coherent philosophy that willingly cuts its own country off from these sources of energy.

So I guess we are in—especially since there is such an intimate connection between the ability to generate revenue and economic growth and environmental quality. You said before that they are not mutually exclusive. I would go further. I would say that in

order to tackle and solve the key environmental problems we have remaining, we need prosperity. The government needs revenue. People need to have the funds to spend the extra money they may need on conservation measures. Business needs to be able to invest in higher technology.

One of the biggest environmental problems that we have in Missouri, for example, if not the biggest, is water quality in southwest Missouri and our Table Rock and Tanneycomo systems and the river systems leading up to that. That is largely a money question. Everybody wants to clean it up. It is a question of monitoring it, figuring it out, coming up with a solution and then funding it. I suspect this is true all over the country—land management, it is money. You can't come up with these funds if we are in a recession. So, I would say there is a connection between getting energy prices down and improving environmental quality. I wonder if you don't agree and if you would share maybe something about how we can step back, maybe get people to back away from the entrenched positions and just figure out a way to do what I think to most Americans seems common sense, to find a way to the natural gas that is in the country and use it to lower costs and save jobs.

The same thing with the oil. While we are pursuing as quickly as we can a new world or renewable world that I think we are all, or most of us are, now in agreement on. So if you would share some thoughts on that, I would appreciate that.

Mr. KEMPTHORNE. Senator Talent, thank you very much. I appreciate that you reiterated economic vitality, a positive environment—they are not mutually exclusive.

Senator TALENT. They are mutually dependent is what I am saying, it seems to me.

Mr. KEMPTHORNE. Yes. And Senator, I will tell you both as a Governor and previously as a Mayor, it was when we had a positive economy that we were then able to go and make improvements or expansion of parks and recreation and access. So, those are the benefits that you get with a positive economy. It is also, I believe, national security, the well being of this country.

So we do need to have reliable sources of energy. You say, "Well, how do we then begin to change the atmosphere so we can talk about it?" The technology that has been developed, tremendous things, steps forward that have been taken. I believe it is fair to say that during Katrina that they were able to—in the deep platforms where they were drilling, they were able to turn off that at the ocean floor. There was not a problem. So, you have the technology.

Then you have to consider the safety considerations. How do we do this safely? How do we do it so that it protects the environment so that we do not harm the environment in one equation, while we are helping it another? I believe you can accomplish both.

Also, Senator, I affirm what you have mentioned about the alternative sources, the renewables. I think we do have to do that in a parallel course, so we do not look—we are simply wedded to the old ways, but there are new ways and we will be aggressive in seeking those.

Senator TALENT. Yes. I thank you, Mr. Chairman. Maybe once you are confirmed—and I hope and think you will be—your time,

of course, is going to be incredibly short but maybe just some off-the-record, quiet conversations with people on different sides of this issue. Because I have a feeling that out of the public limelight, when they weren't standing up for a long-held position, people would probably agree on the basics of this. Maybe, you just might ask people, "Look, what is it you feel you would need, coming from your framework, to be able to move forward on this?" Because it just seems to me we are butting heads here over something that most people, over a cup of good Energy Committee coffee, would probably agree we ought to be able to work together on. You might be the person to do it. You know this place. You know the needs of the States. And they are obviously States with parochial interests, pro and con, on this. It is just a suggestion to you. It is easy for me to offer up your time. I would hope you would think about that, because I can't think of anything more important for both jobs—all three jobs, national security and the environment. We can't do what we need to do in Missouri on water quality unless we can come up with the funding, and that is just not there when we don't have the revenue.

Mr. KEMPTHORNE. Senator, I appreciate what you have said and I think it is wise counsel.

Senator TALENT. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, very much.

Senator Mary Landrieu.

Senator LANDRIEU. Thank you, Mr. Chairman. Thank you, Governor. It has been a long morning and I appreciate your patience. I know that the Chairman is—I have got to call the meeting at 1, so I will try to be brief, because several of my colleagues may have additional questions.

As we left off from our last meeting, you had stated that you weren't as familiar with the gulf coast States' situation, relative to their hosting of offshore oil and gas production. Of course, you were more familiar with the Western States' arrangements, including Idaho, that received a small—but received some money from oil and gas, as you know. Have you had some time over the last few weeks—as you visited with different Senators and researched some of the important aspects of the job that you have been nominated to do, have you had some opportunity to consider the situation with the coastal States and the way that they serve as host for the offshore oil and gas production for the Nation?

Mr. KEMPTHORNE. Senator Landrieu, yes, I have. I spent some time with Senator Martinez. I spent some time with Senator Nelson. As I have conducted these visits, all of it adds to it, but not nearly to the extent that—if confirmed, I can then devote my full effort and not be wearing also the hat as a sitting Governor and the CEO of a State.

Senator LANDRIEU. Well, I appreciate that and I understand that. I would like to just show a chart that has been very helpful to me, and I think to many of the Senators, to understand that when I speak about, and the Mississippi and Texas and Alabama Senators say that we are America's Energy Coast, we mean it, we can prove it. This graph shows it. Because, if you took a picture of the entire country—now, this is only our coast, but it would be basically white and open air is all around the country, because

there are moratoria that exist everywhere, except for the gulf coast. And there are many reasons for that, but we have a long tradition of support for oil and gas production.

Each of these yellow dots represents a lease, and each of the pink or fuchsia colors represents a producing lease.

You will notice that the area right here, the white part, is the State's—technically the State's land. It is 10 miles for Texas. It is the way they came into the Nation. It is 3 miles for us. And 10 miles or about 9 for Mississippi and Alabama. It was based on the way that these territories came into the country.

But the bottom line is that is you can see the drilling is well past the States' borders. And it is well past, because technology has improved because our own tax code encourages deep drilling in the Gulf, where we think there are great reserves. And so my question or point is, as you continue to study this, would it be possible, do you think, to use your great mediation skills to try to help the country to understand that a better partnership between these States and the Federal Government would be to everyone's interest in providing critical funding for these States to protect this infrastructure, as well as to provide the Government and the country with more product, that being oil and gas?

Mr. KEMPTHORNE. Senator, I would be happy to continue this observation—the good input that you have and also to affirm the critical importance of this to the United States.

Senator LANDRIEU. My second question will be about the fact that the Congress is right now considering opening up additional areas. We think that that focus may be on Lease Sale 181, which is not represented on this map, but if it were, it would be basically close to the Alabama-Florida line. It is not represented on here, but that would be the first significant expansion in the Gulf of Mexico for new lease sales in quite some time. In my view, this would be an appropriate time to establish the right kind of partnership that is good for the country, good for the coastal States, and frankly a desperate need of the environment that is greatly impacted and although I am, as you know, a very aggressive supporter of responsible oil and gas drilling, I would not be the responsible Senator if I didn't also say that there are impacts. And some of them are negative. You offset those negative impacts by spending the dollars that you generate from the industry in wise ways. That is what we are speaking about. So I will continue to share this with you and with others through the process, but as you know, we are considering how to move forward on Lease Sale 181 under the Chairman's leadership. This issue is at a crucial—has a lot of bearing on how we move forward or not on that issue.

Mr. KEMPTHORNE. Senator, I believe that you have raised—and you are very articulate in raising these issues. They are appropriate issues. I would be very happy to be engaged in the discussion, if confirmed, when confirmed.

The CHAIRMAN. Thank you very much, Senator. I have not inquired yet, and I will not at this point, but I will say to you, Senator, one of the things that I believe is you have a myriad of activities that you are going to have to familiarize yourself with that you don't know about. But there is no question you must proceed down to these coastal areas, not only because we had Katrina occur, and

you must see what the result is. It happens that the United States of America, for better or for worse, made a nest egg out of that area in terms of its—America's energy prosperity. It is overladen with activity. That is from the leasing of the land, which would be from zero points to something—all the way to "Where did the refineries end up and where did everything else end up?" It is all within two or three States in that gulf coast area. There sits America's energy presence and America's energy future.

Now the situation has compounded because there are still huge amounts of resources there. At this very moment there is more natural gas in that area ready for development than anything we can do as a Nation, anything that we can develop in the short term. You must learn that your own self and find out that that is the case. It is just so. And yet there are the interests that have already been expressed to you here: No, we don't want to do that, because we want to protect ourselves, whatever it is that we have that is good for our future. We have to find a way, as a people, to get around this situation and do both.

There is no reason in the world why we cannot drill, with modern technology, for the natural gas that is under this water and bring it onboard and sell it for America's companies and America's households. It is absolutely—there is just no question, if you put the issue to the American people and they understood what we are talking about, they would vote overwhelmingly to protect it, but don't protect it to the exclusion of development.

I don't care what other Senators have said, you are going to be charged with getting in the middle of this. And please, you cannot take a position as Secretary that you are going to side with one State or another and what it is they want. There is an American interest involved in this. That is what we are trying to solve.

And in doing it, we might have to give some resources we have not given before to the states that surround it. I have already made some decisions in that regard and given some big money the last time we had an opportunity to share. That was not executively determined, we determined it. We have another one now. We are going to determine it. I hope we have not made it too complicated. We will see here pretty soon. I think it is a simple proposition of giving the coastal States a rather substantial amount of money and getting on with section 181 and pulling it out and drilling.

Mary Landrieu might think there are more things to it beyond that. I think she and her State should get a great quantity of money now and in the future. But I don't know that we have to solve all of Florida's problems with 181. They have plenty of time to solve their problems. But please understand this is a big issue—not just the lease, the whole coastal American-U.S. Department of the Interior relationship.

I used more time than my questions, but I am going to give you one and come back to you in a minute, because there is one that is burning on my mind. I want to give it to you, and I want you to get it right, right now. I want you to take it with you. We have got to work on it. That's Indian water rights settlements, probably something you have never heard of.

Mr. KEMPTHORNE. Yes.

The CHAIRMAN. Indian water rights settlements, they are pending across this land, Indian water rights cases that have to be settled, the United States is in the process of settling many of them. It is difficult to settle them, Mr. Secretary—you will find that—because, literally, it is a question of Indian water claims that are ancient, old and unused versus modern-day uses that have taken advantage and used the water and now we have reached the point where you must settle and pay up. Now, the problem is that generally you can come up with a way to do it, but when you add it all up there is some money due somebody. You know honeydew? This is money due.

I wanted to say to you that the Federal Government has become oblivious to the proposition that they owe money. They sit on the sideline and just let these cases rock along and then say “Well, too expensive.” Well, that is not going to last too long. I am going to find some way that they are going to pay. I want you to look at it. I am telling you now I am giving you today two powerful, big settlements in my State. Now, I don’t do this because I want to give you something just for me; I do it because we already settled a big one in Arizona. They got their money. We found a source of revenue. It flowed into it.

Senator CRAIG. We did Idaho but no money in it.

The CHAIRMAN. We did Idaho. We are waiting around to see how much is due. We have two of ours, big ones. One is called the *Aamodt* case. One is called the *Abeyta* case. I can tell you right now, Mr. Secretary, this will not disappear from your mind, because we are going to find some way to work on this before you get out of this office. We are going to have a way to take care of it.

Now, I am coming back to another terribly difficult issue, but I want to get these Senators in now. I guess time would be—where were we? Is it your turn, Senator? OK. The Senator from Alaska.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I would certainly concur with you that when it comes to the difficult issues that will be confronting you as Secretary of the Interior, while I admire and I applaud your willingness to serve, I don’t know that I would be willing to step up to the plate, given the nature of some of the issues, as Senator Landrieu presented, and as the Chairman has mentioned.

We have our own set of sticky wickets in Alaska and I am sure you know many of them. We have had a chance to discuss them and I look forward to working through some of those issues in the next few months.

The one that is on everybody’s mind right now is energy, what we are going to do. And I have repeated over the past couple of weeks, we can do a lot of things here in Congress. We can make and repeal a lot of laws, but we can’t repeal the law of supply and demand. When we are talking about the energy picture we must talk about supply at the same time that we talk about easing off on the demand side and conservation. We know those and alternatives are very important, but we must also look to what we can do domestically.

Of course, I come around to the ANWR issue. As I mentioned in my opening statement, we have 76 million acres of wilderness in Alaska, but the coastal plain of Alaska, when we are talking about

drilling in ANWR, is not wilderness. It was never set up. It was never proposed as such. This was land that was specifically set aside in the Lands Act to be studied for the potential for oil and gas development. We have studied that. We have done the analysis. We have done the recommendation. We have passed it through the Congress. Once, the President vetoed it. We could be in a better position with our oil supply right now if we had that ANWR oil online. I guess my question to you, Governor, is whether in your judgment the Congress does a disservice to this Nation when it keeps what may be the Nation's most promising energy asset, when it comes to oil and the potential for gas, when we keep the coastal plain of ANWR under lock and key.

Mr. KEMPTHORNE. Senator Murkowski, I will just affirm to you that I believe that it has the potential of a great resource. I believe that it is part of the equation for the well being of this Nation. I believe that it can be accomplished with the highest of environmental standards and with the technology that can affirm that, so that we can appropriately and properly develop that resource. I have been on record in the past as having supported it and I will remain so.

Senator MURKOWSKI. I appreciate your commitment and look forward to working with you on the issue. I want to just do a quick add on to Senator Landrieu's comments about off-shore and OCS exploration. The Department, of course, is in the midst of formulating the new 5-year OCS lease schedule. There are a couple different areas in Alaska right now that are generating some controversy on this issue. We have the Beaufort-Chukchi Provision. And there is sensitivity by many of our Alaska natives in the whaling community, concerns about the potential for development, specifically the seismic activity that could conflict with the whaling season in the spring and in the fall; then, down in Bristol Bay, concern from our fishermen in that region. Bristol Bay is probably one of our richest areas in terms of fishing resources. We have got concerns from those within the fishing industry, environmental concerns. So, my question to you is, as you look to these two off-shore areas in Alaska, which clearly have great potential for the resources, I guess I want your assurance that you will work with us as we try to accommodate the concerns that have been expressed by the Alaskan natives with regards to whaling, restrictions and activity during whaling season, as well as your understanding and appreciating the concerns of our fishermen in the Bristol Bay area.

Mr. KEMPTHORNE. Senator Murkowski, yes, I commit to you that I will be more than happy to work with you. I believe that you can help me to gain the greater understanding of the full picture of the implications, both to the native Alaskans and to the fishermen, their reliance upon this same area and how you can have a system where it is compatible, that it need not be this entity versus that entity, but somehow we can benefit. Again, I think you can be part of that solution.

Senator MURKOWSKI. Well, I appreciate that. I do believe that given the technology that we have nowadays—and we are seeing it on-shore. The technology that we are utilizing up north now is so entirely different than when we first started 30 years ago. I believe that we see the developments in the offshore as well, but we

know that we have got to do it responsibly and right. As much as I want to see the developments so that we are providing the resource for this country, I want to make sure that we are working with and protecting the environment and providing that balance. So, I appreciate your perspective. I believe that we can do both. I don't think that they are mutually exclusive—that is development versus the environment—but that together we can make it work and we can provide for that balance. I appreciate your commitment to working with us on that.

Mr. KEMPTHORNE. Well, thank you, Senator Murkowski. And again, I appreciate what you just articulated. I think we must never forget that. That has to be our standard that we hold up and that we achieve.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Senator CRAIG [presiding]. Senator, thank you. Let us now turn to Senator Salazar.

Senator SALAZAR. Thank you, Senator Craig. Thank you again, Governor Kempthorne, for coming before the committee today.

I want to ask you a question concerning the National Park System. From my point of view, when I study the history of our national parks and I see the crown jewels that we created in this Nation, it is important for us always to remember that the 1916 Organic Act talked about the conservation of these treasured resources. Many of us on this committee have raised the question as to whether or not it is wise for the National Park System to move forward with their new revised policy. We have not been able to articulate a reason as to why we should change the principle doctrine, to do no harm to our National Park System. And it is my view that what the National Park System is attempting to do is attempting to diminish the priority of conservation. I would like you to comment on that issue and also ask you a very specific question as to whether you will agree to revisit the proposed changes for the National Park System on their parks policy?

Mr. KEMPTHORNE. OK. Senator Salazar, first of all, let me just say, if confirmed, yes, I will look forward to reviewing those proposed changes, the management policies. You ask why it was necessary. From the briefings that I have received, here are some of the conclusions that I have drawn.

First of all, those procedures pre-dated 9-11. The world has changed. So, we put into place—or they have put into place those elements dealing with Homeland Security. Also, it did not address at all information technology, which we have seen in the Department of the Interior as a critical issue. It had reference to employee management, but now I believe the proposals have an entire chapter on employee management. I do not believe that it affects, nor would it, nor would it be the philosophy of the Park Service that you would walk away from the do-no-harm policy/strategy. But any dynamic organization from time to time, I think, needs to be introspective, see where they can make improvements. Significantly, there are some 58,000 comments that have been submitted concerning these changes, which are part of a review process.

Senator SALAZAR. If I may, Governor Kempthorne, I appreciate the answers to that question. Let me ask you whether you would be willing to subject the new proposed policies to another round of

public comment so that we make sure that not only the public but also employees within the National Park System provide input to the new policies that are being proposed.

Mr. KEMPTHORNE. Senator, again, I feel that I can't today, not knowing all the procedures and processes, make those types of commitments. I don't know that that would be appropriate. Let me just say that I would be happy, if confirmed, to get back with you so that we can further discuss this. You have raised some very appropriate points.

Senator SALAZAR. Let me just say that I look forward to the continuing conversation on this. I know on a bipartisan basis there is a tremendous concern about the policy and I want to be involved with the Department of the Interior and the National Park Service as you move forward on that issue.

Mr. KEMPTHORNE. I appreciate that.

Senator SALAZAR. Let me quickly move to another issue, and that is the public land sales that have been proposed. I think in an earlier response to one of my colleagues I thought I heard a position from you that you are opposed to the sale of public lands in order to address deficit reduction issues. I would like you to just reiterate for the committee what your position is with respect to the selling off of public lands to address budgetary needs.

Mr. KEMPTHORNE. Senator, if it is specific and strictly for deficit reduction, I do not favor that. That would be my position. That would be what I would advocate, if confirmed, in those meetings discussing how we resolve this budget deficit that is facing the country. I do not want to preclude, though, the tool. There are instances and situations where you do want to be able to sell public lands, whether it is enclaves, whether it is to assemble more efficient management blocks of land.

Senator SALAZAR. Let me just say, Governor, I agree with you that there are management times when sales are appropriate, but I very much agree with your statement that it is inappropriate to do it just as part of overall deficit reduction without having had a rational plan put together as to why it is that we are engaging in a sale of isolated tracts. It seems to me to be a change of the way that we have approached the ownership and management of our public lands. Quickly, just because—may I ask another question, Mr. Chairman?

The CHAIRMAN [presiding]. Yes.

Senator SALAZAR. As we move forward, I think, in this Committee with the leadership of Senator Domenici, one of the things that we will be looking at is obviously the opening up of Lease Sale 181, which Senator Landrieu and others have discussed.

For Senator Alexander and myself, the stateside funding of the Land and Water Conservation Fund is very important. I know from public statements that you have made that they—back 4 or 5 years ago that you have been a very strong advocate of the full funding of the stateside Land and Water Conservation Fund at the level of \$450 million. It is my hope that as we move forward with this agenda on Lease Sale 181 that we will be able to fulfill the public statements that you made in support of funding of the Land and Water Conservation Fund. I just wanted to know from you whether you will be supportive as we look at ways of funding LWCF.

Mr. KEMPTHORNE. Senator Salazar, I am very supportive of the land and water conservation funds. I have seen how beneficial they are to the States. I would like to be a partner with you, with Senator Alexander, and others in determining how can we find the revenue source so that we can see the funds that can be used by the States for Land and Water Conservation Funds.

Senator SALAZAR. Are you hungry?

Mr. KEMPTHORNE. Yes, sir, I am.

Senator SALAZAR. Thank you very much for staying so long with us.

Mr. KEMPTHORNE. Thank you for staying too.

The CHAIRMAN. Thank you very much, Senator. While you are still here, I want to indicate what an active participant you have been, even though you are relegated to that distant seat by designation of the rules around here, and that we are going to visit Mr. Secretary together. We are going to visit the oil shale deposits in his State. That is going to take place during the Memorial Day recess. You are very busy, but we are going to give you that schedule.

Senator SALAZAR. All right, Mr. Chairman, thank you.

The CHAIRMAN. I want you to know that we believe, Mr. Secretary, that the United States is the "Saudi Arabia of Shale" and that the bulk of that resource is on Federal land. Now I don't think you understand sitting there at that table what that makes you. But, literally, if what some of us think is possible—to wit, the actual development of that shale, turning it into crude oil—you are the owner and ultimate lessor of the most valuable American commodity anyplace in our land, because that shale is directly convertible to oil. You just heat it enough and it turns into oil. It looks like one of the American companies has found a way to do it. You will learn about that. It is urgent that you have somebody on your staff, in my opinion, become an expert quickly on shale oil and what is happening in the United States.

I don't want to get you and the Department of Energy into a fight, because I don't know who is in charge. I know you own it. I know we told you what to do about getting it leased, which you are already doing a terrific action toward getting this property ready so that companies that want to develop it are vying for leases. We are going to go see it, and with the company that has the new technology. If that new technology works, then the only question is going to be how many dollars does it cost them to produce a barrel of oil?

That is why, when people wonder about the price of crude oil, is it all bad because it is high? Some it is good because it is high. Because when it is high, some of these investments occur that bring on board alternatives that make us more independent. In other words, shale oil won't come on board at \$10 a barrel oil, but it might at \$40. And we are going to go see about this and you are going to be the proprietor of the most valuable properties in the world if this turns out to be doable. So, I leave you that background.

Mr. KEMPTHORNE. Thank you, Mr. Chairman.

The CHAIRMAN. Having said that, I was going to ask you some questions about ANWR. But you know about it. I can only tell you

that had the President of the United States signed that when it went to him 10 years and 6 months ago, this country would be producing 1.2 million barrels a day of oil from land that you would have been the proprietor of, ANWR. That would have been worth, believe it or not, according to the estimates, if that would have occurred, that would have been worth \$76 billion in corporate income taxes and \$35 billion in royalties as of today. Imagine that. Sitting up there, nobody can hardly see it and we keep fighting over it.

Now, let me tell you hydropower is within your jurisdiction. You should know, Mr. Secretary, that as a result of this Senator's work that the hydropower laws have been streamlined. Just in time, because about 25% to 40% of the hydropower, small and large, are up for re-licensure in the next 5 years. It is incumbent upon you that these new rules be followed and that we not have big delays as we had before. Those who did not want to solve this got it solved. It got solved by the conferees in the final days of this session, where you have a workable hydropower re-licensing law.

Now, I have many more, but I want to close with one that you must know about. I am sure that you know a little bit about the U.S. mineral laws with reference to people going out on the Federal domain and setting forth their claim by what they call a placer claim. I don't know if you have heard the word "placer." You probably have. But a placer claim, you go out and say I think there is a mineral here and you place your claim—that is where the word comes from—and you do some work in the meantime. You become, year by year, the one that is entitled to lay claim to that property. Believe it or not, with the surge of enthusiasm for nuclear power that has gone all the way from the top down to the bottom, where people are now locating placer claims for uranium all over the States of Wyoming, New Mexico and Colorado. There is a 500% to 800% increase in the number of new mining claims filed. Most of these are for uranium.

It is important, Mr. Secretary, that the Department's mission is advancing not just mining but advancing the knowledge and use of valuable mineral resources from the Federal lands. With this dramatic increase in the number of mining claims being filed on the BLM, it is important that we expect from your Department that you ensure the mining claims and the mining permits are handled properly and in a timely manner. So I leave you with that message that somebody is going to have to get out there and see what is going on, because it may be important to this country if there is uranium out there that we go ahead and find it. Get it placed so that we can produce more of our own. We are not producing any now, which is an interesting phenomenon.

I have about 10 questions I am going to submit; answer them quickly. Senators have the rest of the day to submit questions, and if they don't submit them by then, it is too late. We will then wrap them up and then next Wednesday we should have a vote and you should be confirmed. There is no way to hold this up. We know nothing about how the floor leader intends to proceed. This business of holds, there have been no holds. The holds will have to come down there and debate.

Senator CRAIG. Thank you very much, Mr. Chairman. Not that I am striving to have the last word here, but there is a question

or at least a reaction I would like to get from the Governor to an issue that is every bit as important in your State as it is in ours.

The CHAIRMAN. Shoot.

Senator CRAIG. It is one that you and I have worked on very closely. We have just had in Interior, but at the Bureau of Reclamation, a fine gentlemen retiree by the name of John Keys, a friend of yours and mine.

Mr. KEMPTHORNE. Yes, sir.

Senator CRAIG. We also have there another fellow by the name of Mark Limbaugh, who is doing an excellent job at this moment. They came with a charge. Partly that charge was when we asked John Keys to come and serve, I said to him, "Commissioner-to-be, will you never allow a Klamath Falls water incident to occur on your watch?" You remember the great controversy there that dried up the landscape and created some phenomenal difficulties. True to his charge, he did not allow that to happen. But out of that grew an initiative known as Water 2025, the water initiative that is critical to the West now and for the future.

Our State of Idaho, and you have been there as Governor, has witnessed the two very real preoccupations and realities that our legislature has gone through the last two sessions with water. It is happening all over the West. Why? Because the State of Idaho, Nevada and Arizona and the rest of the West, certainly the State of New Mexico, are populating at an unprecedented rate. And getting out in front of the need for water in the future years is going to be tremendously important. Being from a State where these concerns have not gone unnoticed, is it your intention to not only continue pushing Water 2025 but also to pursue its expansion?

Mr. KEMPTHORNE. Senator Craig, yes, without question. In my opening statement, that is why one of areas that I highlighted was water. It is critical. I appreciate, Senator Craig, your leadership on water issues. You mentioned how critical that is to the West. I believe it is critical to many States in the East as well that have been experiencing drought. That is a finite resource. It is precious. Without water, many, many things just will not happen, including the well-being of the citizens that are here. So, yes, we will do that and it will be a priority, but not just in theory. It would be a variety of things.

Mr. Chairman, you talked about the Indian rights and the water settlements. That is something that we do need to pursue and find a conclusion, so that we don't continue to expend the resources of money for years and the solution evades us. We have done a variety of things in Idaho, where we have purchased water rights, where we have taken some productive land out of production but instead have returned it now to natural grasses. It turns out it is a wonderful critical habitat for different species. I believe there is a whole host of things that we can aggressively do—and creatively do—so that we can also find solutions for municipalities, surface, ground water, spring users, tribes, outdoor activists, recreational. Again, I accept that charge, Senator Craig. It is indeed important.

Senator CRAIG. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Very specifically, 2025 water money is terrific. That program was invented. Its title is beautiful. It does a great job. The only problem is there isn't enough money. You must be an

advocate next budget cycle to double the money for 2025 when you look at what it does in our respective States. It is absolutely marvelous.

Senator CRAIG. And then Pete will get it for you.

Mr. KEMPTHORNE. I appreciate that.

The CHAIRMAN. Thank you very much. Well, there is nothing further. It seems like we have had a pretty responsible hearing. We are going to recess and say thank you to you and hope that everything works out fine. Thanks to your family for their patience and for being here. I hope you enjoyed it. It was probably boring. And for the youngsters, you were wondering just when you could get out of here, you can get out of here now.

[Whereupon, at 1:26 p.m., the hearing was adjourned.]

## APPENDIXES

### APPENDIX I

#### Responses to Additional Questions

##### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR DOMENICI

###### ANWR

*Question 1.* On Tuesday of this week, the Congressional Research Service released a report on the potential Federal tax revenues from oil development in ANWR. According to CRS, at today's oil prices, production of the mean estimate of recoverable oil in ANWR—10.4 billion barrels—would yield the federal government about \$76 billion in corporate income taxes and \$35 billion in royalties.

Do you know if the Interior Department has performed a similar analysis of the potential corporate income taxes and royalties that the Treasury would receive upon production of ANWR resources, and if not, do you think it would be a good idea for the Department to do its own analysis?

Answer. Chairman Domenici, I am not aware of whether the Department of the Interior performed such an analysis. If confirmed, however, I would be happy to look into this matter, including whether the Department or its bureaus have the appropriate expertise or are the appropriate entities to carry out such an analysis.

###### DESIGNATION OF ENERGY CORRIDORS ACROSS FEDERAL LANDS

*Question 2.* Pursuant to the Energy Policy Act of 2005, the Interior Department is currently engaged in a 2-year process to identify and designate energy corridors across federal lands that can be used for siting new transmission facilities.

This includes completion of a west-wide programmatic environmental impact statement and a record of decision that will simultaneously amend the relevant land use plans. I know that you are aware of the nature of these environmental requirements.

Can you commit to me that if you are confirmed, you will ensure that this work gets completed within the two-year timeframe.

Answer. It is my understanding that this effort is currently on schedule. If confirmed, you have my commitment to providing the necessary resources for completing the Programmatic Environmental Impact Statement for the designation of energy right-of-way corridors on Federal lands in the west. I am informed that this is an interagency effort that involves the Department of Energy, Department of the Interior, U.S. Department of Agriculture, Department of Defense, and Department of Commerce in consultation with the Federal Energy Regulatory Commission and State and local governments. The Department of Energy is the lead for the Programmatic Environmental Impact Statement. However, the Department of the Interior will work hard to meet its timeframe commitments.

###### HYDROPOWER

*Question 3.* EPOA reformed the Federal Power Act's hydroelectric licensing provisions by providing for an expedited trial-type hearing on disputed issues of material fact and allowing any party to offer alternative conditions. The resource agencies (Interior, Commerce, and Agriculture), in consultation with FERC, issued an Interim Final Rule on November 17, 2005. However, just one month later, American Rivers filed suit in Washington State's western district, challenging the interim rule.

If confirmed, do you plan to continue the rulemaking process to finalize the rule?  
Answer. If confirmed, I plan to continue the rulemaking process.

## ENDANGERED SPECIES ACT

*Question 4.* During your tenure as Senator for the State of Idaho, you led efforts to develop comprehensive legislative changes to the Endangered Species Act. Those efforts included the development of S. 1180, the Endangered Species Recovery Act of 1997 and S. 1181, the Endangered Species Habitat Protection Act of 1997.

Have your views on the ESA evolved since you left the Senate, and if so, in what way?

Answer. As Governor, my experiences with the ESA have broadened and I recognize the important role States and private landowners play. I believe S. 1180 was a sound consensus bill for reauthorization of the ESA in 1997. I have a better understanding of what ESA implementation means for States and private landowners, and I strongly believe there are common sense approaches that can be adopted to promote better species conservation and recovery.

In addition, I believe that species recovery is best obtained through incentives and partnerships. Section 6 of the Act, a provision that provides for State-Federal cooperative programs, is a valuable and underutilized tool that can facilitate partnerships between the Federal government and States for protecting and recovering species. With limited Federal funding, shouldn't we make a concerted effort to maximize the best of our shared resources—State and Federal—to find better and more cost-effective solutions under the ESA?

I also recognize that Washington, D.C. does not have exclusive access to the best science, innovative solutions, or the most efficient operations in terms of getting work done on the ground. That is where States and private property owners can, and must, play an integral role, in both the listing and the recovery process.

If confirmed, I look forward to working with the Congress to improve and update the ESA.

*Question 5.* What priority do you expect to place on improvements to the ESA in your role as Secretary of the Interior?

Answer. In the past thirteen years of working on ESA issues, I have heard from thousands of individuals, both from Idaho and around the country that the ESA can work better. As Governor of Idaho, I created an Office of Species Conservation to improve the State of Idaho's implementation of the ESA.

The Endangered Species Act must focus on recovery, not just the listing of threatened and endangered species. I have never heard anyone suggest that they do not support recovering species. I have never heard anyone say we should turn our back on species in trouble. Along those lines, I am committed to placing a high priority on species recovery and to improving the ESA to accomplish that goal.

*Question 6.* How would you update and modernize the ESA or its implementation?

Answer. As a Senator, I introduced legislation that worked to strike a balance between the needs of species and the needs of people. I proposed the protection of our rare and unique species, recognized the rights of individuals and property owners, and provided more incentives to encourage property owners to become partners in the conservation of species.

As the Governor of Idaho, I have been committed to the idea that wildlife management programs are most effective when they are based on sound science. I worked with stakeholders and partners to build conservation efforts which led to real, on-the-ground conservation and habitat improvement projects.

The Federal government must provide incentives for private landowners, local governments, and states to motivate them to avoid listing in the first place and then, if necessary, to participate in recovery after listing. The process would be better if it encouraged innovation with incentives to protect species. Currently, there is a real fear of endangered species becoming established on properties because the law focuses on punishing those who do not comply, rather than on rewarding those who voluntarily engage in conservation efforts.

The Act should encourage the states and individuals to participate in the process of working together with the Federal government to help conserve and recover at risk species.

## ENERGY PRODUCTION

*Question 7.* The Department plays a critical role in emphasizing responsible development of energy resources on Federal lands. Since passage of the Energy Bill last summer we are looking to the Department to implement many aspects of the bill.

Over the past few years we have pressed for improved service in the Department's energy programs and access to federal lands.

I am sure you are aware of the backlog in processing drilling permit applications. Will correcting this problem be a priority for you as Secretary?

Answer. Yes. If confirmed, efficient permitting for energy will be a priority for me. It is my understanding that the Energy Policy Act of 2005 provides additional tools and funding to increase the efficiency of processing drilling permits, including the seven pilot project offices in the Bureau of Land Management. Additionally, I understand that the FY 2007 budget provides funding for other, non-pilot agencies to improve permit processing.

## OIL SHALE

*Question 8.* America is the "Saudi Arabia" of Oil Shale and the bulk of this resource is on Federal Land. This may represent our best chance to eliminate our dependence on Mideast oil. In the Energy Bill we took steps to initiate an Oil Shale Program at BLM.

Can I get a commitment that the Department will aggressively implement such a program?

Answer. I am advised that the Department is making progress in implementing the oil shale resource lease program. If confirmed as Secretary, I will ensure the Department of the Interior's oil shale program continues to be implemented as expeditiously as possible.

*Question 9.* I have made you aware of the magnitude of this resource in this country. Do you have any other ideas that might hasten its development in addition to those enacted in the Energy Bill?

Answer. I have been pleased to learn of the magnitude of the domestic oil shale resource. If confirmed as Secretary, I look forward to working with you on innovative approaches to managing this and other domestic resources managed by the Department of the Interior.

## INDIAN WATER RIGHTS SETTLEMENTS

*Question 10.* As you are aware, un-adjudicated Indian water rights claims in the western United States are a great source of uncertainty and are, in my view, the greatest impediment to effective water management. In May of 2004, you signed the Nez Perce Water Rights Settlement which settled Indian water rights claims to the Snake River Basin. There are several Indian water rights settlements that are nearing completion in New Mexico. They include the *Aarnodt*, *Abeyta* and *Navajo* settlements.

Do I have your assurance that, if confirmed, you will make the New Mexico Indian water rights settlements a priority and that you will work to promote a reasonable federal contribution as part of these settlements?

Answer. As I noted in my opening statement, I commit to bringing the same energy and concern that I had for the Nez Perce settlement to other Indian water rights issues. As I responded in your next question, if confirmed, I plan to meet with OMB and Department of Justice to discuss the issue of an appropriate Federal contribution.

*Question 11.* If confirmed, how will you secure a commitment from OMB that a reasonable federal contribution will be made available for Indian water rights settlements?

Answer. If confirmed, I plan to meet personally with OMB and the Department of Justice on this issue, including a discussion on an appropriate Federal contribution.

## WESTERN FIRE SUPPRESSION

*Question 12.* Between 1994 and 2004 we have suffered an average of 94,000 fires each year which burned an average of 4.8 million acres each year, but three times in the last six years the five federal fire fighting agencies have exceeded a billion dollars in fire suppression costs, and each of the last six years have exceeded the 10 year average cost of fire fighting.

Given the increasing costs of fire suppression and fire preparedness, I am wondering if it might not be wise to invest more in hazardous fuels reduction work and less in the fire line items. Would you care to comment on that?

Answer. It is my understanding that the Department has invested significant resources in hazardous fuels reduction, more than quadrupling funding over 2000 funding levels. If confirmed, I will continue to support for the fire program and will I carefully look at appropriate funding levels for all components of the fire program.

## DROUGHT IN SOUTHWEST

*Question 13.* The water forecast for the state of New Mexico this year is bleak. This snow year may be the worst since 1892, the year that we begin taking records.

I included in the Emergency Supplemental Appropriations bill a provision to reauthorize the Bureau's emergency drought assistance program through 2010 and fund the program at \$7.5 million.

If confirmed, do I have your assurance that you will do all you can to help New Mexico through this tough time? If so, what suggestions do you have to help New Mexico through the current drought?

Answer. Yes. If confirmed, I am committed to doing all that I can to assist New Mexico during this difficult time. I do support the proactive response to the effects of drought embodied in policy tools such as the emergency drought relief program. I will work with the Bureau of Reclamation to utilize all available authorities to help New Mexico manage scarce water resources during this drought, including Reclamation's Water Conservation Field Services Program and Water 2025 initiative.

#### SCIENCE AND TECHNOLOGY

*Question 14.* Drought and population growth in the western U.S. require that we make more efficient use of water and develop technologies to make use of previously impaired or unusable water. During the 1960s and 1970s, the federal government funded extensive research in water technology which resulted in reverse osmosis desalination technique most widely used today.

I believe that the federal government should renew its investment in water treatment technology. Toward this end, I have funded construction of the Tularosa Basin Desalination Research and Development Center in New Mexico. The President's budget proposes \$5.2 million for Reclamation's desalination research and development (R&D) programs.

Do you believe that desalination research should be undertaken by the USBR? If so, how would you coordinate the USBR research with that being undertaken by other federal agencies?

Answer. The Federal government, including the Bureau of Reclamation, funds desalination research and should continue to do so where there is a clear Federal role and the Federal investment contributes toward improving long-term water management. If confirmed, I would welcome the opportunity to foster collaboration with other Federal agencies involved in desalination research to maximize the effectiveness of our federal investment.

#### RURAL WATER

*Question 15.* My staff worked very closely with the staff of the Department of the Interior on a rural water bill which passed the full Senate in November of last year. It is my understanding that the House Resources Committee will hold a hearing on the bill this spring.

What do you believe is the Bureau's role in meeting rural water supply needs?

Answer. The Bureau of Reclamation can play an important role in meeting rural water supply needs. It is clear that there is substantial interest in and need for additional rural water supply in this country. Given present budget constraints, it will be important that we take a rational approach to meeting these needs; it may be appropriate for the Federal government to meet some of that need, but we cannot, nor is it appropriate, for us to meet all of it. I know that the Department has been very supportive of these ongoing efforts to enact a formal rural water program within the Bureau of Reclamation and, if confirmed, I look forward to continuing to work with you and others in Congress on this legislation.

#### U.S. GEOLOGICAL SURVEY

*Question 16.* Governor Kempthorne, while New Mexico has limited freshwater supplies, it has significant stores of brackish water contained in underground aquifers. In order to take advantage of this resource, I obtained funding for the Tularosa Basin National Desalination Research Facility where testing and development of desalination technologies will occur. While the resources contained in the Tularosa Basin are well understood, there is a general lack of knowledge regarding the West's brackish water resources.

If confirmed, how would you expand our knowledge of underground water resources?

Answer. If confirmed, I will support programs that make available fundamental science information regarding groundwater availability in the Nation's major aquifer systems.

*Question 17.* Aquifer re-injection and storage is a promising way to make more water available to the West. What role do you believe the USGS should play in investigating the feasibility of aquifer re-injection and storage?

Answer. I believe USGS expertise could help in efforts to develop new techniques to characterize underground storage capacities and solve practical problems in aquifer re-injection.

*Question 18a.* In general, do you believe that we have an adequate knowledge of our water resources?

Answer. I believe we need to continue to support scientific research in partnership with the States, Tribes, and other stakeholders to gain greater knowledge of our water resources. Water management decisions will be better made if they are based upon accurate science about the underlying resource.

#### THE NATIONAL PARK SERVICE

*Question 18b.* The National Park Service is currently revising its management policies. As Governor of Idaho and former Senator, are you aware of any problems caused by the existing management policies?

Answer. As I stated during my confirmation hearing, I feel that evaluations of an agency's policies and practices can be a healthy and productive undertaking. It is my understanding that the last policy rewrite was done prior to September 11, 2001, and that these new proposed policies reflect changes such as security measures for icons, border security, and management efficiencies. In addition, we must make sure we work cooperatively with others and have the best management practices in place to manage parks.

#### RECREATION FEE ENHANCEMENT ACT

*Question 19.* In 2004, congress passed the Recreation Fee Enhancement Act which allows bureaus of the Departments of the Interior and Agriculture to collect and retain entrance and other user fees.

Did the State of Idaho favor the Recreation Fee Enhancement Act?

Answer. This past session, the Idaho Legislature approved a Joint Memorial to Congress asking for the repeal of the Federal Lands Recreation Fee Enhancement Act. In Idaho, Joint Memorials from the Legislature do not come to the Governor for approval prior to being transmitted to Congress.

*Question 20.* In 2004, Congress passed the Recreation Fee Enhancement Act which allows bureaus of the Departments of the Interior and Agriculture to collect and retain entrance and other user fees. How would you amend the Act if given an opportunity to do so?

Answer. As a matter of sound public policy, I am firmly committed to the proposition that the public should be able to see tangible benefits resulting from the fees they pay. I am informed that the Department is working cooperatively with the U.S. Department of Agriculture to implement the Recreation Fee Enhancement Act. While I am not familiar with the details of the Act, if confirmed, I look forward to learning more about the provisions of the recreation fee program and working with Congress, our involved bureaus, and other interested entities to ensure effective implementation of the Act.

#### DONATIONS TO NATIONAL PARK SERVICE

*Question 21.* The National Park Service currently receives revenue from federal appropriations, entrance and other recreation fees, and donations. The NPS has recently revised Director's Order 21 regarding donations and fundraising.

Under your leadership, who would be allowed to solicit and accept donations? Do you believe it is appropriate for park superintendents to solicit donations?

Answer. It is my understanding that Director's Order 21 on Donations and Fundraising was recently finalized and released on May 1, 2006. I have been advised that the NPS responded to public comments received on the draft and that the recently released document precludes NPS employees from soliciting donations. I have been further advised that the Director has generally delegated the authority to accept donations below the \$1 million level to the deputy, associate and regional directors and allows them in appropriate circumstances to re-delegate their authority. If confirmed, I look forward to working with NPS leadership, Members of Congress, and other interested parties on this important policy.

#### INSULAR AFFAIRS

*Question 22.* On March 1, 2006 the Committee held a hearing on the economic challenges facing the Territories. While each has challenges, those confronting American Samoa and the CNMI are particularly troubling. The Possessions Tax Credit which sustains most of the American Samoa economy ended this year, and the phase-out of global textile quotas has put the CNMI's garment industry into

steep decline. The Governor of Samoa and the Resident Representative of the CNMI each made recommendations for U.S. government responses to these events, including an extension of the tax credit, reduction in the local content requirements under the Tariff Schedule, and resolution of the dispute over cover-over payments.

Can you commit to me that, as Secretary and Chairman of the Interagency Group on Insular Affairs (ILIA), you will coordinate with the Treasury Department and other federal agencies to help the territories to develop the economic strength to meet the needs of our fellow citizens and nationals who reside in the islands?

Answer. I appreciate your bringing to light issues of importance to the territories. As you note, if confirmed, I will be the chairman of the IGIA. As I understand it, the IGIA is an appropriate vehicle for developing a consensus within the Executive branch on territorial issues and legislation. Please be assured that I will utilize the IGIA and will consult with the Treasury Department and other Federal agencies regarding the economic and financial challenges faced by the U.S. territories.

*Question 23.* During the Committee's July 19, 2005 hearing on the Marshall Islands Nuclear Testing Program, the National Cancer Institute presented their estimate that up to 532 additional cancers would be expected among the 1958 population of the Marshall Islands, with most of these occurring in the northern ten atolls. Can you commit to me that, in coordination with DOE, HHS, and CDC and appropriate health representatives of the Republic of the Marshall Islands, you will provide the Committee with cost estimates for screening and treating of radiogenic cancers in this population, excluding those currently covered by the DOE healthcare program?

Answer. This will indeed require interagency cooperation, because it is my understanding that the Department of the Interior does not have the in-house expertise to develop these estimates on its own. If confirmed, I will work with the U.S. Departments of Energy and Health and Human Services, including the Centers for Disease Control, in cooperation with officials from the Marshall Islands, as appropriate, to provide the Committee with cost estimates for screening and the treatment of radiogenic cancers among the people from those parts of the Marshall Islands that you have specified are not currently covered by the health care program of the U.S. Department of Energy.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR THOMAS

*Question 24a.* As you know, the State of Wyoming and the Department of the Interior have been at odds over the management and delisting of wolves. As the Governor of Idaho, you understand this issue from the states' perspective. One of the problems has been getting Interior officials with decision-making authority to come to the state. Questions:

Will you agree to come to the state to work with Wyoming to resolve this issue?

Answer. If confirmed, I would welcome the opportunity to work with my Wyoming neighbors on this issue. As Idaho's Governor, I directed my staff to go to Cheyenne to meet with Governor Freudenthal's staff and members of the Wyoming legislature to discuss working together to resolve this issue and to gain a better understanding of Wyoming's perspective on wolf management. I have an excellent working relationship with you, members of the Wyoming delegation, and Governor Freudenthal, and expect that it will continue into the future.

*Question 24b.* What do you think can be done at Interior to move toward delisting?

Answer. I can pledge that, if I am confirmed, the Department will invest the same understanding and creativity to solve this problem that we will ask of the good people of Wyoming. I know the importance of cooperating with states to resolve species issues and am a strong believer in providing management of species to the states. I also have wrestled with and resolved the issue of "adequate regulatory mechanisms" surrounding wolf management and delisting the species in the West. I remain committed to work with the Governors of Montana and Wyoming, as well as the Great Lake States on this issue.

*Question 25.* Many endangered species should be removed from the endangered species list—wolf, grizzly bear, Preble's meadow jumping mouse, and others. However the process seems to drag on forever and not get anywhere. What can be done to streamline the delisting process?

Answer. In my experience, the single greatest impediment to achieving final resolution on almost all Endangered Species Act issues is litigation. Most issues face litigation from opposing points of view, which results in long periods of time being used in the courts to find resolution while redirecting resources away from important species recovery and conservation activities. I believe finding solutions to these

litigation challenges will require both administrative streamlining and a legislative remedy.

If confirmed, I will work to improve the delisting process as well as other aspects of the Endangered Species Act.

*Question 26.* I believe strongly that the Endangered Species Act needs to be updated to improve the listing and delisting processes, improve science requirements, and other things. What reforms to the ESA would you suggest, and will you stay committed to reforming the ESA as Secretary?

Answer. The goals of the ESA, namely, the recovery of threatened and listed species, is truly laudable. As the Governor of Idaho, I have been committed to the idea that wildlife management programs are most effective when they are based on sound science. I worked with stakeholders and partners to build conservation efforts which led to real, on-the-ground conservation and habitat improvement projects.

While I served in the United States Senate, I led an effort to bring needed improvements to the ESA. I concentrated on building a strong, bipartisan coalition that focused on strengthening conservation by encouraging greater cooperation with landowners. If confirmed as Secretary, I will continue that effort and the progress I have made as governor to make the ESA more focused on avoiding listing in the first instance and then more conducive to recovering the species.

If confirmed as the Secretary of the Interior, I commit to working with the Senate and House to update and improve the Endangered Species Act.

*Question 27.* Over half of Wyoming is owned by the federal government—and most of the federal land is managed by Interior. While some areas such as National Parks and wilderness areas need special protections, most areas should be managed for multiple uses—including grazing, energy development, timber production, and recreation. I would like a strong commitment from you that you will work to manage our public lands for multiple use and sustained yield as mandated by FLPMA.

Answer. If confirmed, you have my commitment that I will work to manage the public lands for multiple use and sustained yield as mandated by FLPMA.

*Question 28.* The National Park Service is currently responsible for 390 national park sites. This represents 85 million acres of land in 49 states. As the number of sites continues to grow, resources are increasingly stretched thin. With that in mind, what is your long term vision for the NPS? What are your plans to address the maintenance backlog?

Answer. I would like to see the National Park System, with its many natural, cultural, and historic treasures, continue to be the source of great pride for our Nation that it has been ever since the first national parks were established. For that to continue, we need to maintain effective and efficient operation and maintenance of parks. With appropriations totaling nearly \$4.7 billion and the completion of nearly 6000 facilities improvement, as well as the completion of a first-ever comprehensive condition assessment of NPS facilities, the Administration has made a good deal of progress in addressing the maintenance backlog during the last five years, and I would like to see that progress continued.

*Question 29.* Do you believe in the historic mission of the National Park Service, that when a conflict exists between visitor enjoyment and preservation in our national parks, that preservation should be predominant?

Answer. I have been made aware of correspondence on the NPS Management Policies from Secretary Norton to Congress in which she stated her position that, “when there is a conflict between protection of resources and use, conservation will be predominant,” and I agree with that position.

*Question 30.* As you know, the NPS management policy rewrite has been very controversial. One of the reasons articulated for the NPS management policy rewrite is the increasing demand for recreational uses on public lands. Do you think there is an opportunity for states and other agencies to play a larger role in meeting that demand? What type of shifts would need to be made?

Answer. Yes, I do think there is an opportunity for states and other agencies to play a larger role. With a growing population, it is not only fitting, but necessary, for every level of government to do what it can to provide suitable opportunities for outdoor recreation.

*Question 31.* I was appreciative of NPS’ willingness to extend the original public comment period on the management policies. I have not heard any confirmation that a future draft will be published for public comment. In the spirit of continuing to work closely with the public and this Committee, and to show sunshine on the process, will you commit to publishing any future draft for a formal public comment period?

Answer. I have learned that the National Park Service received more than 45,000 comments on the draft that underwent public review for more than four months.

If confirmed, I look forward to working with NPS, you, and other members of the Committee as we work through this process.

*Question 32.* As someone who has worked for years to secure adequate funding for the NPS, I am interested in knowing how much the management policy rewrite proposal has cost the Department of Interior thus far, and what the expected costs are for the future?

Answer. I am not aware of what the incurred and expected costs of the management policy rewrite are to date, but, if confirmed, I would be happy to get back to you with that information.

*Question 33a.* In 2004, congress passed the Federal Lands Recreation Enhancement Act which allows bureaus of the Departments of Interior and Agriculture to collect and retain entrance and other user fees. The law also establishes the "America the Beautiful Pass" as an annual nationwide public land use pass.

Did the State of Idaho favor the Federal Lands Recreation Enhancement Act?

Answer. This past session, the Idaho Legislature approved a Joint Memorial to Congress asking for the repeal of the Federal Lands Recreation Fee Enhancement Act. In Idaho, Joint Memorials from the Legislature do not come to the Governor for approval prior to being transmitted to Congress.

*Question 33b.* How would you amend the Act if given an opportunity to do so?

Answer. As a matter of sound public policy, I am firmly committed to the proposition that the public should be able to see tangible benefits resulting from the fees they pay. My understanding is that the Department is working cooperatively with the U.S. Department of Agriculture to implement the Recreation Fee Enhancement Act. While I am not familiar with the details of the Act, if confirmed, I look forward to learning more about the provisions of the recreation fee program and working with Congress, our involved bureaus, and other interested entities to ensure effective implementation of the Act.

*Question 33c.* What is the status of the "America the Beautiful Pass" and will it be marketed under that or some other name?

Answer. My understanding is that the Department is working cooperatively with the U.S. Department of Agriculture to implement all aspects of the Recreation Fee Enhancement Act, including the establishment of the interagency pass. I understand that the interagency pass is tentatively scheduled to be introduced in December 2006.

*Question 34.* The National Park Service currently receives revenue from federal appropriations, entrance and other recreation fees, and donations. The NPS has recently revised Director's Order 21 regarding donations and fundraising. Under your leadership, who should be allowed to solicit and accept donations? Is it appropriate for park superintendents to solicit donations?

Answer. It is my understanding that Director's Order 21 on Donations and Fundraising was recently finalized and released on May 1, 2006. I have been advised that the NPS responded to public comments received on the draft and that the recently released document precludes NPS employees from soliciting donations. I have been further advised that the Director has generally delegated the authority to accept donations below the \$1 million level to the deputy, associate and regional directors and allows them in appropriate circumstances to re-delegate their authority. If confirmed, I look forward to working with NPS leadership, members of Congress, and other interested parties on these important policies.

*Question 35a.* The National Mall in Washington DC is a place to honor individuals and events that shaped the nation. Each year congress receives requests for more memorials and museums on the Mall. In 2003, Congress passed a moratorium on future construction within the core area of the Mall called the Reserve.

What would you consider the best means of managing development in and around the National Mall?

Answer. As I mentioned at the hearing, I am not familiar with the moratorium, but I have been advised that the National Park Service has begun a comprehensive management plan for the National Mall. If confirmed, I look forward to learning more about this important issue.

*Question 35b.* In 2005, the National Park Service mentioned its intent to prepare a General Management Plan for the National Mall. What is the status of the plan and when can we expect to see a draft for public review and comment?

Answer. I am told that the National Park Service is just initiating this planning effort, and that the plan will take approximately two-three years to complete.

*Question 36.* As you know, the issue of Indian gambling has come under increased scrutiny. I am concerned about so-called "off reservation gaming" and "reservation shopping" that allow tribes to open Class III casinos, despite opposition from local voters, in areas that otherwise prohibit gambling. What is your position on off res-

ervation gambling and reservation shopping? What changes do you believe are necessary to protect local communities?

Answer. I do not support reservation shopping, but if I am confirmed, the Department will continue to implement the provisions of Section 20 of the Indian Gaming Regulatory Act that permit off reservation gaming. I believe it is important that the views and concerns of governors and local citizens be heard and considered in these matters.

It is my understanding that the Department is in the process of developing regulations to implement Section 20 of the Indian Gaming Regulatory Act. If confirmed, I will work to ensure that these regulations protect the interest of local communities.

*Question 37.* I continue to hear of lengthy delays in the Bureau of Land Management's review of proposed energy projects in my state. Many of these projects have the potential to deliver substantial energy resources to meet our nation's growing demand. At a time when we see increased energy prices and turmoil in foreign supply, I'm sure you will agree with me that it is essential we produce as much energy domestically as possible. It was our intention to speed up the processing of oil and natural gas projects with the program established under Section 365 of the 2005 Energy Policy Act. More people have been hired as result of this program to expedite the permit application process, but we continue to hear examples of lengthy—and what appear to me to be unreasonable—permitting delays.

Could I get your commitment that you will work with me and our delegation to speed up the processing of these important energy projects?

Answer. If I am confirmed as Secretary, you have my full commitment to continue to streamline the processing of oil and gas permitting in order to meet our nation's energy demand, and the BLM will continue with the progress it is making in implementing the Energy Policy Act.

*Question 38.* I've been talking a lot recently with the Forest Service about their leasing activities in the Wyoming Range. Under several Federal laws, it is mandated that the Forest Service conduct lease sales in the Bridger-Teton National Forest. I am a strong advocate of multiple uses on Federal land, but some of these areas warrant protection. The Wyoming Range is one of those areas. I worked with others on this issue, and was able to reduce the amount of acreage offered up for lease sale from 175,000 acres to 44,600. What is your reaction to drawing a line, so to speak, to say that there should be no more leasing or development in certain areas?

Will you commit to working on this issue with me so that the Forest Service can focus on more pressing issues and these areas can be protected from future development?

Answer. I, too, am a strong advocate of multiple use on Federal land, and I agree that some Federal land areas warrant special protection. If confirmed, I will work to ensure that the Department of the Interior works with the Forest Service, communities, local officials, interested citizens, and industry stakeholders.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR MURKOWSKI

##### GAS HYDRATES

*Question 39.* The Administration this year actually increased funding for research into development of gas hydrates nationwide and in Alaska. I certainly support that \$2 million increase in your budget and hope you will be able to spend that \$500,000 proposed for additional research in gas hydrate research in Alaska. Still \$5 million of spending is \$10 million less than authorized by Congress in the Energy Policy Act last summer and is a fraction of the funding authorized for the next four years to attempt to prove the commercial potential of gas hydrate production. What can you tell us about the Department's and your personal commitment to expanded funding for gas hydrate research in future years?

Answer. I am advised that the Department is committed to studying gas hydrate resources in an effort to determine whether they can become a viable resource, both from a safety standpoint and from a Federal leasing perspective. It is my understanding that agencies within the Department, especially USGS and MMS, have long studied hydrates and these agencies, along with BLM and the Department of Energy, are continuing the study of this potentially vast energy resource.

##### TRIBAL TRANSPORTATION

*Question 40.* The complaint I hear most frequently from Alaska tribes about the Bureau of Indian Affairs involves the Indian Reservation Roads program. The problem is twofold—Alaska is shortchanged on its rightful share of funding because BIA

has never included eligible road miles in its inventory. When the villages submit their inventory revisions to BIA they are rejected time and time again—it seems like the rules on what is satisfactory keep changing. And finally, when money is allocated to our villages, it is difficult for them to access the money for their projects so much of it remains unspent at the end of each fiscal year. I asked your predecessor to work with me on improving the performance of the Indian Reservation Roads program as it affects Alaska at this year's budget hearings. Will you work with me to fix these problems?

Answer. Yes. If confirmed, I will work with you to improve the performance of the Indian Reservation Roads program to ensure it more fully considers the needs of Alaska Native groups.

#### ALASKA LAND TRANSFER ACCELERATION ACT

*Question 41.* In 2004, Congress enacted this legislation with the objective of transferring the remainder of Alaska's 104 million entitlement to the State by the 50th anniversary of statehood. Alaska has patent to 90 million acres out of the 104 million. The legislation also envisions transfer of the remaining entitlement of Alaska Native Corporation and Native allotment lands by that date. Unfortunately appropriations have not kept pace with the challenge and this year—once again—the President's budget proposes to DECELERATE the effort and we will be fighting to restore these funds. Moreover, there is no evidence that the pace of land transfers have quickened since the Act became law. What can be done to quicken the pace of this effort and give the people of Alaska the land for which they have been waiting?

Answer. I am told that the Alaska Land Transfer Acceleration Act provided important tools to facilitate completion of land transfers to the State of Alaska, Alaska Native Corporations, and Alaska Natives by 2009. If confirmed, I look forward to working with the BLM in Alaska and with the Alaska Congressional delegation on this issue.

#### FALLS CREEK HYDROELECTRIC

*Question 42.* A private business has long been interested in bringing hydroelectric power to Glacier Bay National Park. Recently, the National Park Service and the State of Alaska have concluded a land exchange that will make the Falls Creek Hydroelectric project possible. The National Park Service has a unique opportunity to improve air quality in Glacier Bay National Park by entering into a long term power purchase arrangement with the sponsors of the Falls Creek Hydroelectric project. Use of hydro power would reduce or eliminate Glacier Bay National Park's reliance on diesel. I am wondering whether you will work with the Park Service to obtain the necessary funding to make this innovative alternative energy project a reality?

Answer. I appreciate you bringing this to my attention, and I look forward to learning more about this issue and working with you on it if I am confirmed.

#### TERRITORIES/INSULAR AFFAIRS

*Question 43.* Republic of Marshall Islands: Your predecessor last year attempted to convince the State Department to provide greater assistance to the Republic of Marshall Islands to provide assistance to residents affected by American nuclear testing in the Marshalls during the Cold War. There was a meeting held at Interior last year where President Note presented a specific list of Marshall concerns but there has been little response and no real follow up since. Coming from Alaska where my citizens are still affected by the aftermath of nuclear testing at Amchitka Island—and Alaska had only 3 bomb tests, compared to 57 at the Marshalls—I tend to be very sympathetic to the blight of the Marshallese. If confirmed would you commit to making a renewed effort to schedule follow up meetings and getting other federal agencies, including the State Department, more involved in efforts to meet our moral and perhaps legal obligations to the Marshall Islands?

Answer. Thank you for bringing this to my attention. If confirmed, I will make sure that I am fully briefed on the Department of the Interior's participation in the process that you describe. Although it would be premature for me to commit to any specific process or substantive policy at this point, I will, if confirmed, make sure that the Department of the Interior is responsive on these issues to the extent that they are within the Department's domain.

#### RESPONSES OF GOVERNOR KEMP THORNE TO QUESTIONS FROM SENATOR MARTINEZ

*Question 44.* Last week, the South Florida Water Management District released a troubling report on the damage to the structural integrity of the Herbert Hoover

Dike that prevents Lake Okeechobee from flooding south Florida. According to the report, there is a one in six chance in any given year that the dike could fail. A catastrophic failure of the dike would result in the flooding of thousands of homes, farm land, and would cripple the drinking water systems of south Florida.

I realize that this is an issue that falls under the jurisdiction of the Army Corps of Engineers, but I am also concerned with the environmental impacts a catastrophic failure would have on the progress the state has made on Everglades restoration and the enormous federal investment that has been on rehabilitating this ecological treasure. As the head of DOI, would you make the structural integrity of the Herbert Hoover Dike a priority and would you communicate these concerns to the Corps?

Answer. If confirmed, I would work with my colleagues in the Department of Army to communicate concerns about the structural integrity of the Herbert Hoover Dike and the importance of the dike in ensuring the continued preservation of the ecological integrity of the Everglades.

*Question 45.* I have some serious concerns with the Draft Proposed Program for oil and gas leasing in the OCS off the coast of Florida (2007-2012). This proposed plan opens up huge areas of the eastern Gulf of Mexico, which will bring oil and gas rigs closer to Florida's beaches and will encroach on our critical military training. There is no timetable given by MMS as to when this increased expansion will end and what is also troubling was that Florida was not considered an "affected" state in the original notice of the Draft Five Year Plan.

When millions of acres of the Outer Continental Shelf are recommended to be opened 100 miles from Florida, in areas of the Gulf that were previously off-limits, it seems to turn logic on its head that Florida is not an "affected" state.

Governor Kempthorne, my hope that if you are confirmed, will you reach out to states and officials that do not want oil and gas operations on their shores?

Answer. If confirmed, I will reach out to States and all stakeholders, whether they support or oppose the Draft OCS Leasing Proposal. Such consultation is a central component to the Administration's approach.

*Question 46.* I am encouraged that MMS continued to protect the "Stovepipe" area off the coast of northwest Florida through 2012 in the Draft 5 Year Program.

This sensitive area near Pensacola is on the frontline of oil and gas leasing in the central Gulf of Mexico and without this protection, production could occur less than 20 miles from our coast. I am glad that MMS has honored this commitment given to me by Secretary Norton.

As the new Secretary of Interior, are you willing to keep this commitment as well and prevent leasing in sensitive areas off the coast of Florida?

Answer. If confirmed, I will certainly honor Secretary Norton's commitment to you as stated in her letter to you dated March 16, 2005.

*Question 47.* As Secretary, what assurances can you provide that areas in addition to Sale 181, in fact much closer to sensitive shoreline resources in Florida than Sale 181, will not also be offered for lease in the upcoming Five-Year OCS Leasing Program?

Answer. If confirmed, I will certainly honor Secretary Norton's commitment to you on March 16, 2005. I have been informed that there are no additional leases beyond contemplated offered in the draft proposed five-year plan.

*Question 48.* Governor Kempthorne, last month I visited Everglades National Park, Big Cypress National Preserve, and Ten Thousand Islands National Wildlife Reserve. I am looking forward to getting you down there to tour this amazing part of Florida. As you know, the Comprehensive Everglades Restoration Plan (CERP) is the most ambitious public works project in our nation's history and our most challenging.

Should you be confirmed, will you continue the commitment and prioritization at DOI with restoring the Everglades to its historic sheet flow?

Answer. If confirmed, I will continue to make it a priority of the Department to restore the Everglades to its historic sheet flow.

*Question 49.* Governor Kempthorne, as you are aware, there has been significant media attention on "royalty forgiveness" from a mistake leasing deal during the Clinton Administration. Essentially, price thresholds were not put on leases that would require oil companies to pay royalties when the companies were making substantial profits.

How many of the OCS tracts to be offered under Draft Proposed Plan in the Lease Sale 181 area will be subject to MMS "royalty forgiveness" of various kinds?

Answer. It is my understanding that, except where specified in law or regulation, the royalty terms and conditions for proposed leases are determined in the process leading up to each individual lease sale. If confirmed, I will be committed to ensuring that there are appropriate price thresholds as allowed by law.

*Question 50.* In October, I joined with several of my Senate colleagues including Senator Alexander, expressing our concern with the pace of the re-write of management policies for our National Parks. Considering that the management policies of the NPS have been rewritten under the Reagan and most recently the Clinton Administration, do you feel that it is time that these policies be changed?

Answer. As I mentioned during the hearing, I do feel that periodic evaluations of an agency's policies and practices can be a healthy and productive undertaking. It is my understanding that the last policy rewrite was done prior to September 11, 2001, and that these new proposed policies reflect changes such as security measures for icons, border security, and management efficiencies. While I am not familiar with the details of the NPS Management Policies, if confirmed, I look forward to learning more about this very important matter.

*Question 51.* Several of my constituents have raised concerns with sale of public land to meet budget shortfalls. The Administration, for example, has recommended the sale of nearly 1,000 acres of the Ocala National Forest in Florida to help pay for the shortfall in a rural schools program.

Given your experience as a Western Governor, a state where the federal government is often the largest property owner in your counties, how can we overcome this challenge?

Answer. As I stated at my confirmation hearing, I do not support the sale of public land when the purpose of such sales is purely for deficit reduction or to cover operating expenses. However, I feel that there are times when the sale of public lands is in the best interest of the taxpayer, if those lands do not have resource values and are isolated and are either difficult or uneconomic to manage. The growing fiscal challenges faced by rural communities are something I take very seriously. If confirmed, I will look forward to working with you and other Member of Congress in finding ways to address this growing challenge.

If confirmed, I will direct staff to inform the U.S. Forest Service, which is part of the Department of Agriculture, of your concerns about the Ocala National Forest.

#### RESPONSE OF GOVERNOR KEMPTHORNE TO QUESTION FROM SENATOR BURNS

*Question 52.* The upper third of the Big Hole River is home to the last remaining native fluvial population of Arctic grayling in the lower 48 states. In 2004, the Fish and Wildlife Service elevated the status of grayling under the Endangered Species Act to the highest priority a species can have short of actual listing. Such a listing would result in costs to ranching communities in the area. Last year, the Fish and Wildlife Service completed a Candidate Conservation Agreement with Assurances (CCAA) whereby landowners agree to voluntary site-specific restoration projects to attempt to address all of the threats to grayling. The cost of implementing the projects necessary to restore the upper basin is huge (approximately \$11 million total). Will you include funding for the Big Hole River Grayling Restoration Project in your FY 2008 budget request?

Answer. If confirmed, I look forward to engaging in the FY 08 budget process. Assisting in formulating the President's budget request will require careful decisions regarding the best use of our resources. I will take funding for the Big Hole River Grayling Restoration Project under consideration when formulating the Department of the Interior's FY 08 budget request.

#### RESPONSE OF GOVERNOR KEMPTHORNE TO QUESTION FROM SENATOR ALLEN

*Question 53.* Recently I introduced legislation establishing the Journey Through Hallowed Ground National Heritage Area, to preserve the heritage of the Route 15 corridor from the Charlottesville area in Virginia up through Maryland and Pennsylvania to Gettysburg. This area includes six presidential homes, thirteen locations on the National Historic Landmark Register, two World Heritage Sites, forty-seven historic districts and the largest collection of Civil War battlefields. The hundred and seventy-five mile corridor runs through ten counties in Virginia and through a region that includes the greatest concentration of Rural Historic Districts in the US, sites from colonial times, and four National Parks. As a student of history I believe that it is important that we preserve our national heritage for our children, even as we continue to grow and compete in the world economy. As Secretary of the Interior what role will you take in preserving our heritage for the next generation?

Answer. The National Park Service is entrusted with the responsibility of protecting many of our nation's natural, cultural and historic resources for future generations. I share that vision and passion, and if confirmed, will work with the National Park Service and others to preserve our national heritage.

## RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR SMITH

*Question 54.* The federal court decision asserted that grazing in Wild and Scenic river corridors must “protect and enhance” biological resources in the area. However, the decision disregarded the fact that grazing existed long before the Wild and Scenic designation. It also disregarded the fact that Congress intended grazing to continue in the area. This decision has the potential to seriously impede grazing management across the West. Will you review the impacts of this decision and work with Congress to remedy it if needed?

Answer. I have been informed that the issue of grazing in the Owyhee Wild and Scenic River corridor has been adjudicated in the Courts. If confirmed, as appropriate, I will be happy to review the details of this case and discuss this further with you.

*Question 55.* I wish to thank this Administration for the \$13,000,000 FY 07 budget request for the Savage Rapids Dam pumping plant and dam removal project. I have worked hard with my colleague from Oregon and this Administration to advance this project, and I look forward to working with you and the new Commissioner of the Bureau of Reclamation to complete it as quickly and efficiently as possible.

I remain deeply concerned about delays and cost increases as the Bureau moves toward awarding a contract this summer. I hope that you can assure me and this Committee that there will be no more delays in this project. I also expect the Bureau to redouble its efforts to reduce and contain project costs.

What is the Bureau’s full capability to expend resources on this project in FY 07? What is the estimated cost of continuing the project in FY 08?

Answer. I am informed by the Bureau of Reclamation that the \$13,000,000 FY 07 budget request represents the amount that they have the capability to expend on this project. I appreciate this project’s importance to you and, if confirmed, I will work to ensure that progress continues.

*Question 56.* In my State of Oregon, there is a collaborative effort underway with great promise to resolve conflicts in a region identified by the Department of Interior’s Water 2025 Program as an area likely to experience future conflict. This effort includes the State of Oregon, the Confederated Tribes of the Umatilla Indian Reservation and Westland Irrigation District.

As Idaho’s Governor and Senator, you have likely heard of the success of the Umatilla Basin Project Act (P.L. 100-557) passed in 1988 which, through a bucket for bucket exchange of irrigation district water from the Umatilla River for Columbia River water, has restored salmon and steelhead to the Umatilla River. Salmon runs were once extinct in this river, and now their runs exceed 20,000 fish per year—all due to this legislation. Phase III would provide the same exchange for the largest and last district contemplated by the legislation, Westland Irrigation District. Its exchange could provide as much water for salmon and steelhead as the entire legislation has already accomplished, and possibly for the consumptive needs of the Confederated Tribes.

Regional water supply certainty is their goal. And the first steps in accomplishing this goal requires the Bureau of Reclamation to accelerate their Phase III engineering study for the Westland exchange and for the Department of Interior to appoint an Indian Water Rights Assessment Team to assess the claims of the Confederated Tribes.

Oregon Governor Ted Kulongoski, Tribal Chairman Antone Minthorn and Westland Chairman Robert Levy have written former Secretary Norton calling for Reclamation to complete its study and for the appointment of an Assessment Team. I have cosigned a letter to Acting Secretary Lynn Scarlett on this subject, urging her to support these requests.

Will the Interior Department, under your leadership, support the efforts of the State of Oregon, the Confederated Tribes and Westland Irrigation District as they bring consensus and innovative solutions to their water needs to the federal government?

Answer. As Governor of Idaho I have had first hand experience with an innovative, consensus-based water agreement—the Snake River Water Rights Act of 2004. I have not had an opportunity to review the various water issues facing the Umatilla Basin, but, if confirmed, I am interested in learning more about them and working with affected stakeholders to identify workable solutions.

*Question 57.* I am supportive of the Department’s efforts to acquire the Barnes Ranch Property adjacent to Agency Lake in Oregon, contingent on the written assurances I received from the Department of the Interior (in response to questions for the record from Deputy Secretary Scarlett’s nomination hearing) as to how additional water stored on the property would be managed. Can you tell me whether

the Department intends to hydrologically reconnect these lands, and the adjacent Agency Ranch property lands, to Agency Lake? If not, what are the anticipated operations and maintenance costs (i.e. pumping costs) for inundating these lands each year? Can you tell me the status of interagency discussions about the integrated management of these properties and other adjacent federal properties? What is the Department doing to lower Reclamation's annual reimbursable operations and maintenance costs attributable to power for the Klamath Project?

Answer. I am not familiar with the details of the property acquisition and the subsequent operation of the properties, nor the status of efforts to lower costs attributable to the project. However, if confirmed I will ensure that the agencies within the Department of the Interior work cooperatively and communicate with you to meet the needs of the farmers, fish, commercial fishermen, tribes, wildlife refuges, and other needs of the environment in a fiscally responsible manner.

*Question 58.* In the "O&C" lands, which is a checkerboard land ownership pattern managed by the Bureau of Land Management in western Oregon, there is an old problem with road access. The BLM enjoys recordable easements across private property, while private property owners only possess a "right of way" across BLM property. BLM apparently lacks the statutory authority to grant recordable easements. This creates problems both in the sale of private land and the transference of access rights, as well as the possibility of ESA consultation on the granting of access to private lands for the purposes of cutting timber.

Will you review this situation and work with Congress to determine in legislation is necessary to remedy the concern of private property owners within the O&C lands?

Answer. I have not had an opportunity to review the access issues of concern to your constituents in the area of the O&C, but, if confirmed, I look forward to learning more about their concerns. I would welcome the opportunity to work with the Congress to determine an appropriate resolution.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR BINGAMAN

##### PRIORITIES

*Question 59.* The Department's FY 2007 budget request called for large funding increases for energy production, but significant funding cuts for federal land acquisition, for park maintenance and construction, and for state grants under the Land and Water Conservation Fund. Do you think your predecessor's budget request reflects the right balance between the Department's energy production and conservation missions or will you try to strike a better one?

Answer. It is my understanding that lands administered by the Department provide 30 percent of America's current domestic energy supply. Continued environmentally responsible development of both renewable and nonrenewable sources on public lands is critical to increasing and diversifying domestic energy production. If confirmed, as I move forward to develop my proposals to the President for the FY 2008 budget, I will strive to achieve a balance among the various missions of the Department.

##### R.S. 2477

*Question 60a.* We spoke shortly after the President's announced your nominations about Secretary Norton's ill-advised policy on R.S. 2477 right-of-way claims. I continue to have serious concerns about the new policy and its potential for validating doubtful and unmerited claims, for permitting states and counties to turn footpaths into highways, and for harming national parks and monuments. I am also troubled by the degree to which the new policy departs not only from the longstanding policy adopted by the previous Administration, but also the one articulated by then-Assistant Secretary Scarlett in her letter to Rep. Charles Taylor three years ago. Questions:

Will you commit to not recognize R.S. 2477 claims under the new policy until you have had an opportunity to review it personally and to consult with the Committee about its implications?

Answer. I am generally aware of the new Departmental policy on R.S. 2477 claims and, if confirmed, I will certainly become more familiar with the details of that policy and how it is being implemented. I look forward to further discussing this issue with you and members of the Committee.

*Question 60b.* In particular, will you work with us on a protocol that will give Members of Congress and the interested public adequate notice and a meaningful opportunity to comment before the Department recognizes claims under the policy?

Answer. Communication with Members of Congress and the interested public is important, and if confirmed, I would be interested in ensuring that opportunities for notice and comment are appropriately provided.

## SCIENTIFIC INTEGRITY

*Question 61.* Over the past several years, there have been several reports that scientific studies of the Fish and Wildlife Service have been manipulated, suppressed, or disregarded. Will you look into these allegations and take steps to protect the integrity of the scientific work of the Department?

Answer. If confirmed, I will work with the Director of the Fish and Wildlife Service to keep scientific integrity at the forefront of all Service activities.

## GRAZING

*Question 62.* The Bureau of Land Management's proposed grazing regulations would significantly limit public involvement in many grazing activities and management activities, including the elimination of public involvement in decisions involving grazing use levels, issuing or renewing grazing permits, or modifying the terms of a permit. Do you believe that public involvement needs to be curtailed in BLM grazing decisions? If so, why?

Answer. I believe that engaging the public is an integral part of the public land management decision-making process. Grazing management on the public lands is no exception. I am informed that several opportunities for public comment and participation will remain under BLM's proposed grazing regulations, such as through the land use planning process and subsequent NEPA documentation. If confirmed, I will support continued public participation in the development of our important land management decisions.

## COALBED METHANE STUDY

*Question 63.* Section 1811 of the Energy Policy Act of 2005 requires the Department to enter into an arrangement with the National Academy of Sciences to undertake a report relating to water and coalbed methane production. The NAS report is due back to the Secretary and the Administrator of EPA within 12 months after the date of enactment of EPACT, and the Secretary and the Administrator are to report to Congress within six months after receipt of the NAS report. Can you provide me a time-line for carrying out this provision of the law?

Answer. I am informed that the Director of the Bureau of Land Management wrote the NAS on April 24, 2006 with regard to this report to suggest an arrangement that could result in a report in the requisite time period. The BLM identified a number of studies that have already been undertaken and asked the NAS to review them and determine "if significant deficiencies exist or if other information may be critically needed to address the concerns expressed by Congress in the Act (EPACT)." BLM is awaiting the NAS reply to determine the nature and extent of the arrangement needed to be responsive to this provision of the law.

## OCS ROYALTY COLLECTIONS

*Question 64a.* I am concerned about reported undercollections of royalties in deep water on the OCS.

As I mentioned to you, on March 28, 2006, I wrote to former Secretary Gale Norton to inquire about what the Department plans to do to address this problem. When do you anticipate that I will receive a response?

Answer. I have been informed by the Minerals Management Service (MMS) that the response to your letter is a high priority for the Department and you will receive it in the near future.

*Question 64b.* Would you support an effort to recoup these royalty underpayments in an appropriate manner?

Answer. I have been informed by MMS that the issue with deep water leases is not one of underpayments, but rather one of companies acting consistently with the terms of their lease contracts, which in 1998 and 1999 lacked a provision that suspends royalty incentives when prices are high. If confirmed, I would be happy to consider any appropriate proposal concerning these lease contracts.

*Question 64c.* Along with many of my colleagues, I have requested that GAO look into several aspects of the royalty management program at the Department to ensure that the American public is getting a fair return on its oil and gas resources. I also understand that the Department's Inspector General is investigating aspects of this matter. Do I have your commitment that Departmental personnel will fully cooperate with GAO and the IG in this effort?

Answer. I have been informed that the Department has been fully cooperative with GAO and the Inspector General, as well as with investigations of various Congressional Committees. If confirmed, I assure you that the Department will continue to fully cooperate.

## OIL &amp; GAS LEASING

*Question 65a.* How many acres of lands administered by the Forest Service and the BLM in states west of the hundredth meridian are currently under oil and gas lease? Please display by state and agency.

Answer. I have received the following information from the BLM:

| State              | BLM              |                 | Forest Service   |                 |
|--------------------|------------------|-----------------|------------------|-----------------|
|                    | Number of leases | Number of acres | Number of leases | Number of acres |
| Alaska .....       | 339              | 2,757,762       | 0                | 0               |
| Arizona .....      | 47               | 97,353          | 0                | 0               |
| California .....   | 552              | 285,655         | 14               | 4,185           |
| Colorado .....     | 4,393            | 3,818,207       | 440              | 446,204         |
| Idaho .....        | 3                | 2,465           | 0                | 0               |
| Kansas .....       | 45               | 13,555          | 291              | 63,452          |
| Montana .....      | 3,001            | 2,850,939       | 627              | 1,208,159       |
| Nebraska .....     | 2                | 240             | 0                | 0               |
| Nevada .....       | 1,702            | 3,521,078       | 14               | 45,710          |
| New Mexico .....   | 7,574            | 4,645,587       | 237              | 215,535         |
| North Dakota ..... | 283              | 106,342         | 1,253            | 724,365         |
| Oklahoma .....     | 747              | 93,614          | 191              | 80,277          |
| Oregon .....       | 17               | 30,709          | 8                | 27,288          |
| South Dakota ..... | 134              | 122,635         | 20               | 11,510          |
| Texas .....        | 10               | 2,235           | 465              | 357,553         |
| Utah .....         | 2,949            | 3,356,886       | 337              | 648,376         |
| Washington .....   | 346              | 510,160         | 0                | 0               |
| Wyoming .....      | 16,476           | 12,462,729      | 628              | 416,268         |
| Total .....        | 38,620           | 34,678,151      | 4,525            | 4,248,882       |

*Question 65b.* How much acreage is under lease but not producing?

Answer. I have received the following information from the BLM:

| State              | Producing acres | Non-producing acres leased |
|--------------------|-----------------|----------------------------|
| Alaska .....       | 67,350          | 2,690,412                  |
| Arizona .....      | 0               | 97,353                     |
| California .....   | 72,992          | 216,848                    |
| Colorado .....     | 1,380,569       | 2,883,842                  |
| Idaho .....        | 0               | 2,465                      |
| Kansas .....       | 109,649         | 10,550                     |
| Montana .....      | 757,679         | 3,301,419                  |
| Nebraska .....     | 6,877           | 9,303                      |
| Nevada .....       | 23,954          | 3,542,834                  |
| New Mexico .....   | 4,093,422       | 767,700                    |
| North Dakota ..... | 311,565         | 519,142                    |
| Oklahoma .....     | 112,136         | 61,755                     |
| Oregon .....       | 0               | 57,997                     |
| South Dakota ..... | 33,377          | 100,768                    |
| Texas .....        | 114,229         | 245,559                    |
| Utah .....         | 950,355         | 3,054,907                  |
| Washington .....   | 0               | 510,160                    |
| Wyoming .....      | 4,109,529       | 8,769,468                  |
| Total .....        | 12,143,682      | 26,799,291                 |

*Question 65c.* What are the reasons for this?

Answer. I am told that there are a number of factors that could affect whether a lease is developed and how quickly it is developed. These include oil and gas market factors, whether a discovery of oil or gas is made in initial drilling, availability of drilling rigs, equipment and pipeline hookups, and delays because of litigation, among others.

*Question 65d.* What are the estimated reserves under lands leased but not producing?

Answer. Providing a sufficient answer to this question would require developing a work plan with a contractor that would extract the necessary data set to calculate reserve numbers in these non-producing leased lands.

*Question 65e.* Please provide this same information for Federal submerged lands on the OCS that are leased but not producing.

Answer. On the OCS, MMS reports that 40 million acres are under lease, of which about 7 million acres are currently producing leases. Once a lease is issued, it cannot go into production immediately. Companies need time to explore the acreage, and depending on what they find, make corporate decisions as to whether to proceed with development. Proposed exploration and development activities may undergo substantial regulatory review as well. All leases have a fixed term requiring that a company return the lease to the government if they have not begun exploration or development activities on the lease.

#### HYDO-ELECTRICITY

*Question 66a.* Section 241 of the Energy Policy Act of 2005 provides new procedures for hydroelectric relicensing proceedings. These include an opportunity for an on-the-record "trial-type" hearing relating to any issues of material fact with regard to a condition under section 4(e) of the Federal Power Act or a prescription under section 18 of the FPA. In addition, the EPACT provision requires that the Secretary of the Interior adopt alternative conditions and prescriptions proposed by parties to the relicensing proceeding if the conditions and prescriptions meet certain standards. I have been concerned that rather than simplifying the relicensing process, these new provisions may result in complications and delay and undermine protections for federal and tribal resources. Questions:

How many hearings is the Department anticipating as a result of these new requirements?

Answer. I have been informed that the Department has received approximately seven hearing requests. However, five are for projects in which the licensing process was well under way prior to enactment of the Energy Policy Act of 2005, and only two concern projects for which conditions or prescriptions were proposed after enactment. The Department believes that while it is difficult to predict future requests, the number of hearings will ultimately be small in total on an annual basis.

*Question 66b.* Will you take steps to ensure that the Department and the resource agencies involved have adequate resources to conduct and participate in these hearings?

Answer. If confirmed, I will be committed to successfully implementing the new process.

*Question 66c.* Will you take steps to ensure that the resource agencies within the Department have adequate resources and personnel to evaluate any proposed alternative conditions and fishway prescriptions?

Answer. If confirmed, I am committed to successfully implementing the new process.

*Question 66d.* I understand that the Department issued joint interim final rules to implement the hydroelectric licensing provisions of EPACT on November 17, 2005, without an opportunity for public comment. Why was there no opportunity for public participation before the rules became effective? Was anyone outside the Administration consulted prior to publication of the rules? If so, who?

Answer. I have been informed that the Energy Policy Act of 2005 included direction to the three resource agencies to establish the rules within 90 days of enactment, which necessitated their publication as interim final rules. However, I understand that public comments were subsequently solicited on these interim final rules, and that the Departments committed to consider these comments and their experience in implementing the interim final rules in making a decision on issuing final rules.

I am not aware as to whether there was any consultation with anyone outside the Administration prior to the publication of the rules.

## INDIAN WATER RIGHTS SETTLEMENTS

*Question 67.* During your time as Governor, you were able to secure federal approval of a negotiated settlement of the Nez Perce's Indian water rights claims in the Snake River basin. As you know, that settlement requires a federal contribution in excess of \$120 million. The Administration strongly supported the Snake River settlement when it testified before Congress and never questioned the federal contribution. About that same time, the President signed into law the Arizona Water Rights Settlement committing approximately \$2 billion for Indian water rights settlements in Arizona. Similarly, the Administration never objected to the deal. Lately, though, the Administration appears to be taking a different, and less constructive approach to Indian water rights settlements. Instead of engaging early with the parties, it is waiting until late in the negotiating process to raise policy issues. It also appears to be applying a new and restrictive policy in evaluating what level of federal contribution is appropriate to resolve tribal water rights claims. New Mexico has 3 Indian water rights settlements pending in which Tribes have reached agreement with the State on a resolution of their water rights claims. I am interested in legislation to resolve these tribal water rights claims and will resist the Administration applying new standards to New Mexico, which it did not apply in these other settlements.

Do you believe the Executive Branch should take an active role in trying to help facilitate federal Indian water rights settlements? If confirmed, will you personally review the policies the Administration is applying in the area of Indian water rights settlements, and work with Senator Domenici and I in trying to resolve New Mexico's pending settlements? The career staff have engaged of late in the Navajo San Juan settlement, which is much appreciated. Will you direct your senior staff to work with our staffs on these matters so that we can get some constructive engagement from the Department at the highest levels?

Answer. If confirmed, I will work with you and Senator Domenici toward a resolution of the proposed settlements in New Mexico and the other Western States. I am pleased that career staff are engaged and will assure their continued participation and that of senior level policy makers in the Department.

*Question 68.* Another disturbing trend with respect to Indian water rights settlements is the 2007 funding cuts proposed by the President (24% or \$4.4 million) to the BIA programs which support tribal participation in negotiations. Similar cuts were proposed and implemented in 2006, negatively affecting numerous tribes in New Mexico. De-funding the negotiation process will lead to more litigation and divisiveness in the west. This will effect not only Tribes, but also States like New Mexico which are trying to efficiently resolve these claims to provide the certainty needed to manage water in a manner that promotes local economic stability.

*Question 69.* The current approach in the President's budget appears to promote litigation rather than negotiation as the preferred approach to resolving Indian water rights claims. In responding to questions concerning the FY 2007 budget, the Administration admitted that it is prioritizing litigation. Do you agree that this is the best approach to resolving tribal water rights claims? If confirmed, will you review these BIA programs and work with the Congress and the States on an approach that is much more constructive?

Answer. As I stated in my opening testimony, I believe that finding a solution to resolving Indian and non-Indian water rights claims can be difficult and quite contentious, as was my experience in the Nez Perce settlement. I thought then that the alternative, which was several more years of litigation, was no alternative at all. If confirmed, I commit to reviewing the relevant programs and working with Congress and the States on resolving these issues.

*Question 70.* I have an increasing concern about whether the Federal Government is providing an appropriate level of support to States and local communities to help them address the water-related challenges they will face over the next 50 years. The President's 2007 budget proposes drastic cuts to many Federal water resource programs, including a 13% cut to EPA's Clean & Safe Drinking Water programs; an 11% cut to the Army Corps of Engineers water resource budget; and a 21% cut to USDA's water and waste disposal grant programs. At Interior, the Bureau of Reclamation is proposed for a 5% reduction in funding, as is the USGS Water Resources Program.

The Department has been touting its Water 2025 program. Obviously, its principles and goals, which include (1) promoting water conservation, (2) improving efficiency, (3) developing new technologies, and (4) encouraging more cooperation, deserve support. I don't believe, though, that Water 2025 can overcome the significant cuts proposed elsewhere in the budget. Even within Reclamation, there's a robbing Peter to pay Paul aspect to Water 2025. While the President is asking for \$14.5 mil-

lion in the FY2007 budget for Water 2025, he's also seeking over \$24 million in cuts to programs such as the (1) Science & Technology/Desalination program; (2) Water Management and Conservation Program; (3) Native American Affairs program; and (4) Water Reuse projects. These programs seem to promote the same goals as Water 2025.

Given the increasing complexity of water quality and supply issues in the West, do you think that the cuts being proposed by the President represent the right trend as a matter of public policy? Notwithstanding the fact that water allocation and management is primarily a state and local responsibility, do you think the Federal government should have a significant role in providing assistance in this area? Shouldn't we be allocating significantly more resources towards water-related science programs so that we can better understand and manage our complex hydrologic systems?

Answer. I share your interest in trying to solve the challenges faced by western states in meeting water related needs. During my career of public service, I have spent a considerable amount of time and energy focused on these issues. I am not familiar with the details of these programs as I have not had the opportunity to participate in the development of the Department's budget. If confirmed, I will work to ensure that, in these times of limited budgets, Federal funds are prioritized to address the most critical issues relating to western water needs.

#### MIDDLE RIO GRANDE

*Question 71.* During your recent visit to my office, we discussed a letter I recently sent to the Department concerning the Middle Rio Grande region in New Mexico. We have an ongoing set of issues involving endangered species and water users in the basin. While the State and local parties are working cooperatively, there is still much work to do to ensure compliance with the Fish & Wildlife Service's biological opinion which controls water operations in the basin. That challenge is magnified by the ongoing drought, which may seriously undermine the ability to meet the target flows in the biological opinion beyond this year. The Department recently responded to my letter, but my impression is that it is still focused on yearly action as opposed to developing a long-term strategic approach to ESA compliance; species recovery; and protecting the interests of water users.

Do you agree with my view that a multi-agency long-term approach is needed to maintain progress in the Middle Rio Grande and avoid an ESA versus water rights crisis? If so, will you make this effort a priority for your senior staff so that we might be able to get the visibility and resources that this long-term effort needs and deserves? I should note that Jennifer Gimble, who was Counselor to Secretary Norton, has been helpful of late—and it would be beneficial to keep her involved if you are committed to developing a detailed long-term plan for the basin.

Answer. I believe a collaborative approach among the Federal agencies, the State, and the stakeholders on the river is essential to resolving the water supply and endangered species issues during these drought-ridden years on the Rio Grande and on a long-term basis. If confirmed, I commit to the continued involvement of senior high-level staff in Middle Rio Grande issues.

#### WILDLAND FIRES

*Question 72.* Will you commit to take a hard look at improving the Department's fire use program and at implementing policies to encourage appropriate wildland fire use?

Answer. It is my understanding that the Wildland fire use program is an important component of the Department's overall strategy to reduce the risk of wildland fire to communities and natural resources. If confirmed, I will look at the use of this important tool and its implementation.

*Question 73.* Will you continue to be a strong advocate for implementing the 10-Year Comprehensive Strategy you helped craft as the linchpin for successful forest restoration and wildland fire management?

Answer. If confirmed, I will continue the Administration's commitment to executing the 10-Year Comprehensive Strategy, as well as the Healthy Forests Initiative and the Healthy Forests Restoration Act.

*Question 74.* As I understand it, the Bureau of Indian Affairs has made substantial cuts to the FY 2006 budget for the Mescalero Agency's Fire Preparedness Program despite the extreme fire danger in the area. What will you do to make sure that the Mescalero Agency is adequately prepared and staffed for this wildfire season?

Answer. While I am unaware of the resource needs of the Mescalero Agency, if confirmed, I plan to use all available authorities to ensure that adequate resources are made available during this fire season.

*Question 75.* On April 28, 2006, fourteen western senators sent a letter to BLM Director Clarke, Acting Interior Secretary Scarlett, and yourself about the Department's inability to process geothermal lease sales on federal lands. In the letter, they asked the Department to "move much more swiftly to issue the necessary regulations, interim or final, and finish processing the backlog of geothermal leases." If confirmed, what steps will you immediately take at the Department of Interior to ensure that the new regulations, interim or final are issued, and will allow most if not all projects currently held in abeyance to be permitted and operating before the placed in service window for the renewable energy production tax credit expires? In addition, what date do you expect to have the new regulations, interim or final, issued?

Answer. I share your concern over the need to develop renewable resources, and if I am confirmed as Secretary, it will be a high priority for the Department of the Interior. It is my understanding that the BLM is expediting the publication of the final rule. This effort will have my full support to assure that the rule is published on schedule as planned late this year.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR AKAKA

##### NATIONAL PARK SERVICE CENTENNIAL

*Question 76.* As you know, the National Park Service is celebrating its 100-year anniversary ten years from now in 2016. The last anniversary landmark celebrating the 50-year mark, President Truman launched "Mission 66," which was a ten-year infrastructure development program in the national parks to upgrade visitor centers, transportation infrastructure and services to meet the post World War II surge in visitation.

We have read many stories in the news recently about the budget strains affecting our national treasures, our national parks. The current financial strains in the Park Service are well documented. The GAO just released a report last month finding the daily operation budgets of every park they studied were not sufficient to meet the needs of those parks.

It has been estimated that the National Park Service faces an annual operating shortfall of more than \$600 million, hindering the ability of the Park Service to provide visitor services and resource protection throughout our 390 park units. The Congressional Research Service's latest estimate (in 2005) for the maintenance backlog plaguing our parks puts it between \$4.5 and \$9.7 billion.

Do you have any thoughts on a Centennial initiative to address the fiscal needs of our national parks as we prepare to celebrate the 100-year anniversary of the National Park Service?

Answer. If confirmed, I would be happy to evaluate the need for a centennial initiative. Funding for park maintenance needs is vitally important to continuing to provide high quality visitor experiences and to protecting park resources. If confirmed, I plan to continue to make it a priority to fund maintenance backlog projects and to improve the processes for identifying and prioritizing maintenance needs. I also believe it is important to continue to be as efficient and effective as possible with the funds we currently have.

##### NATIVE HAWAIIANS

*Question 77.* I have introduced legislation which would extend the federal policy of self governance and self-determination to Native Hawaiians. I worked very, very closely with your predecessor, Secretary Norton, to address any concerns that the Department had on this measure. As a result, we have amended the bill to address concerns she has raised on behalf of the Department.

While I understand that you likely have not yet had a chance to review this legislation, I hope to work closely with you, because the bill gives the Secretary of the Interior the authority to review certain aspects of the process involving the reorganization of the Native Hawaiian governing entity. Can I get your commitment that you will work with me should you have any questions or concerns about this bill?

Answer. Yes. If confirmed, I will happy to work with you on S. 147, the "Native Hawaiian Government Reorganization Act of 2005."

*Question 78.* As you may recall, Congress enacted Public Law 103-150, the Apology Resolution, in 1993. The Resolution apologized, on behalf of the United States, to Hawaii's indigenous peoples, Native Hawaiians, for the role of U.S. officials in the overthrow of the Kingdom of Hawaii, and committed to a process of reconcili-

ation between the U.S. and Native Hawaiians. The Department of the Interior has played a significant role in the reconciliation process. In 1999, Secretary Babbitt appointed the Assistant Secretary of Policy, Management, and Budget, to be the DOI representative in this reconciliation process. In 2000, a report was issued by DOI and DOJ, with recommendations resulting from consultations with Native Hawaiians.

I hope to continue to work with you and the Department of the Interior on the reconciliation process between Native Hawaiians and the United States. Despite the fact that you voted against the Apology Resolution, are you open to working with me to address issues of concern to Hawaii's indigenous peoples?

Answer. Yes. If confirmed, I am open to working with you to address issues of concern to Hawaii's indigenous peoples.

*Question 79.* Along those same lines, we have been successful in creating an Office of Native Hawaiian Relations in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States. While the office is in its infancy, there is great potential for the benefit this office can provide to both the Department and to the people of Hawaii.

I hope that I can have your commitment that we can work together to ensure that this office is appropriately staffed so that it can accomplish its mission of benefiting both the Department and the people of Hawaii.

Answer. Yes. If confirmed, I am happy to work with you to ensure that the Office of Hawaiian Relations is appropriately staffed.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR DORGAN

##### ASSISTANT SECRETARY FOR INDIAN AFFAIRS

*Question 80.* The position of the Assistant Secretary for Indian Affairs has been vacant since February 2005. As you may know, this person exercises the authorities and responsibilities of the Secretary for administering laws, regulations and functions relating to Indian tribes and individuals, and oversees the Bureau of Indian Affairs.

Do you plan to fill this position, and what is your timeframe for doing so?

Answer. If confirmed, I will work with the White House to identify a qualified candidate as expeditiously as possible.

*Question 81.* Since its creation in 1977, the position has been filled with an American Indian. Will you continue the practice of having an American Indian or Alaska Native serve as the Assistant Secretary for Indian Affairs?

Answer. I am mindful that the position of Assistant Secretary-Indian Affairs has been traditionally filled with a Native American. I will work with the White House to identify an appropriately qualified individual to carry out the important responsibilities of the Department to American Indians and Alaska Natives.

##### SETTLEMENT OF COBELL V. NORTON LITIGATION

*Question 82.* As you know, the *Cobell v. Norton* class action lawsuit against the United States has been ongoing for the past decade. The Cobell litigation has brought to light failures of the Department to fulfill its fiduciary obligations to hundreds of thousands of individual Indians with respect to their trust funds. Senior Department Officials have testified about how the litigation has impaired the Department's trust obligations to Indian tribes and how the expense of the litigation has impacted the budget for critical Indian programs. The litigation and the related accounting efforts being performed are costing the federal government over \$100 million annually.

Will settlement of the *Cobell v. Norton* litigation be a priority for you?

Answer. I have been informed that the Cobell lawsuit has greatly affected the operations of the Department and its ability to serve Indian country. As such, if I am confirmed, addressing and resolving it is of primary importance.

*Question 83.* At this point in time, do you believe Congress is the appropriate entity to resolve the litigation? If confirmed as Secretary, will you commit to working with Congress to achieve a legislative resolution of this litigation during the remainder of this congressional session?

Answer. I recognize that this has been a longstanding issue for the Department and for Indian people. If confirmed, I will work with you to resolve this issue.

*Question 84.* In addition, to the accounting claims asserted in the Cobell litigation, are there any ancillary claims that you believe should be included in a legislative settlement, i.e., failure to properly collect funds on behalf of Indian beneficiaries or land mismanagement claims?

Answer. I am not sufficiently familiar with the details of this litigation or this matter more broadly to provide an answer at this time. If confirmed, I will make it a priority to look into this further and continue discussions with you and others in Congress on an appropriate resolution.

*Question 85.* Will you commit to working with Congress and consulting with Indian tribes to develop meaningful reform of the trust management system at the Department to prevent future litigations against the United States, such as the Cobell litigation?

Answer. It is my understanding that the Department is already working closely with Congress and tribal leaders to reform Indian trust management. If confirmed, I will continue this working relationship.

#### GOVERNMENT-TO-GOVERNMENT RELATIONSHIP

*Question 86.* Tribes have continuously expressed the need for a stronger government-government relationship between the federal government and tribes through a defined consultation process and a final determination of what is entailed within the United States' trust relationship to Indian tribes.

What are your thoughts on the United States' trust responsibilities to Indian tribes and what steps will you take, if confirmed as Secretary, to strengthen the United States' government-to-government relationship with tribes?

Answer. The Federal government has a fiduciary trust duty and other responsibilities toward Indian Country. As Governor, I signed proclamations with eight western Indian Tribes confirming the importance of increased communication and cooperation between Indian Tribes in Idaho and neighboring states. These proclamations committed the state to maintain government-to-government relations with these Tribes and recognized the unique status of the Tribes as sovereigns within our Federal system. If confirmed, I will continue to actively work with Indian Country, the Administration, and Congress to discuss the interests and priorities of Tribal governments and to address their needs, and would welcome the opportunity to work with Congress in defining the trust responsibility more clearly.

#### EDUCATION

*Question 87.* I understand that you are committed to the BIA mission of educating Indian students and making sure that they have the same opportunities as other students in achieving academic excellence and being productive members of their communities. With 2/3 of BIA schools failing to meet Annual Yearly Progress, it is clear that something needs to change to make sure that our children get the best education possible.

What is your plan to improve BIA schools so that they achieve better academic results?

Answer. If confirmed, educating Indian children will be an important priority for me at the Department. It has been my experience that improved academic results depend upon ensuring that a suitable environment exists for academic achievement. If confirmed, I plan to work actively with the Office of Indian Education Programs, the Department of Education, Indian Tribal leaders, Indian education organizations and Congress on activities designed to provide a suitable environment to foster improved academic results.

*Question 88.* As you know, the performance of our students is tied to the condition of their school facilities. Of the 184 BIA schools, 1/3 are in poor condition and in need of either replacement or significant repair. How will you address this problem?

Answer. As I stated during my confirmation hearing, there can be no more important issue than educating Indian children. I agree that the condition of school facilities can affect student academic performance. I have been informed that a negotiated rulemaking team will soon be formed that will develop criteria to catalog the conditions of school facilities, recommend a formula for prioritizing replacement and repair needs, and identify standards for design and construction of school facilities. If confirmed as Secretary I plan to work with the negotiating team and Indian Country to ensure that school facility needs are being met.

*Question 89.* The BIA's Johnson O'Malley Program (JOM) is the cornerstone for many Indian tribes in meeting the unique and specialized educational needs of Native students attending public schools. JOM provides Indian students with programs that help them stay in school, including remedial instruction, counseling, cultural programs, transportation, standardized testing fees, and small but important personal needs, such as eyeglasses, school supplies, and uniforms. Over the past few years, the Administration has cut funding for this program. What is your commitment to the JOM program?

Answer. As I was not involved in formulation of the budget reductions, I will evaluate the Johnson O'Malley program within the context of the 2008 budget process in consideration of our shared goal for deficit reduction and education of Native American students.

BIA/TRIBAL BUDGET ADVISORY COUNCIL

*Question 90.* The BIA participates in the BIA/Tribal Budget Advisory Council, which includes a number of Tribal leaders. The purpose of this Council is to formulate a budget that reflects Tribal needs and priorities that is also acceptable to the BIA. However, it is my understanding that many items that are agreed to by the Council, including the BIA, are not included in Interior's annual budget requests. For instance, every year the Council approves funding for United Tribes Technical College but yet the college has been cut out of the President's budget request for the past four years.

If you are confirmed as Secretary, what will you do to ensure that the Department is more responsive to Tribal needs and priorities?

Answer. I have not had the opportunity to work with the BIA/Tribal Budget Advisory Council. I look forward to learning more about this Council.

WATER RIGHTS

*Question 91.* As you know from your own first-hand experience Governor Kempthorne, the resolution of outstanding Indian reserved water rights is a significant priority among many governmental and private stakeholders in the American West. For over 20 years, many of these stakeholders have concluded that the best way to resolve these reserved water rights issues is through negotiated agreements with the Federal government and the tribes. However, the proposed Interior budget for FY2007 would cut the funding that supports the tribes in their water rights negotiations throughout the West, which in turn will impact ongoing water rights negotiations.

Do you support a Federal policy that favors negotiated settlement of reserved Indian water rights as opposed to litigated resolution of those rights?

Answer. As I noted in my opening statement, I believe that finding a solution to resolving Indian and non-Indian water rights claims can be difficult and quite contentious, as was my experience in the Nez Perce settlement. I thought then that the alternative, which was several more years of litigation, was no alternative at all. I commit to reviewing the BIA programs and working with Congress and the States on resolving these issues.

*Question 92.* It seems that there has been a shift in how the Department is interpreting the federal guidelines that are utilized to determine the federal contribution to Indian water settlements. Will you ensure that any shift in the Department's policies and interpretations of federal guidelines with respect to the settlement of Indian water rights is developed in consultation with Indian tribes?

Answer. If confirmed, I will explore the Department's past policies, actions, and interpretation of these criteria and will promote discussions with Tribes on these practices.

*Question 93.* Are you committed to ensuring that any settlements of Indian water rights (including the development of the federal contribution to settlements) fully take into account the responsibilities, duties and unique relationship that the federal government has with Indian tribes?

Answer. I am committed to honoring the unique and special relationship between Indian tribes and the Federal government in all Indian issues, including the settlement of long-standing water disputes.

RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR WYDEN

SAVAGE RAPIDS DAM

*Question 94.* I wish to thank this Administration for the \$13,000,000 FY 07 budget request for the Savage Rapids Dam pumping plant and dam removal project. I have worked hard with my colleague from Oregon and this Administration to advance this project, and I look forward to working with you and the new Commissioner of the Bureau of Reclamation to complete it as quickly and efficiently as possible.

I remain deeply concerned about delays and cost increases as the Bureau moves toward awarding a contract this summer. I hope that you can assure me and this Committee that there will be no more delays in this project. I also expect the Bureau to redouble its efforts to reduce and contain project costs.

What is the Bureau's full capability to expend resources on this project in FY 07?

Answer. I am informed by the Bureau of Reclamation that the \$13,000,000 FY 07 budget request represents the amount that they have the capability to expend on this project.

*Question 95.* What is the estimated cost of continuing the project in FY 08?

Answer. I am not familiar with this level of detail for the project, but will look into it if I am confirmed.

## FRIMA

*Question 96.* Governor Kempthorne, will you support the Fish Restoration and Irrigation Mitigation Act program in the Fish and Wildlife Service that was enacted six years ago? This program has been very successful in keeping salmon and other fish species from getting tangled up in irrigation systems throughout the Northwest, Idaho and Montana. It shares broad bipartisan support, and yet, the Fish & Wildlife Service has yet to request funding for it.

Answer. I am committed to helping conserve and restore native runs of salmon and other fish species in the Northwest. I will take this funding concern under advisement during the Fiscal Year 2008 budget process, if confirmed.

## COMMUNITY FIRE ASSISTANCE

*Question 97.* Secretary Norton espoused a 4 Cs philosophy—advancing conservation through cooperation, communication and consultation. This philosophy would seem to emphasize working collaboratively with non-federal partners—especially communities at risk from wildfire. Both the National Fire Plan in general, and Community Wildfire. Protection Planning specifically, have been cited as models for cooperative conservation. However, current wildland fire budget priorities do not reflect a focus on community protection, with a 25% reduction in funding for community fire assistance in this year's budget, including the elimination of BLM's Rural Fire Assistance Program. How do you reconcile a 4Cs philosophy with budgets for community fire assistance being so drastically reduced? How would you propose to effectively work with communities in reducing the risk of wildland fire given these reductions?

Answer. As Governor of Idaho, I formed a very effective partnership with both the Department of the Interior and the U.S. Forest Service, and I experienced first-hand the benefits of the National Fire Plan. It is my intention to continue working with the Forest Service, the states, and the local communities to implement the National Fire Plan and ensure the risk of wildland fire is reduced.

I am informed that the Department is seeking to build on the successes of the Rural Fire Assistance program through a Ready Reserve program. If I am confirmed, I will support efforts to improve the wildland fire response capabilities of local fire departments.

## RESPONSE OF GOVERNOR KEMPTHORNE TO QUESTION FROM SENATOR JOHNSON

*Question 98.* The position you have been nominated to is critical to the fulfillment of the treaty and trust responsibilities of the Federal Government to American Indians. Unfortunately, there have been many areas where the Federal Government has not lived up to those responsibilities.

A policy of meaningful consultation is essential to upholding a government to government relationship with tribes. The tribes in my state have experienced, in their dealings with the Department of the Interior, that there is often a sharp distinction between 'consultation', and 'meaningful consultation.' Most recently, the tribes in South Dakota and others across the country have expressed serious concerns about the proposed realignment of education line officers within the Office of Indian Education Programs. The tribal concerns could have been better addressed and rectified if the BIA engaged in meaningful consultations and provided more exact details the proposed realignment. Tribal consultation sessions took place between the tribes and the BIA, however the tribes feel their input was largely ignored which heightens my concern about the growing divide between 'consultation' and 'meaningful consultation.' In the case of this realignment, and in moving forward with Indians Affairs policy in the future, will you commit to working with me to address the need for true 'meaningful consultation' in tribal government relations?

Answer. I recognize consultation is important and necessary for the Department to fulfill the "government-to-government" relationship with Indian tribes. If confirmed, I will work with you and other members of Congress in efforts to ensure that consultation occurs with tribal governments.

## RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR FEINSTEIN

## DEPARTMENT OF INTERIOR BUDGET ISSUES

*Question 99.* Community fire assistance: Both the National Fire Plan in general, and Community Wildfire Protection Planning specifically, have been cited as models for cooperative conservation. However, current wildland fire budget priorities do not reflect a focus on community protection, with a 25% reduction in funding for community fire assistance in this year's budget, including the elimination of BLM's Rural Fire Assistance Program. Given these reductions, how do you propose to work effectively with communities to reduce the risk of wildland fire?

*Answer.* As Governor of Idaho, I formed a very effective partnership with both the Department of the Interior and the U.S. Forest Service, and I experienced first-hand the benefits of the National Fire Plan. It is my intention to continue working with the Forest Service, the states, and the local communities to implement the National Fire Plan and ensure the risk of wildland fire is reduced.

I am informed that the Department is seeking to build on the successes of the Rural Fire Assistance program through a Ready Reserve program. If I am confirmed, I will support efforts to improve the wildland fire response capabilities of local fire departments.

*Question 100.* Stewardship vs. exploitation: Over the past five years there has been a distinct shift in emphasis of federal lands within the Department of the management Interior: from one of stewardship and conservation, to an emphasis on commercial exploitation. This shift is apparent in both the articulated policies of the Administration and in the budget proposals sent to Congress. Do you think that there is currently the right balance between conservation and protection of natural resources and the development and exploitation of those resources? What is your view as to the proper balance?

*Answer.* As steward of one-fifth of the Nation's lands, the Department of the Interior has an awesome responsibility for the conservation, protection and restoration of natural, cultural and historic treasures. At the same time, lands administered by the Department provide 30 percent of America's current domestic energy supply. Continued environmentally responsible development of both renewable and non-renewable sources on public lands is critical to increasing and diversifying domestic energy production. I believe that the Department can, and must, effectively fulfill both of these missions and, if confirmed, it will be my goal as Secretary to do so.

*Question 101.* Park Service and other Interior agencies Maintenance backlog: The 2007 budget request for the National Park Service contains a large cut—nearly \$85 million—for construction and maintenance in the parks. This is a 27% cut. I am concerned about this cut, especially because of the preexisting maintenance backlog in the parks (the Congressional Research Service estimated that the backlog totals \$4.5 to \$9.7 billion). President Bush said that reducing the backlog was a priority, and yet the backlog remains large. I have cosponsored the National Park Centennial Act to try to address the backlog. What is your plan for addressing these maintenance backlogs?

*Answer.* Though I am not aware of the details, I am aware that funding for park maintenance needs is vitally important to continuing to provide high quality visitor experiences and to protect park resources. If confirmed, I plan to continue to make it a priority to fund maintenance backlog projects and to continue to improve the processes for identifying and prioritizing maintenance needs. I also believe it is important to continue to be as efficient and effective as possible with the funds we currently have.

## NPS DRAFT MANAGEMENT POLICIES

*Question 102.* Organic Act: The fundamental laws, executive orders and regulations governing national parks have not been amended or changed since adoption of the 2001 Management Policies. Yet, the interpretation of those laws is being substantially rewritten in chapter 1 of the proposed revisions. What is your interpretation of the Organic Act and the balance between conservation and enjoyment? Will you strive, as Interior Secretary, to maintain the predominance of conservation in the mission of the National Park Service?

*Answer.* It seems clear to me that our first duty is to conserve park resources, but we must also provide for their enjoyment and appropriate use. The NPS must ensure that the forms or levels of enjoyment that it allows would not result in impairment of park resources. So, in that sense I would agree with past Secretaries of the Interior, including most recently Secretary Norton's letter to Congress, affirming that the proposed updating of park management policies continue to hold con-

servation as the predominant requirement in the mission of the National Park Service.

*Question 103.* Air quality: Air quality is a critical problem for several California parks, including Joshua Tree, Yosemite, and Sequoia-Kings Canyon. For example, from 2000-2004, there were more than 315 unhealthy ozone pollution days in Sequoia-Kings Canyon, and the Environmental Protection Agency formally designated these parks as ozone non-attainment areas.

In the proposed management policies, “clear skies” in the parks is no longer a core park resource, but now is an “associated characteristic.” Associated characteristic is not defined or applied anywhere else in the policies, but it suggests something less important than other park resources such as soil and water. Do you view “clear skies” as a core resource of our National Parks? Will you act to restore this language in the proposed management policies?

Answer. I am not familiar with the specific provisions of the NPS management policies. However, I do believe that keeping our park resources, including air quality, in good condition is important. I look forward to learning more about this very important matter.

*Question 104.* Public comment: The comment period for these draft proposals ended on February 18th, 2006, yet many questions remain and it is unclear what the next draft will look like. In my letter to Parks Director Mainella, I asked that the proposed management policies be subject to a second public comment period, after revisions stemming from the first public comment period are completed.

If you are confirmed as Interior Secretary, how do you envision directing the Park Service’s plans to proceed with these revisions? Will you allow another public comment period for these draft policies before they are finalized?

Answer. I have learned that the Park Service received more than 45,000 comments on the draft that underwent public review for more than four months. If confirmed, I will be actively involved in this process to ensure that the NPS has the best management policies possible. I will work with you and other Members of the Committee as we move forward in this process.

#### BLM’S NATIONAL LANDSCAPE CONSERVATION SYSTEM

*Question 105.* I’d like to know your vision for protecting and enhancing the BLM’s National Landscape Conservation System—specifically, the 26 million acres of BLM lands and waters that are particularly rich in natural and historical resources, like National Monuments and National Conservation Areas, and are intended to be kept healthy, wild, and open.

The table in BLM’s 07 budget shows a \$4.8 million cut in operations funding for the National Landscape Conservation System. This cut reduces System funding by 12 percent from FY06 levels to just \$37.1 million.

The California National Monuments and Conservation Areas that are part of the System take a particularly hard hit with a funding cut of about \$1 million. King Range National Conservation Area, for example, takes a cut of \$153,000 and the budget at Headwaters Forest Reserve declines by \$50,000. In light of acknowledged problems throughout the NLCS with regard to cultural resource protection, science and natural resources monitoring, law enforcement, and visitor management in the face of growing recreational use, I’m concerned.

Please tell me how you will stop this decline in funding and address the conservation challenges of the NLCS.

Answer. If confirmed, I will review the budget for this program and work to ensure the agency is able to carry out its functions as Congress has directed. I would look forward to visiting with you about this at that time.

#### WATER RECYCLING

*Question 106.* California water districts submitted over 40 feasibility studies on proposed water recycling projects for the Bureau of Reclamation’s review, some in 1999 through the San Francisco Bay Area Regional Water Recycling Program and the rest in 2001 through the Southern California Comprehensive Water Reclamation and Reuse Study.

When the Bureau had not reviewed any of these studies by 2004, the CALFED legislation (Public Law 108-361) required the Bureau to complete its review “not later than 180 days” after enactment on October 25, 2004, or in April 2005. Just last month, a full year after the CALFED deadline had passed, and 5-7 years after the feasibility studies had been submitted for the Bureau’s review, the Bureau transmitted a report to Congress.

After all that time, the Bureau found that it lacked enough information to make a feasibility determination on any of the projects, because the water districts had

not submitted enough information on topics such as the projects' "research needs". After all this delay and still no resolution, I am tempted to conclude that Reclamation is not interested in moving forward expeditiously to review water recycling projects.

Do you believe that water recycling is an important part of a balanced water program, particularly for urban areas that are trying to reduce their dependence on the Colorado River?

Answer. The reclamation and reuse of municipal and industrial wastewater can help meet water supply needs in many of the urban areas of the west. This is particularly true in the major urban centers that are almost solely dependent on imported supplies, such as the Colorado River.

While I am not familiar with the status or review of the studies you mentioned, my understanding is that water recycling projects are predominantly planned, designed and constructed by the local non-Federal project sponsors. These projects are also owned and operated by the local water agencies. For communities dependent on the Colorado River and anywhere water supplies are constrained, I believe water recycling can be part of a balanced portfolio.

*Question 107.* If so, do you believe that Reclamation should expeditiously review feasibility reports submitted by water districts seeking a low federal cost-share for recycling projects of 25% of total costs or less? Shouldn't expeditious review be measured in months rather than in years?

Answer. If confirmed, I will work to assure that Reclamation's review process for water recycling projects moves as expeditiously as possible subject to annual funding levels. I believe that Reclamation's stakeholders should be responded to in a timely manner.

#### R.S. 2477 POLICY—GENERAL

*Question 108.* As the author of the California Desert Protection Act, I am particularly concerned with the impact that Secretary Norton's new guidance (March 22, 2006), on processing R.S. 2477 highway claims might have on the California desert. In the Mojave Preserve alone, some 2,500 miles of would-be "roads" have been identified for potential claims. Yet, there are currently only 244 miles of county-maintained roads in the preserve.

Twenty-one wilderness areas in the California desert and two of the country's most unique and beautiful National Parks, Joshua Tree and Death Valley, are subject to claims as well. These claims threatens to impact hundreds of thousands of acres of pristine desert habitat by undermining their wilderness character, disrupting passive recreational use and degrading water quality.

Would you consider revoking Secretary Norton's policy concerning R.S. 2477 highway claims? If not, can you give us your assurance that National Parks, Wildlife Refuges, National Monuments, Wilderness areas, and wilderness study areas will not be subject to R.S. 2477 claims?

Answer. As I noted earlier, I am generally aware of this policy and, if confirmed, I will certainly become more familiar with it. I believe we have a duty and an obligation to protect Federal lands, particularly in our National Parks, Wildlife Refuges, National Monuments, and wilderness areas. I do not believe I can guarantee what areas will be subject to claims from third parties, but I firmly believe that, as stewards of the Public Lands, the Department and its bureaus have a right and a duty to protect the surrounding and underlying lands they manage.

#### DETERMINING THE VALIDITY OF R.S. 2477 CLAIMS

*Question 109.* What evidence will be sufficient to show continuous public use? What requirements, in addition to continuous public use, will be required to determine validity of an R.S. 2477 claim? Will the agency involve the public in any way in the development of its legal analysis?

Answer. As I noted earlier, I am generally aware of the Department's new policy on R.S. 2477 claims; if confirmed, I will certainly become more familiar both with that policy and with the way it is being implemented. It is my understanding that the Tenth Circuit made it clear that the BLM cannot determine the ultimate validity of these claims, but I can commit to you that I believe we should involve the public in these matters. I look forward to discussing this matter with you at that time.

#### NON-BINDING ADMINISTRATIVE DETERMINATIONS

*Question 110.* Under what circumstances will the agency make a non-binding administrative determination? Will the agency comply with NEPA (and other key fed-

eral laws) prior to issuing a determination? How will the agency seek public comment? How long will the public have to comment on each determination?

Answer. If confirmed, I will have the opportunity to become more familiar with these issues, including how the policy is implemented. I will be happy to discuss the matter with you at that time.

#### ROAD MAINTENANCE AGREEMENTS

*Question 111.* How will the agency determine the status quo with regard to each road, road use and road maintenance? How will the public receive notice and have the opportunity to comment on road maintenance agreements? Will the public have an opportunity to appeal or otherwise contest an agreement? If not, why not? Will the agreement be considered "final agency action"? If not, why not?

Answer. If confirmed, I will have the opportunity to become more familiar with these issues, including how the policy is being implemented. I will be happy to discuss the matter with you at that time.

#### IMPROVEMENT OF RIGHTS-OF-WAY

*Question 112.* When the holder of a legally or administratively-determined R.S. 2477 right-of-way across federal land proposes to undertake improvements beyond mere maintenance and so notifies the agency, how will the agency determine whether the proposed improvement is "reasonable and necessary"? How will the agency study the potential effects of such improvements? How will the agency formulate alternatives that serve to protect the federal lands they manage?

Answer. I am generally aware of the Department's new policy on R.S. 2477 claims; if confirmed, I will certainly become more familiar both with that policy and with the way it is being implemented. I am informed that the determination of what constitutes reasonable and necessary depends upon state law. However, I am not aware of any law that would require two tracks to become multi-lane highways, and I would not support such a policy. I look forward to discussing this matter with you.

#### RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR CANTWELL

##### VALUE OF THE NATION'S NATIONAL PARKS

*Question 113.* As a Northwesterner and Governor of the great state of Idaho I know that you appreciate the value of outdoor recreation both in an economic and cultural sense. The outdoors are part of the American experience, particularly in the west. Would you agree with me that when visiting the National Parks visitors expect a different quality of experience than they do when visiting other public lands? Can you please describe what that expected experience might be and how you would work with the Park's Service to help visitors achieve it?

Answer. Each national park unit has a different mission and purpose and provides opportunities for all people to form their own intellectual, emotional, and physical connections to the meanings and values found in a particular park's story. I look forward to working with the NPS to improve the opportunities to provide unique, enjoyable, educational, and inspirational experiences for all people. Effective interpretive and educational programs facilitate these opportunities, encourage the development of a personal stewardship ethic, and broaden public support for preserving park resources for future generations.

*Question 114.* Can you please describe your insights on how the National Park System might be different from other federal lands?

Answer. Each national park unit has a different mission and purpose and provides opportunities for all people to form their own intellectual, emotional, and physical connections to the meanings and values found in a particular park's story. I look forward to working with the NPS to improve the opportunities to provide unique, enjoyable, educational, and inspirational experiences for all people. Effective interpretive and educational programs, facilitate these opportunities, encourage the development of a personal stewardship ethic, and broaden public support for preserving park resources for future generations. Other federal lands have their own unique values and resources. If confirmed, I look forward to learning more about the important missions of the various bureaus within the Department.

*Question 115.* The Parks Service's mission, as spelled out in their 1916 charter, is "to conserve the scenery and the natural historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations". Do you agree that this mission statement is still relevant today? If no, what is the Primary Mission of the National Parks in your mind? How should the Parks Service best carry out their mission?

Answer. I have been made aware of correspondence on the NPS Management Policies from Secretary Norton in which she stated her position that, "when there is a conflict between protection of resources and use, conservation will be predominant," and I agree with that position.

*Question 116.* As you know, the Department of the Interior has proposed a controversial rewrite of its management policies just five years after the last such update. These updates are typically completed every ten years and many people, myself included, have questioned the usefulness of the current process. Do you agree with the new draft of the rewrite that recreational uses, such as snowmobiling, ATV use, jet skis, and increased commercial activity should be elevated over the Park's traditional conservation mission that has been in place since its 1916 charter?

Answer. While I am not familiar with all of the details of the NPS management policy, I have been made aware of correspondence on the NPS Management Policies from Secretary Norton in which she stated her position that, "when there is a conflict between protection of resources and use, conservation will be predominant," and I agree with that position.

*Question 117.* Is the Management Policy rewrite process, so soon after the last, a wise use of the Park's resources, especially given FY2007 cuts in the administration's budget for the NPS? How, specifically, will this new rewrite help the Park's Service achieve its mission?

Answer. As I mentioned in the hearing, I do feel that periodic evaluations of an agency's policies and practices can be a healthy and productive undertaking. It is my understanding that the last policy rewrite was done prior to September 11, 2001, and that these new proposed policies reflect changes such as security measures for icons, border security, and management efficiencies. Nonetheless, while I am not familiar with all of the details of the management policies, if confirmed, I look forward to learning more about this very important matter.

*Question 118.* Governor Kempthorne, as you may know, Mount St. Helens in southwest Washington is currently a National Volcanic Monument managed by the Forest Service. I have been approached by some of my constituents who advocate that it should be made a National Park. Could you please tell me what additional resources DOI would bring to Mount Saint Helens as a National Park that are not currently provided by the Forest Service as it managed as a National Monument?

Answer. I am not familiar with the resources the Forest Service is currently providing. If the National Park Service were given responsibility for management of Mt. St. Helens by Congress, it would be managed in a manner similar to all of the other 390 units of the National Park System.

#### ROADLESS RULE AND STATE SAY IN FEDERAL LAND MANAGEMENT

*Question 119.* As governor of Idaho you were supportive of the Bush Administration's elimination of the 2001 Roadless Area Conservation Rule. As you know, this rewrite created a controversial precedent that allowed states to decide whether to keep their last remaining pristine federal forest lands or to log them. Do you support this same state control and input over public lands managed by the Interior Department? Such as those under control of the National Parks Service, the Bureau of Lands Management, and Wildlife Refuge Areas?

Answer. As Governor, I supported efforts to provide clarity and meaningful public participation in the Roadless Area process. If confirmed, I will continue to seek input from state and local officials as well as the public in any effort to make changes to the management principles of our public lands.

*Question 120.* As I'm sure you know, in her last days as Secretary of the Interior, Gale Norton developed a new process for reviewing and recognizing right-of-way claims for highways on federal lands across the West, under an 1866 Mining Act statute known as R.S. 2477. The new policy makes it easier for states and counties to turn existing two tracks, trails, and old dirt roads on federal lands into roads or highways. In your mind, should the federal government pursue policies that make it easier for states and counties to grandfather old dirt roads, two-tracks, and cow trails into highway right of way across our Wilderness Areas, National Parks, and other pristine federal lands?

Answer. Let me begin my answer by saying that my understanding of the Department's policy does not comport with the characterization in your question, and I would not support such a policy. As I noted in another answer above, I firmly believe that, as stewards of the Public Lands, the Department and its bureaus have a right and a duty to protect the surrounding and underlying lands they manage, particularly those in National Parks, National Wildlife Refuges, and wilderness areas, and I am committed to protecting these lands. I also understand, however, that while Congress repealed R.S. 2477, it did not terminate valid existing rights-

of-way existing as of the date of its repeal and those rights must be lawfully respected. If confirmed I will review the policy and would be pleased to visit with you about it at that time.

*Question 121.* What type of relationship do you think the Department of Interior should have with counties and states?

Answer. As Governor, I felt that Idaho had a very positive working relationship with the Department of the Interior. If confirmed, I would ensure that the same positive relationship would continue with states and local governments. As a former Chairman of the National Governors Association, I have had the opportunity to forge close, bipartisan ties with many governors. It is my intent to reach out to the governors and local government stakeholders.

*Question 122.* Do you believe Secretary Norton's new policy on R.S. 2477 inappropriately included congressionally-designated wilderness areas?

Answer. I am generally aware of the Department's new policy on R.S. 2477; if confirmed, I will have the opportunity to become more familiar with that policy, including the way it is being implemented. I will be happy to discuss the matter with you at that time.

*Question 123.* Would you agree that when Congress passes legislation formally designating a wilderness, the highest level of protection under our current system, that the area is deemed "roadless"?

Answer. I am aware that roads are generally inconsistent with wilderness and that Congress generally means to deem these areas "roadless." Existing roads that provide for non-motorized access, however, may not be inconsistent with wilderness designations and might, in fact, be used for recreation on foot or horseback.

#### LAND AND WATER CONSERVATION FUND CUTS

*Question 124.* Governor Kempthorne, as you know, the President completely eliminated the Land and Water Conservation Fund's Stateside Grants Program in his FY2007 budget. Do you agree with the President on this—is the Stateside Grants Program so unimportant that it deserve total elimination in the FY2007 budget? If confirmed, will you make a commitment to fight to restore these funds in next year's budget request?

Answer. As I stated at the hearing, I believe the Stateside Grants Program has been beneficial to the states. I am advised that nearly \$3.9 billion has been appropriated through 2006 for the LWCF State Assistance Grant program, providing many significant resources to States to develop recreation programs and acquire land.

It is my understanding that the 2007 President's Budget reflects a judgment to advance the shared goal of deficit reduction by giving priority to the core operating programs for parks, refuges, and other public lands.

*Question 125.* Under Secretary Norton's tenure, LWCF funds have been increasingly used for other programs within the DOI's budget that are unrelated to its authorized purposes. In the FY 2007 budget, the administration says that LWCF is funded at \$533 million. However, the total amount budgeted for the authorized purposes of the LWCF is only \$85.1 million, just a little over half the level funded last year and more than 90% below the authorized \$900 million level. The Department of the Interior's own budget in brief lists 15 other non-LWCF programs being counted as LWCF. Not to say that these other programs are not important, but LWCF funds need to be used for LWCF purposes. Under your tenure as Secretary, will you commit to returning to truth-in-budgeting and use LWCF funds only for their authorized purposes?

Answer. It is my understanding that the budget proposal is consistent with prior Congressional action. If confirmed, and as I begin to work on the 2008 budget, I will work within the Administration to develop a balanced package of conservation funding that is funded within the overall context of our common goal of deficit reduction.

#### ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

*Question 126.* Governor Kempthorne, earlier this year you may have seen a series of articles in the New York Times highlighting how provisions intended to incentive offshore oil and gas drilling in the Royalty Relief Act of 1995, have or will result in the loss of tens of billions of dollars in revenue to the federal treasury.

Congress' interest in this issue has been intense, especially given record profits that oil companies have raked in over the last year while gas prices have spiked. On January 24 of this year, I cosigned a letter with Senator Bingaman and several other members of this Committee requesting that the GAO undertake a review of the adequacy of the royalty accounting and collection process. According to the draft

report the GAO released last month, losses to the treasury over 25 years could reach a staggering \$20 billion.

The Interior Department concluded that taxpayers will only lose out on \$9.5 billion in royalties that oil companies should be paying over the next five years. Do you know why that number is so much lower than the GAO's? Can you please explain this to me?

Answer. I am informed that GAO's estimates of the value associated with various deep water royalty relief issues are based on analyses of the Department's Minerals Management Service and are fully consistent with MMS's estimates. For two of the issues—the lack of the “price threshold” provision in the 1998 and 1999 leases and the cost associated with the judicial decision in the Santa Fe Snyder case—GAO estimates for each issue were up to \$10 billion over the next 25 years.

*Question 127.* Governor Kempthorne, given the current high price of gasoline and even higher profits that oil companies are raking in, do you think it a wise policy to continue to offer royalty relief for OCS oil and gas exploration?

Answer. I believe that incentives to promote investments are appropriate when prices are low, but when prices are high the markets themselves provide ample incentive to invest in exploration. I have been informed by MMS that all leases issued with royalty relief by this Administration since 2001 have included price threshold provisions that stop the relief when prices exceed certain thresholds and, with current high oil and gas prices, most of these thresholds have been exceeded. If confirmed, I will review this issue to ensure that we are not providing any unnecessary incentives in light of current high prices.

*Question 128.* I understand the DOI contracts from 1998 and 1999 governing the collection of royalties from offshore oil and gas drilling failed to include price thresholds. Is this accurate, and if so please explain why this is the case and who specifically made the decision that led to this situation?

Answer. I have been informed by MMS that, in the previous Administration, the price threshold provisions associated with deep water royalty relief were not included in the leases issued in 1998 and 1999. Further, MMS has informed me that there was no explicit decision to do so. The provision was dropped by mistake during revisions to the lease documents for the 1998 sales, and the error was not discovered until shortly before the March 2000 lease sale. At that time, MMS implemented new review procedures designed to ensure that such an error won't happen again. I have been informed by the Department that they have asked the Office of the Inspector General to further investigate what occurred during that time period.

*Question 129.* Has the DOI/MMS taken any action since 2000 that may have altered the amount of current or future revenues collected for the use of federal lands for energy extraction of any kind? If yes, please describe these actions in detail and estimate the impact of revenues from these actions.

Answer. I have been informed by MMS that there have been a number of regulatory and policy changes since 2000 designed to ensure receipt of a fair return for the public's resources. These include:

- Clarifications to rules governing the value of oil and gas for royalty purposes—all of which have increased royalty collections or been revenue neutral; and
- Adjustments to royalty relief policies, including significant reductions in the amount of relief offered deep water leases.

They also advise that all changes have been in accord with the authorizing statutes, as provided by Congress. The 2005 Energy Policy Act provided for expanded royalty relief in certain areas. I can assure you that, if confirmed, the Department will work to ensure this new relief is subject to appropriate thresholds. In addition, MMS informs me that, in order to encourage expeditious development of natural gas in areas where infrastructure already exists, the Administration adopted new relief for gas produced by 2009 from deep wells in shallow water on the OCS.

*Question 130.* Governor, I can tell you straight out that drilling off the coasts of Washington state is an anathema to my constituents and I will fiercely resist any attempts to do so. In order to avoid that unnecessary confrontation, can you provide me and the citizens of Washington state assurances that you will not try and overturn the 1990 Moratorium on drilling off the Washington coast?

Answer. It is my understanding that the Administration supports OCS leasing moratoria offshore Washington. I am told there is no area proposed for leasing offshore Washington in the Draft Proposed Program for 2007-2012.

#### ESA FUNDING FOR FISH AND WILDLIFE SERVICE ACTIVITIES

*Question 131.* Governor Kempthorne, I often hear from my constituents in Washington state that the Endangered Species Act permit process takes too long because

there are not enough Fish and Wildlife Service personnel available to process applications in a timely manner. I am concerned that many projects are delayed or never completed due to this lack of resources. Under Secretary Norton's tenure, DOI has consistently failed to ask for sufficient funds to administer the U.S. Fish and Wildlife Service's endangered species programs. In fact, the request has often cut funds from levels of the previous year, obliging Congress to restore them. As Secretary, what specifically will you do to ensure that FWS gets the operational funding and staff to meet its mandated responsibilities under the Endangered Species Act?

Answer. I too have found that delay is a common problem under the current ESA. I am concerned that the current levels of ESA litigation and the associated court-ordered actions that the U.S. Fish and Wildlife Service is forced to take as a result are diverting fiscal resources away from other important mission areas, such as permit processing.

I believe that if together we examine the processes required by ESA we can improve them, thereby speeding up decisions where appropriate and, perhaps more importantly, raising the confidence of all concerned that the right decisions are being made.

With regard to adequate funding levels, I will work within the Administration and with Congress to address funding needs for endangered species within the context of the 2008 budget process and our shared deficit reduction goals.

*Question 132.* Although I was not yet serving in the Senate, I understand that you were instrumental in brokering a compromise with then Senator John Chafee and Interior Secretary Bruce Babbitt to propose modifications to the Endangered Species Act that even some envoys characterized as reasonable and forward-thinking. What did you learn from that effort, and how do plan to use those lesson to try and move forward on reforming this polarizing, but extremely important, environmental law?

Answer. A great deal of our success was due to the fact that I had good partners who were committed to finding solutions. I have fond memories of working with Senator Chafee and Secretary Babbitt, and I appreciated their willingness, along with so many others, to come to the table and work toward consensus. That same willingness by all parties is key to moving forward with any improvements to the Act.

While there are many ideas on how the law might be changed, we can use what works in practice to rework what is written in the law—not to minimize species protection, but to maximize our combined resources, and not to weaken the ESA, but to strengthen our ability to truly achieve recovery.

I believe a functional ESA that focuses on recovery is possible. I believe there are key principles that should guide our efforts. We must engage people in the problem so that they can help to find the solution. Private citizens, business and communities, especially those directly affected by conservation decisions, should have a seat at the table.

We must also bring those people together, in a formal setting, to enter into agreements so they know where they stand. The process should not become a game of "hide the ball." There should be no surprises.

#### BUREAU OF INDIAN AFFAIRS MISMANAGEMENT,

*Question 133.* Governor Kempthorne, when I meet with Tribal representatives from Washington state, I constantly hear how the Bureau of Indian Affairs is mismanaging tribal schools, prisons, health clinics, fishing access, and numerous other issues important to my constituents. Whether from a lack of leadership or bureaucratic gridlock, the BIA simply has not lived up to its obligations to Native Americans. Do you feel that the BIA currently meets the needs of Native Americans?

Answer. If confirmed, I plan to learn more about the performance of BIA programs and will discuss the current status of Indian programs with the BIA and with tribal leaders to determine the underlying factors influencing relative program performance.

*Question 134.* How would you ensure that it does if you were Secretary?

Answer. If confirmed, I will work within the Executive Branch, with Congress and Indian tribal leaders to assess the performance of Indian programs, both those administered by the Department and those managed by tribes and will work to make improvements where needed.

*Question 135.* What assurances can you give me, and Indian Country, that things will change at BIA?

Answer. If confirmed, I will consult and work with tribal leaders, stakeholders, the BIA, the Executive Branch and other constituents to learn more about the per-

formance of Indian Affairs' programs, and will work to improve performance where necessary.

*Question 136.* As you know, your two predecessors were held in contempt of court for their inability to deal with judge's orders resulting from the Cobell litigation. How are planning to avoid their fate?

Answer. The responsibility of trustee for tribes and individual Indian people is one of the most important responsibilities of the Secretary of the Interior. I have been advised that the Court of Appeals reversed the lower court's contempt finding against Secretary Norton. I plan to be responsive to the Court as the Cobell litigation continues. I will comply with all the Court's orders to the best of my ability.

#### TRIBAL DETENTION FACILITIES

*Question 137.* As you may be aware, the Inspector General in 2004 issued a report on the BIA Detention Facility Program entitled Neither Safe Nor Secure. This report stated that, "The BIA's detention program is riddled with problems and is a national disgrace with many facilities having conditions comparable to those found in third world conditions."

I am particularly troubled by the IG's finding that detention program funding is haphazardly managed by the BIA. In my State, we have a detention facility on the Nisqually Reservation that is heralded by the BIA and DOJ regional offices as being supremely well operated. The Tribe operates it pursuant to an ISDA compact with the BIA, and yet for the last three years, the BIA has made the decision not to provide any staffing or operations funds to Tribe.

The Tribe has sought an explanation as to why the BIA made this decision and to date has not been provided one. The Tribe's attorneys met with BIA detention staff and were given verbal assurances that the Nisqually facility would be put back on the funding list in FY 2007. I hope that I will be able to work with you to see that this will happen. But in the mean time I would like to know:

How many BIA/Tribal detention facilities receive operations and staffing funding from the BIA?

Answer. I am informed that there are 39 BIA-operated or owned detention facilities and 34 tribally-operated or owned detention facilities.

*Question 138.* How is the decision as to which facility will receive funding made?

Answer. It is my understanding that the funding decisions are based on staffing and operational requirements and the availability of funds.

*Question 139.* How much funding does each facility receive?

Answer. The BIA has provided a chart with this information.

| Org. code               | Program class | Agency                                   | Allocated   |
|-------------------------|---------------|--|-------------|
| Direct Service Programs |               |  |             |
| BIA Central             |               |  |             |
| KOL400/ .....           | 37730         | Detention Central Office Pro. Mgmt. .... | \$2,055,529 |
| KOL400/ .....           | 37740         | Detention-Juvenile contracted beds ..... | \$2,425,898 |
| KOL400/ .....           | 37750         | Detention-Adult contracted beds .....    | \$2,425,898 |
|                         |               |  | \$6,907,325 |
| BIA                     |               |  |             |
| AOL400/ .....           | 37750         | District Corrections Office (1) .....    | \$277,404   |
| AOL410/ .....           | 37750         | Winnebago Detention .....                | \$64,044    |
| AOL430/ .....           | 37750         | Standing Rock .....                      | \$399,692   |
| AOL440/ .....           | 37750         | Crow Creek .....                         | \$278,906   |
| AOL460/ .....           | 37750         | Turtle Mountain .....                    | \$318,395   |
| AOL470/ .....           | 37750         | Ft. Totten Detention .....               | \$284,185   |
| AOL480/ .....           | 37740         | Lower Brule .....                        | \$498,473   |
| AOL480/ .....           | 37750         | Lower Brule .....                        | \$1,072,772 |
|                         |               |  | \$3,193,871 |
| COL400/ .....           | 37750         | District Corrections Office (5) .....    | \$274,306   |
| COL410/ .....           | 37750         | Crow Detention Center .....              | \$356,044   |
| COL420/ .....           | 37740         | Northern Cheyenne Detention Center ..... | \$1,429,306 |
| COL420/ .....           | 37750         | Northern Cheyenne Detention Center ..... | \$366,008   |
| COL430/ .....           | 37750         | Wind River Detention Facility .....      | \$397,299   |
| COL450/ .....           | 37750         | Spokane Detention .....                  | \$352,701   |

| Org. code     | Program class | Agency   | Allocated    |
|---------------|---------------|--|--------------|
| COL480/ ..... | 37750         | Blackfeet Detention .....                      | \$342,830    |
|               |               |  | \$3,518,494  |
| HOL400/ ..... | 37750         | District Corrections Office (3) .....          | \$274,306    |
| HOL410/ ..... | 37740         | Eastern Nevada Detention .....                 | \$1,554,676  |
| HOL410/ ..... | 37750         | Eastern Nevada Detention .....                 | \$238,673    |
| HOL420/ ..... | 37750         | Western Nevada Detention .....                 | \$81,562     |
| HOL430/ ..... | 37750         | Uintah & Ouray Detention .....                 | \$306,868    |
| HOL440/ ..... | 37750         | Hopi Detention .....                           | \$668,109    |
| HOL490/ ..... | 37750         | Truxton Canon Detention .....                  | \$499,959    |
|               |               |  | \$3,624,153  |
| MOL400/ ..... | 37750         | District Corrections Office (4) .....          | \$271,208    |
| MOL450/ ..... | 37740         | Ute Mountain Juvenile Detention .....          | \$311,531    |
| MOL450/ ..... | 37750         | Ute Mountain Detention .....                   | \$1,042,392  |
| MOL460/ ..... | 37750         | Mescalero Detention .....                      | \$14,791     |
|               |               |  | \$1,639,922  |
|               |               |  | \$11,976,440 |
|               |               | 638 Contract Programs                          |              |
| KLA002/ ..... | 37750         | Cheyenne River Detention .....                 | \$1,238,973  |
| KLA003/ ..... | 37740         | Oglala Sioux Detention Juvenile .....          | \$635,272    |
| KLA003/ ..... | 37750         | Oglala Sioux Detention Adult .....             | \$2,380,617  |
| KLA004/ ..... | 37750         | Rosebud Detention .....                        | \$1,942,977  |
| KLA005/ ..... | 37750         | Omaha Tribe of Nebraska Detention .....        | \$183,954    |
| KLA015/ ..... | 37750         | Menominee Detention .....                      | \$363,292    |
| KLA022/ ..... | 37750         | Three Affiliated Detention .....               | \$2,620,564  |
| KLA024/ ..... | 37750         | Sisseton-Wahpeton .....                        | \$95,399     |
|               |               |  | \$9,461,048  |
| KLC001/ ..... | 37740         | Blackfeet Tribal Juvenile Detention .....      | \$243,437    |
| KLC002/ ..... | 37750         | Ft. Belknap Community Council Deten. ..        | \$77,724     |
| KLC003/ ..... | 37750         | Assiboine and Sioux Tribe Detention<br>(Fort). | \$1,700,579  |
| KLC004/ ..... | 37740         | Confederate Tribes - Colville .....            | \$98,759     |
| KLC004/ ..... | 37750         | Confederated Tribes - Colville Deten. ....     | \$2,346,994  |
| KLC006/ ..... | 37750         | Chehalis Business Council Detention .....      | \$7,967      |
| KLC010/ ..... | 37750         | Warm Springs Detention .....                   | \$201,432    |
| KLC018/ ..... | 37750         | Yakima Tribal Council Detention .....          | \$404,092    |
| KLC021/ ..... | 37750         | Shoshone Bannock Detention .....               | \$357,323    |
|               |               |  | \$5,438,307  |
| KLH001/ ..... | 37750         | Colorado River Indian Tribe Detention ....     | \$273,903    |
| KLH002/ ..... | 37750         | Ft. Mohave Detention .....                     | \$44,498     |
| KLH003/ ..... | 37750         | White Mountain Apache Detention .....          | \$630,260    |
| KLH004/ ..... | 37740         | Tohono O'dham Nation (Juvenile) .....          | \$307,713    |
| KLH004/ ..... | 37750         | Tohono O'dham Nation (detention) .....         | \$1,963,622  |
| KLH008/ ..... | 37750         | San Carlos Apache Detention .....              | \$2,662,376  |
|               |               |  | \$5,882,372  |
| KLM005/ ..... | 37750         | Laguna Detention .....                         | \$236,997    |
| KLM011/ ..... | 37750         | Taos Detention .....                           | \$29,450     |
| KLM014/ ..... | 37750         | Zuni Detention .....                           | \$729,867    |
| KLM016/ ..... | 37740         | Navajo Nation Juvenile Detention .....         | \$2,623,511  |
|               |               |  | \$3,619,825  |
| MLS016/ ..... | 37750         | MS Band of Choctaw Indians Detention ..        | \$2,300,050  |

| Org. code | Program class | Agency  | Allocated    |
|-----------|---------------|---|--------------|
|           |               |   | \$26,701,602 |
|           |               | Self Governance Programs  |              |
|           |               | Red Lake .....  | \$1,555,000  |
|           |               | Sault Ste. Marie Chippewa .....   | \$1,151,588  |
|           |               | Gila River .....  | \$1,526,538  |
|           |               | Salt River .....  | \$1,755,791  |
|           |               | Chippewa Cree (Rocky Boy).<br>Metlakatla.<br>Salish & Kootenai (Flathead).<br>Makah.<br>Quinault.<br>Nisqually. |              |
|           |               | Total .....   | \$5,988,917  |
|           |               |   | \$51,574,284 |

*Question 140.* What is the funding distribution formula?

Answer. I have been informed that there is no specific funding distribution formula used with the Indian detention program. The funding decisions are based on staffing and operational requirements and the availability of funds.

*Question 141.* How many other facilities that received staffing and operations in the past six years do not receive funding now?

Answer. I have been informed that the BIA has closed 7 facilities; four of these facilities continue to receive funding to contract for detention beds at other facilities, and three no longer receive staffing and operational funds.

*Question 142.* If there are any changes, what is the reason for these changes?

Answer. I have been informed that BIA decisions to close facilities were generally based on deteriorating physical condition, the availability of qualified personnel to operate the facility, or the availability of other cost effective alternate confinement facilities (i.e., contracted private facilities).

#### ALTERNATIVE ENERGY

*Question 143.* Governor Kempthorne, do you support the Cape wind offshore wind farm project off the coast of Massachusetts? Please describe how the MMS plans to incorporate the EIS developed by the Army Corps of Engineers into its decision making under Section 388 of the Energy Policy Act of 2005? What is the timeline for this?

Answer. Concerning the Cape wind project, I believe it is not appropriate to pre-judge the merits of the proposal before the NEPA and consultative processes are complete. I have been informed that MMS will soon commence a new NEPA process which will require about 18 months to complete. This new work will be in addition to and will incorporate the work done previously by the Corps. The tentative timeline for completion of the process provides for a decision in December 2007.

#### ADMINISTRATIONS MISUSE OF SCIENCE TO SUPPORT THEIR ACTIONS

*Question 144.* Governor Kempthorne, as I'm sure you know, the politicization of science has been in the news of late, with the Bush Administration accused of suppressing or cherry picking agency science in to cast doubt and uncertainty on the contribution of human causes to global warming. Leading scientific organizations, such as the Union of Concerned Scientists, have charged that the Administration has used, or misused, science to advocate for a whole host of other policy decisions including the decision to drill in ANWR. In your mind, what is the role of science in informing policy? When making policy decisions, does it make sense to ignore the scientific consensus on issues as important as global warming or wildlife conservation?

Answer. If confirmed, I am committed to using the best available, peer-reviewed science in all natural resource management decision making processes.

*Question 145.* If confirmed, could you please tell me how you would ensure that the DOI uses science in a clear, transparent way to inform decision making on important natural resource issues?

Answer. If confirmed, I am committed to using the best available, peer-reviewed science in all natural resource management decision-making processes.

*Question 146.* Would you advocate use of the precautionary principle in making science-based natural resource decisions? Can you please explain to me what it means to take a precautionary approach? How has this principle been used in the past by the DOI and how will it be used in the future?

Answer. The concept of “precaution” can be deceiving as we all have learned in the issue of wildfire, for example. After years of being “careful” to put out all forest fires, thinking it would benefit the health of the forest, we ironically increased the risk of catastrophic wildfire. I think the lesson is that precaution is best applied in being careful of what we assume. If confirmed, I am committed to using the best available, peer-reviewed science in all natural resource management decision-making processes.

#### DRILLING IN ANWR

*Question 147.* Governor Kempthorne, as a Senator you were a proponent for drilling in ANWR. Do you believe that drilling in our few remaining pristine National Wildlife Refuges represents good land management policy?

Answer. I believe that opening a small portion of ANWR to development of oil and gas is an important component of a comprehensive energy policy. Any development of this area should be conducted with state of the art technology and stringent environmental standards. Congress set aside this area of the Coastal Plain of ANWR for the study of its potential for oil and gas and possible development.

*Question 148.* What distinction do you make between drilling in ANWR and other Wildlife Refuges? How about National Parks? Where, and how, do you draw the line on drilling in our most fragile of Public Lands?

Answer. I am generally opposed to any new drilling activities on National Wildlife Refuges or units of the National Park System where the Federal Government owns the minerals. In ANWR, Congress specifically set this area of the Coastal Plain aside for the study of its potential for oil and gas development, and it turns out that the potential is extremely high.

*Question 149.* What effect do you think drilling in the Arctic National Wildlife Refuge will have on today’s gasoline prices?

Answer. Knowing that the market often reacts to events, it is difficult to speculate at this time what impact the signal that America is willing to increase its domestic oil supply would have on today’s prices.

*Question 150.* If drilling were to begin today, would it have any affect on prices when it finally reaches the market sometime around 2015?

Answer. I am confident that production from ANWR will have an important and beneficial impact on supply and prices. The lesson of the current spike in energy prices is that we must develop additional reliable supplies of domestic energy from both renewable and non-renewable sources.

#### BOR

*Question 151.* As Interior Secretary, the Bureau of Reclamation would come under your purview. In Washington State, the Bureau of Reclamation is undertaking studies to explore new off-stream storage and additional irrigation infrastructure in the Yakima and Columbia Basin Projects in the State of Washington. If confirmed, do you pledge to support the continuation and completion of the Yakima Basin Storage Feasibility Study and the Odessa Subarea Special Study?

Answer. I am informed that Reclamation is presently conducting a feasibility study of options for additional water storage in the Yakima River Basin in Washington, and has initiated a special study for the Odessa subaquifer. If confirmed, I look forward to working cooperatively with you and the local sponsor to continue work on the studies, subject to available funding.

#### PAYMENT IN LIEU OF TAXES

*Question 152.* The fiscal year 2007 administration request includes a request \$198 million for the Payment in Lieu of Taxes Program (PILT)—a cut of 15% over last year’s enacted level. If confirmed as Interior Secretary, will you support efforts to restore cuts to PILT funding?

Answer. Recognizing that PILT payments compensate local governments for lost tax revenue and enhance their ability to partner with the Federal government, I am committed to working within the Administration and with Congress to fund the PILT program at appropriate levels within the overall context of our common goal of deficit reduction.

## RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR SALAZAR

## PARK MANAGEMENT POLICIES

*Question 153.* Neither Secretary Norton nor Director Mainella has persuaded me of the need, at this time, for the sweeping changes to the National Park Service management policies that were proposed by the Department late last year. The proposed management policies would replace the long-standing conservation mandate of the Park System with a more permissive and less protective approach to park management. And the new policies have not been properly vetted with the public.

What can you say to reassure us that, if you are confirmed, this costly and unnecessary rewrite of the Park Service management policies will not continue?

Answer. As I mentioned during the hearing, I do feel that periodic evaluations of an agency's policies and practices can be a healthy and productive undertaking. It is my understanding that the last policy rewrite was done prior to September 11, 2001, and that these new proposed policies reflect changes such as security measures for icons, border security, and management efficiencies. Nonetheless, while I am not familiar with all of the details of the management policies, if confirmed, I look forward to learning more about this very important matter.

*Question 154.* Will you agree in any event to submit any new DOI proposal to revise the NPS management policies to the public for comment?

Answer. As I mentioned during the hearing, I do feel that periodic evaluations of an agency's policies and practices can be a healthy and productive undertaking. I have learned that the Park Service received more than 45,000 comments on the draft that underwent public review for more than four months. If confirmed, I look forward to working with you and other members of the Committee as we move forward in this process.

*Question 155.* The 1916 Organic Act and the existing management policies unambiguously provide that conservation of park resources is the National Park Service's primary purpose. The existing management policies state that "when there is a conflict between conserving resources and values and providing for the enjoyment of them, conservation is to be predominant." Do you agree with the principle expressed in this statement?

Answer. I have been made aware of correspondence on the NPS Management Policies from Secretary Norton in which she stated her position that, "when there is a conflict between protection of resources and use, conservation will be predominant," and I agree with that position.

## PUBLIC LAND SALES

*Question 156.* The President's FY07 budget recommends raising \$350 million over ten years by selling off Bureau of Land Management (BLM) lands. This represents a fundamental shift from BLM's current policy of using receipts from land sales to acquire inholdings within existing federal land conservation systems (National Parks, National Forests, BLM National Monuments, etc). And, in my judgment and that of many of my colleagues on this committee—Republicans and Democrats alike—it is a particularly short-sighted change in policy.

Most westerners treasure recreational and other opportunities on federal lands. The sale of a significant portion of this land would prohibit many of the constituents in my state of Colorado and tourists from other states from enjoying these special places on federal lands in the future.

Do you agree that selling off BLM lands for "deficit reduction" is a good idea?

Answer. As I stated during the hearing, I do not support the concept of selling public lands purely for the purpose of covering operational expenses or for deficit reduction. However, I believe there are times when the disposal of certain Federal lands, such as widely scattered tracts that do not have resource value and are uneconomic to manage, fulfills worthwhile land management objectives. Turning these lands back to communities can be a benefit to all Americans. If confirmed, I look forward to working with you on this and other land management issues.

*Question 157.* Should the Federal Land Transaction and Facilitation Act be utilized to provide funds for the acquisition of private lands from willing sellers, to include in national parks, national forests, and BLM conservation areas?

Answer. It is my understanding that your question accurately described the provisions of the Federal Land Transaction Facilitation Act, which authorizes the use of the proceeds of sales of BLM lands to purchase inholdings from willing sellers whose lands are surrounded by lands managed by BLM, the National Park Service, the Fish and Wildlife Service, or the Forest Service. I do believe this is the appropriate use of this Act. If confirmed, I will familiarize myself with the details and requirements of the Act and would be pleased to discuss this matter with you.

## COMMUNITY FIRE ASSISTANCE

*Question 158.* Secretary Norton “4 Cs” philosophy—advancing conservation through cooperation, communication and consultation—emphasized working collaboratively with non-federal partners. The National Fire Plan and Community Wildfire Protection Planning have been cited as models for cooperative conservation. Yet, the President’s FY07 budget request would reduce funding for community fire assistance programs by 25% and would eliminate BLM’s Rural Fire Assistance Program (also known as State and Local Fire Assistance).

If confirmed, will you work with me to help rural communities in the West reduce the risk of wildfires?

Answer. Yes. As Governor of Idaho, I formed a very effective partnership with both the Department of the Interior and the U.S. Forest Service, and I experienced first-hand the benefits of the National Fire Plan. It is my intention, if confirmed as Secretary, to continue working with the Forest Service, the states, and the local communities to implement the National Fire Plan and ensure the risk of wildland fire is reduced.

*Question 159.* Will you commit to advocating for increased funding for—rather than elimination of—BLM’s Rural Fire Assistance Program?

Answer. I am informed that the Department is seeking to build on the successes of the Rural Fire Assistance program through a Ready Reserve program. If I am confirmed, I will support efforts to improve the wildland fire response capabilities of local fire departments.

## AIR TANKERS

*Question 160.* In 2002 during the Big Elk fire near Estes Park, Colorado witnessed the loss of a slurry bomber and its two crew members when it broke apart and crashed. Twelve days later a helicopter working the fire crashed killing its single pilot. Wildfire aviation is an important component to the response to fires that endanger local communities, and I am interested in seeing a capable and safe fleet in service. In that regard, a blue ribbon panel was convened to make recommendations. Members of that panel recently testified before this committee, and I would like to share with you their answer to a question that asked.

Would you please review this Q&A and give this committee your views on what the Department can do to improve the wildfire aviation program?

Answer. It is my understanding that the Departments of the Interior and Agriculture (Forest Service) are currently preparing a long-term aviation strategy to meet the aviation needs of the federal fire community for the next 15 to 20 years. If confirmed, I look forward to providing the necessary leadership to complete and implement this strategy.

## PILT

*Question 161.* When I travel around the State of Colorado and meet with county commissioners, the Payment in Lieu of Taxes Program consistently ranks as their number one concern. Despite Congress’ strong support for this program, the Department of Interior and the administration consistently would have us fund it not only below its authorized levels but at lower amount each year. Many members here today would like to see that program fully funded.

Will you, as part of the FY 2008 budget process, advocate full funding of the PILT Program?

Answer. I am committed to working within the Administration and with Congress in the 2008 budget process to fund the PILT program within the overall context of our common goal of deficit reduction.

*Question 162.* If not, then will you complete and submit to Congress a plan on how the Department of Interior and the Administration plan to proceed toward full funding of the PILT Program within a reasonable period of time, without selling public lands to finance it?

Answer. I cannot commit the Administration with regard to future budgets and therefore cannot submit a funding plan prior to release of the 2008 budget. However, if confirmed, I do plan to maintain an open dialogue with the Congress, states, and counties about PILT. I do not plan to propose the use of public lands sales revenue for this purpose.

## LWCF

*Question 163.* During the 2000 Presidential campaign, then Governor George W. Bush committed to “full funding” for the Land and Water Conservation Fund at the authorized level of \$900 million annually. You publicly endorsed that commitment

in 2001. Since then, Secretary Norton has presided over its virtual demise. I am working hard to revitalize the stateside grant program of the LWCF.

Since its inception in 1964, the LWCF stateside grants program has helped create thousands of parks and open space opportunities for Americans, using revenues from offshore oil and gas drilling. Colorado has benefited greatly from Congress's outstanding vision, as has Idaho, which has received over \$37 million to fund 410 of these parks and recreation projects.

Would you agree with me that the LWCF stateside grants program remains vital to states like ours that are growing rapidly and where there is a great demand for additional open space and recreation opportunities?

Answer. States like Idaho have benefited greatly from the Land and Water Conservation Fund. In my home state, we have used those funds to purchase and develop parks, promote wildlife and wetlands conservation and protect species. It is my understanding that nearly \$3.9 billion has been appropriated through 2006 for the LWCF State Assistance Grant program, providing many significant resources to States to develop recreation programs and acquire land. It also is my understanding that the 2007 President's Budget reflects the judgment made within the context of the shared goal of deficit reduction, with priority given to the core operating programs for parks, refuges, and other public lands.

*Question 164.* If confirmed, can I count on you to help me restore this vital component of America's land conservation agenda?

Answer. If confirmed, I will consider the Stateside Grants budget needs within the context of the annual budget.

#### BLM LEASING POLICIES

*Question 165.* I am concerned that the administration's rush to lease as much acreage as possible for oil and gas exploration and development will have long-term negative impacts on our nation's energy policy. For example, the City of Grand Junction, Colorado—a pro-business, pro-development, pro-energy town that is reaping many of the benefits of Colorado's natural gas industry—recently asked the BLM to defer a gas lease sale in the City's watershed area, to address their concerns about possible contamination of drinking water. Despite my objections and those of Congressman John Salazar, BLM proceeded with the lease sale without regard to the City's concerns and has yet to address them in a meaningful way.

Another example is the May 11th lease sale, which includes 5,200 acres of BLM land that was set aside in the management plan for mountain biking near Fruita, Colorado. Mountain biking is a major tourist draw to this area of Colorado, and the local communities have concerns about this lease sale.

It is this type of rush to lease, despite the real concerns of a pro-development community, that leads me to believe that there is a fundamental problem with how the BLM is doing business in Colorado. Moreover, by making oil and gas exploration and development the number one priority on all BLM land, over all other uses, will permanently and irrevocably affect the natural heritage of the Rocky Mountain West.

Will you commit to work with local communities and to listen to their legitimate concerns regarding the primacy of energy development over other uses of public lands?

Answer. Working with local communities and government agencies will continue to be a high priority for the Department if I am confirmed as Secretary. It is important that local community concerns about energy development on DOI managed lands be considered in all land use management and permitting decisions and that the right decision is made for the right reasons.

*Question 166.* In 1993, the BLM signed off on the Grand Mesa Slopes Management Plan with the City of Grand Junction and the Town of Palisade, among others, which states that BLM would recommend mineral withdrawals "where municipal water facilities exist or are to be developed or where surface protection is deemed desirable" only after consultation with the Grand Mesa Slopes advisory committee.

Nevertheless, earlier this year BLM announced a lease sale on thousands of acres of land adjacent to and within the City and Town's watershed area without having done the required consultation. BLM is in the process of finalizing that lease sale now, over the City and Town's strong objections and in violation of the Grand Mesa Slopes Planning document.

If confirmed, will you request that this lease sale be withdrawn until the City of Grand Junction and the Town of Palisade's concerns are adequately addressed and this agreement can be implemented, including the withdrawal of the minerals?

Answer. I am not familiar with the details of this lease sale. However, if confirmed as Secretary, reviewing concerns of local communities regarding energy de-

velopment will be a priority for me, and I can assure you that I will give those concerns due consideration.

#### ROAN PLATEAU

*Question 167.* Current BLM oil and gas leasing and development policies have resulted in the BLM opening to leasing millions of acres of sensitive lands, including lands that many members of Congress have proposed for wilderness, or that have previously been protected for their wildlife or cultural values. In Colorado, the Roan Plateau is an example of one of those special places. Tens of thousands of acres of public lands administered by the BLM are prime wildlife habitat, home to rare species of plants and animals, and a refuge for Colorado citizens who seek solitude and renewal through hiking, hunting, fishing and camping. I have publicly stated that the Roan Plateau is a unique resource that should be preserved for future generations and should be “off limits” to oil and gas development.

In November 2004, the BLM’s draft environmental impact statement of the results of leasing federal lands on the Roan Plateau for oil and gas exploration and development studied four alternatives for energy development, in addition to a no action alternative. The public submitted 74,000 comments in response to the draft EIS, overwhelmingly opposed to the leasing of these lands. Today, by all appearances, BLM is preparing to issue a final EIS and Record of Decision that would pursue a leasing program fundamentally different from the four alternatives included in the draft EIS.

Do you agree that the public should have an opportunity to review and comment on the specifics of a leasing program proposed for lands with unique wilderness, wildlife and recreational characteristics before the BLM makes a final administrative decision?

Answer. Yes. I support full public participation in programs managed by the Department as prescribed in the laws that govern the Department’s activities.

*Question 168.* If confirmed, can I count on you to reverse BLM policies that encourage the leasing of lands identified by citizens and the BLM itself as harboring wilderness values, and important wildlife and recreational values?

Answer. If confirmed, I will support policies to ensure the public has the fullest possible opportunity to review and comment on leasing proposals, including the opportunity to identify potential wilderness, wildlife, and recreational values as spelled out in regulations and law.

#### OIL SHALE

*Question 169.* Last year the Senate and the members of this committee worked very hard on the Energy Policy Act of 2005, (PL 109-58). An important section of that bill (section 369) deals with the potential development of oil shale in the western United States. A bipartisan effort laid out a deliberate, thoughtful process for the potential development of oil shale in Colorado, Utah and Wyoming. As the Chairman indicated, we are pleased with the BLM’s diligence in issuing the research and development leases.

Will you commit to continuing the deliberate and thoughtful process, that Congress set forth in that legislation, regarding oil shale development in the West—including the completion of the programmatic EIS as required by Section 369(d) of the Energy Policy Act prior to moving forward with a commercial leasing program?

Answer. I agree that the development of oil shale represents an important part of the nation’s energy portfolio. I am generally aware of the BLM’s efforts so far in issuing oil shale research and development leases. If confirmed, I pledge that I will support the deliberative public process and the oil shale programmatic environmental impact study, as required by the Energy Policy Act of 2005, as the Department of the Interior moves forward with a commercial leasing program.

*Question 170.* Will you continue to work with local communities in a way that considers their input, experience, and concerns with potential oil shale development?

Answer. As Governor, I appreciate and value local community involvement. If confirmed, I will ensure that the Department of the Interior includes communities, local officials, interested citizens, and other stakeholders as the Department moves forward. I look forward to working with you and other Members of Congress to ensure that oil shale leasing in Colorado proceeds in an appropriate manner.

*Question 171.* Section 369(d) of the Energy Policy Act (PL 109-58) requires the Secretary to develop a programmatic environmental impact statement on a potential commercial oil shale leasing program. Subsection (e) of the statutes provides:

(e) COMMENCEMENT OF COMMERCIAL LEASING OF OIL SHALE AND TAR SANDS.—Not later than 180 days after publication of the final regulation required by subsection (d), the Secretary shall consult with the Governors of

States with significant oil shale and tar sands resources on public lands, representatives of local governments in such States, interested Indian tribes, and other interested persons, to determine the level of support and interest in the States in the development of tar sands and oil shale resources. If the Secretary finds sufficient support and interest exists in a State, the Secretary *may* conduct a lease sale in that State under the commercial leasing program regulations. Evidence of interest in a lease sale under this subsection shall include, but not be limited to, appropriate areas nominated for leasing by potential lessees and other interested parties. (Emphasis added.)

It was certainly my intention—and I believe the statutory language reflects this—to provide the Secretary with discretion to develop and execute a commercial oil shale leasing program based on the findings of the programmatic EIS and based on the results of the consultation with state and local governments and other stakeholders mandated in that subsection. Do you agree? If not, please explain your answer.

Answer. Yes, I agree that the Energy Policy Act provides the Secretary with discretion to develop and execute a commercial oil shale leasing program based on the findings of the programmatic EIS and based on the results of consultation with state and local governments. It is my understanding that the FY 2007 budget requests funds for the programmatic EIS. If confirmed, I will work to ensure that the requested funds are applied to move the program forward in an expeditious manner.

ROAD CLAIMS ON NATIONAL PARKS, NATIONAL WILDLIFE REFUGES AND BLM LANDS  
(RS 2477)

*Question 172.* In one of her last official acts, Secretary Norton authorized the Department of the Interior to enter into road maintenance agreements with states and local governments that will affect National Parks, National Monuments, National Wildlife Refuges, wilderness areas and public lands across the West. I have serious concerns about Secretary Norton's March 22 Secretarial Order. Although these maintenance agreements are not supposed to recognize legal rights to use roads under the repealed Revised Statute 2477, the public perception will be very different. Local governments and residents will inevitably see these maintenance agreements as recognition of local rights to use roads, trails and paths that criss-cross current and former public land, even though many of these claims are of doubtful merit. Whatever the Department's intention, the public perception that these roads and trails are open to public use will lead to increased and unregulated use of these roads and trails, uses that can have very damaging and sometimes irreversible impacts on these special public lands.

Do you agree that the 10th Circuit Court of Appeals decision in *Southern Utah Wilderness Alliance v. BLM* does not require the BLM to enter into road maintenance agreements with local and state governments for roads subject to non-adjudicated RS 2477 claims?

Answer. It is my understanding that the 10th Circuit decision does not require this, but BLM has the authority to enter into agreements and already has many in place.

*Question 173.* Do you agree that it is entirely within the discretion of the Department of the Interior to enter into or not to enter into such road maintenance agreements?

Answer. As I stated, I am aware that the Department, through the Bureau of Land Management, has used road maintenance agreements for a number of years. I am not, however, fully versed in the details of this policy. If confirmed I will have the opportunity to become more familiar with these issues, including how the policy is being implemented. I will be happy to discuss the matter with you at that time.

*Question 174.* If confirmed, will you refrain from authorizing any road maintenance agreements or construction projects under this policy?

Answer. Again, if confirmed I will have the opportunity to become more familiar with the details of this policy, including how the policy is being implemented with regard to road maintenance agreements and construction projects. I will be happy to discuss the matter with you at that time.

NATIONAL LANDSCAPE CONSERVATION SYSTEM

*Question 175.* The National Landscape Conservation System, established in 2000 and encompassing 26 million acres of the BLM's "Crown Jewel" landscapes, has suffered from neglect during the past five years.

If confirmed, will you work with me to institutionalize the NLCS and provide it with the financial resources it needs to fulfill its mission of keeping NLCS lands "healthy, wild and open."

Answer. If confirmed, I will review the budget for this program and work to ensure the agency is able to carry out its functions as Congress has directed. I would look forward to visiting with you about this at that time.

ARKANSAS VALLEY CONDUIT AND ANIMAS-LA PLATA (BUREAU OF RECLAMATION):  
ARKANSAS VALLEY CONDUIT

*Question 176.* I am a cosponsor with my colleague Senator Allard of S. 1106. Our bill would authorize the Bureau (with a local cost-share) to construct a pipeline to deliver drinking water to communities south of Pueblo, Colorado all the way to the Kansas border. The construction of this pipeline is critical for these rural communities; numerous entities are already facing some inquiry or notice from the Colorado Department of Health and Environment that their drinking water does not meet current standards. These very small towns and water providers on their own cannot possibly all build facilities to meet standards, and so the Arkansas Valley Conduit is a regional approach to addressing this issue.

Our bill is a stand alone authorization for a rural water supply project and would not change the statute authorizing the Fryingpan-Arkansas Project. Nevertheless, the Bureau has informed my constituents as recently as a month ago that it would oppose this bill because there is an 80-20 federal/non-federal cost share provision.

The Bureau's stated reason for its opposition is that this would set a precedent. Has the Bureau supported and implemented rural water supply projects that did not involve a 100 percent local cost-share obligation?

Answer. I do not know whether or not the Bureau has supported the rural water supply projects that did not involve 100 percent local cost share. I understand the importance of this project to you and I look forward to learning more about it and working with you and Senator Allard on this project in the future.

ANIMAS-LA PLATA

*Question 177.* I have been involved in the Colorado Ute Indian Water Rights Settlement Act and the related Animas-La Plata Project for many years. Like many others, I am excited that this project is well underway. However, I share the concerns of the project sponsors that not requesting funding up to the spending capability of the Bureau will delay the settlement implementation and increase project costs.

Would you agree that it would be in the best interest of all parties, including the taxpayers, to provide adequate funding in the coming three years of primary construction so that it is possible to complete this project in a timely and cost-effective fashion, which would also make room in the Bureau's budget in years ahead for other projects?

Answer. I understand that the \$57.4 million included in the President's FY 2007 budget request for Animas-La Plata Project (Project). Provides funding to move forward at a reasonable pace and is by far the single largest ongoing construction project within the Bureau of Reclamation. While I did not participate in the development of the Department's budget for FY 07, if confirmed, I will work to ensure the project continues to move along expeditiously within the context of the FY 08 budget development.

RESPONSES OF GOVERNOR KEMPTHORNE TO QUESTIONS FROM SENATOR MENEDEZ

*Question 178.* Governor, do you think the Interior Department is striking the appropriate balance between conservation and resource use on our public lands? If not, which direction do you think the Department needs to move in? How do you think that balance has shifted since President Bush has taken office?

Answer. The National Park Service is in the extremely challenging position of trying to conserve park resources while providing for the enjoyment of those resources in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. If confirmed, I look forward to working with the National Park Service to meet this important challenge.

*Question 179.* Do you support the administration's proposal to nearly eliminate the stateside grant program from the Land and Water Conservation Fund?

Answer. States like Idaho have benefited greatly from the Land and Water Conservation Fund. In my home state, we have used those funds to purchase and develop parks, promote wildlife and wetlands conservation and protect species. It is my understanding that nearly \$3.9 billion has been appropriated through 2006 for the LWCF State Assistance Grant program, providing many significant resources to States to develop recreation programs and acquire land. It also is my understanding that the 2007 President's Budget reflects a judgment made to advance the shared

goal of deficit reduction by giving priority to the core operating programs for parks, refuges, and other public lands. If confirmed, I will work to explore alternative sources of funding.

*Question 180.* The Land and Water Conservation Fund is authorized at \$900 million annually, and is meant to be spent on land acquisition. But in the FY07 budget, only \$83 million is proposed for land acquisition, while \$440 million is proposed for other programs. Do you believe that the Land and Water Conservation Fund should be used for purposes other than land acquisition?

Answer. I am informed that the Congress over the past decade has appropriated nearly \$1.5 billion from the Land and Water Conservation Fund for programs other than Federal land acquisition and State recreation grants, including nearly \$550 million in appropriations over the three years prior to the 2000 election. I believe this reflects Congress' view that a number of programs contribute to meeting America's conservation and recreation needs. If confirmed, as I begin to work on the 2008 budget, I will evaluate this approach and work within the Administration to develop a balanced package of conservation funding within the overall context of our common goal of deficit reduction.

*Question 181.* Do you believe that the FY07 proposed budget, where only 16% of the LWCF money would be used for land acquisition, is the proper balance for the use of these funds?

Answer. It is my understanding that the budget proposal is consistent with prior congressional action. If confirmed, as I begin work on the 2008 budget proposal I will evaluate the programs funded from the LWCF and work within the Administration to develop a balanced package of conservation funding within the overall context of our common goal of deficit reduction.

*Question 182.* What is your position on the rewrite of the National Park Service Management Policies?

Answer. As I mentioned during the hearing, I do feel that periodic evaluations of an agency's policies and practices can be a healthy and productive undertaking. It is my understanding that the last policy rewrite was done prior to September 11, 2001, and that these new proposed policies reflect changes such as security measures for icons, border security, and management efficiencies. Nonetheless, while I am not familiar with all of the details of the management policies, if confirmed, I look forward to learning more about this very important matter.

*Question 183.* Do you believe that the National Park Service is currently striking the appropriate balance between conservation and recreational use?

Answer. The National Park Service is in the extremely challenging position of trying to conserve park resources while providing for the enjoyment of those resources in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. If confirmed, I look forward to working with the National Park Service to meet this important challenge.

*Question 184.* What direction do you think the Park Service needs to move towards?

Answer. I have been advised that visitor satisfaction of the National Parks remains high. Many challenges face our National Parks, and if confirmed, I look forward to working to ensure that the National Park Service has the tools to meet those challenges.

*Question 185.* The National Park Service went through a reductive reorganization this past year, and has been evaluating the administration of the federal historic rehabilitation tax credit program. National Heritage Areas were moved out of the NPS general budget, cut in half and added to the Historic Preservation Fund as a competitive grant program; this will have a significant, negative impact on the pending Crossroads of the American Revolution Heritage Area in New Jersey. The budget for Preservation and Recreation Programs within the NPS has been cut. These recent changes suggest a rethinking about historic preservation's relevance within the NPS in general.

What do you see as the future of historic preservation—and the federal government's responsibility to maintain our shared heritage for this and future generations—within the National Park Service?

Answer. The National Park Service plays a critical role in preserving and interpreting America's historic heritage through its management of parks established to protect historic and cultural resources. The National Park Service also has an important role in administering the Historic Preservation Act, including grants to state historic preservation officers. I have been advised that the President's budget proposes a new initiative, the America's Heritage and Preservation Partnership Program, to provide educational, recreational, and conservation benefits for the American public through partnerships with other Federal, State, and local agencies, and non-profit organizations. The National Park Service's mission should continue to be

the protection of our nation's natural, cultural, and heritage resources designated as National Parks.

*Question 186.* Are you familiar with the proposal to place a WalMart in Pennsville, New Jersey, within the congressionally approved acquisition area of the Supawna Wildlife Refuge? What are your opinions of this proposal?

Answer. I am not familiar with the proposal to build a WalMart in this location or what role the Interior Department may have in that decision. If I am confirmed, I will look into this matter.

*Question 187.* The National Wildlife Refuge System, established by Teddy Roosevelt, celebrated its centennial in 2003. The administration celebrated the refuge centennial by requesting a significant increase in refuge operations and maintenance funding. Since then, however, the administration's requests for refuge funding have not kept pace with escalating costs. The Fish and Wildlife Service now has to consolidate refuge management, reducing on-site staff, removing staff entirely from some refuges. They now have to cut biological monitoring, habitat management, and visitor use programs. Patuxent Research Refuge, just a few miles from here has cut its public use hours down to the point most people cannot enjoy the refuge after work or on Holidays. Refuges provide habitat for hundreds of endangered species, and if they cannot manage habitat and populations decline, that affects private landowners as well. As Secretary, what will you do to ensure that the Refuge System is adequately funded?

Answer. I have been fortunate in my life to enjoy some wonderful experiences with wildlife, and I have a particular appreciation for bald eagles, peregrine falcons, and the other magnificent birds of prey. Many National Wildlife Refuges were established to provide habitat for these great birds, as well as for hundreds of other species. If confirmed, I would consider the funding needs of the Refuge System within the overall context of the President's FY 08 budget request.

*Question 188.* Do you support banning ATVs from the Delaware Water Gap, coastal National Wildlife Refuges, and other federally-managed properties in New Jersey?

Answer. From my experience as Governor of Idaho, I know there are many concerns that could come to bear on the use of ATV's on Federally-managed lands. I am not aware of the details of this issue.

However, just as with different categories of State lands in Idaho, I understand there are many types of Federally-managed lands, such as National Parks and National Wildlife Refuges, each of which can have unique restrictions or allowances regarding their use by the public. If confirmed, I will work with Congress and the public to ensure our policies regarding use of ATV's are appropriate for lands under the jurisdiction of the Department of the Interior.

*Question 189.* Would you be supportive of obtaining money for the Highlands Conservation Act?

Answer. I am not familiar with the Highlands Conservation Act, but if confirmed I look forward to learning more about it.

*Question 190.* Would you encourage the participation of Federal Land Managers in land use decisions to protect federal lands and other federal resources from the effects of local and state land use and environmental decisions?

Answer. I believe it is important that Federal land managers work cooperatively with state and local governments to reach consensus on issues that involve the wise use and conservation of Federal lands. In this way, we can avoid costly legal battles. In many areas, Congress has provided clear authority to protect certain land characteristics and values. I am committed to carrying out that clear Congressional direction and to the good stewardship of the Federal lands.

*Question 191.* Would you support additional Wild and Scenic River designations in New Jersey?

Answer. I have been advised that there is a bill pending in Congress, supported by the Department, to designate the Musconetcong River in New Jersey. If confirmed, I look forward to continuing to support this legislation and reviewing any other future proposed designations.

*Question 192.* Would you support regulations that would strengthen protections for rivers that are already designated as Wild and Scenic, particularly from local and state land use and environmental decisions?

Answer. I believe Wild and Scenic Rivers are a tremendous asset. In my home State of Idaho, we have approximately 350 miles of river designated as wild and scenic, including 79 miles of the Salmon River, the longest free flowing river within the boundaries of one state in the lower 48. While I believe the current Act includes strong language ensuring protection against land use and environmental decisions, it is always prudent to review current regulations, and I will be pleased to do so if confirmed.

*Question 193.* Do you intend to use your authority as Secretary of the Interior to protect public lands from air pollution emanating from sources located on private land? From air pollution emanating from sources on other public lands?

Answer. If confirmed, I will make certain that the Department of the Interior works to address issues of this nature in accordance with relevant law and in consultation with states and the Environmental Protection Agency.

*Question 194.* Would DOI ever consider taking legal action against facilities that emit acid rain-causing pollutants into the air where those pollutants cause harm to federal lands and streams on those lands? If not, how do you intend to protect the federal lands from this assault?

Answer. If confirmed, I would ensure that the Department of the Interior would consider all appropriate actions in cases of this nature.

*Question 195.* What do you think the current problems are with the Endangered Species Act?

Answer. Primarily, ESA needs more follow through to recover listed species. For example, the process of consultation with the action agencies has a tendency to get unreasonably delayed, taking money and effort away from recovery work. Even the process by which habitat conservation planning and conservation permits are provided to private parties under Section 10 has proven hugely expensive and time consuming, and these programs are intended to help species.

Finally, rarely do we hear about an endangered species without reference to a lawsuit; while that is great for attorneys, litigation rarely helps the species. Too often, money that could otherwise be used for on-the-ground habitat restoration and recovery projects is siphoned away to pay for virtually never-ending legal battles. The sad truth is that the ESA too often leads to conflict, when instead, it should lead to cooperation, conservation, and ultimately, recovery of the species.

*Question 196.* Do you support proposed changes to the ESA that would alter the current critical habitat provisions of the act? If so, why? If not, why not?

Answer. I believe we need to take a holistic approach to ESA reform. Our ultimate goal should be to support those changes that help us recover species. I look forward to working with Congress to update and improve the ESA.

*Question 197.* What do you think of the endangered species bill that passed the House last year? Do you support it?

Answer. As my record reflects, as both Senator and as Governor of Idaho, I am committed to working to improve the Endangered Species Act. I am not fully aware of the details of the bill, but I will review the bill, and if confirmed, I will work with Congress to improve the ability of the ESA to recover species.

*Question 198.* What is your position on regulations or changes to the Endangered Species Act allowing federal agencies like the Forest Service or Corps of Engineers to self-consult under section 7 of the Endangered Species Act?

Answer. Although I am aware of the consulting requirements established by section 7 of the ESA, I have not had the opportunity to consider this particular issue. If I am confirmed as Secretary, finding ways to improve implementation of the ESA that support and promote species recovery will be a high priority.

*Question 199.* How do you feel about adding new species to the endangered list?

Answer. I believe that adding new species to the list may be necessary when all other measures have failed. However, the first priority should be focusing on species conservation in partnership with States and private landowners so that listing is not necessary.

Think about this in terms of what happens in a hospital emergency room. We would never accept a health care system in which the ambulance delivers the patient, the emergency room takes their name and vital signs and then moves them to the waiting room where they never see a doctor. If I go to the hospital, I expect to be treated and released, not admitted and ignored. Unfortunately, under the ESA, that is exactly the system we accept.

Moreover, some contend that the ESA has benefited listed species by simply preventing their extinction. Even if we're generous and assume this is true for many species, I still have one question: Are we satisfied? Listing alone doesn't ensure recovery for a species which is the goal of the ESA. If we are going to list a species, we should also be committed to its recovery and delisting.

*Question 200.* Do you support the waiver of environmental laws pursuant to the REAL ID Act, where such waivers would allow the construction of border barriers and roads on DOI-administered lands?

Answer. I believe there is a need to assess these matters on a case-by-case basis. If confirmed, I will work with the Department of Homeland Security to achieve an appropriate balance between border security and environmental protection.

*Question 201.* In June of last year, GAO found that because the Bureau of Land Management had approved over three times as many oil and gas permits in 2004

as it had in 1999, it was having a hard time meeting its environmental mitigation responsibilities. As Secretary, would you intend to increase the amount of environmental mitigation work that BLM performs? Specifically, would you be willing to hire more people to cover environmental responsibilities?

Answer. If confirmed as Secretary, environmental compliance will be a priority for me. I understand that the Energy Policy Act of 2005 provides additional tools and funding to assure environmentally-responsible energy development, and it is my understanding that the President's FY 07 budget proposes a significant increase in funding for monitoring. I look forward to working with the Congress to continue to ensure environmental compliance while providing responsible energy development.

*Question 202.* GAO also recommended that BLM begin assessing fees for processing oil and gas permits. Interior agreed with the recommendation. Do you agree that assessing fees for permit processing is a good idea, and do you intend to move expeditiously to implementing the recommendation if confirmed?

Answer. I agree that assessing fees can be a good idea when appropriate and in the public interest. If I am confirmed, I will need to review this specific matter more thoroughly before offering an opinion.

*Question 203.* Governor, when it comes to comments on the 5-year-plan, do you believe that only states adjacent to the planning area should be considered?

Answer. MMS informs me that comments are actively sought from Governors of all coastal states during development of the 5-Year OCS Program. Additionally, the Department considers all comments from all parties submitted during the development of the 5-Year OCS Plan.

*Question 204.* Will you instruct MMS to hold a public hearing in New Jersey when the Draft EIS comes out?

Answer. As a governor, I understand how important it is for the views of your state to be heard in order to ensure that policy makers make more informed decisions. In the event the draft Environmental Impact Statement and the proposed plan include any activity on the Atlantic seaboard, I will commit that, if confirmed, Departmental personnel will work with you to ensure that a meeting is scheduled to hear views concerning such activity.

*Question 205.* Governor, are you familiar with a bill currently in the House, H.R. 4318, which would end all moratoria and withdrawals on the outer continental shelf for gas-only leasing? Do you have an opinion on that bill? Do you believe that gas-only leasing is feasible?

Answer. I am not familiar with this bill, and I have not yet had the opportunity to learn about the feasibility of gas-only leasing. If confirmed, I would be happy to further discuss the issue with you.

## APPENDIX II

### Additional Material Submitted for the Record

May 1, 2006.

Hon. PETE V. DOMENICI,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

Hon. JEFF BINGAMAN,  
*Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN DOMENICI AND SENATOR BINGAMAN: We strongly support the confirmation of Governor Dirk Kempthorne for U.S. Secretary of the Interior. As a colleague, we have all worked with him in a bipartisan manner and found him to be an individual of great intelligence, honesty, and integrity. Furthermore, being a Governor of a western state he has a vast understanding of federal lands and the federal-state relationship in managing those lands and vital natural resources.

We urge your committee to support Governor Kempthorne's confirmation and look forward to a quick vote by the Senate.

Sincerely,

Governor Mike Huckabee, *Arkansas*; Governor Janet Napolitano, *Arizona*; Governor Bob Riley, *Alabama*; Governor Frank H. Murkowski, *Alaska*; Governor Togiola T.A. Tulafono, *American Samoa*; Governor Arnold Schwarzenegger, *California*; Governor Bill Owens, *Colorado*; Governor Ruth Ann Minner, *Delaware*; Governor Jeb Bush, *Florida*; Governor Sonny Perdue, *Georgia*; Governor Linda Lingle, *Hawaii*; Governor Mitch Daniels, *Indiana*; Governor Thomas J. Vilsack, *Iowa*; Governor Kathleen Sebelius, *Kansas*; Governor Ernie Fletcher, *Kentucky*; Governor John Baldacci, *Maine*; Governor Robert L. Ehrlich Jr., *Maryland*; Governor Mitt Romney, *Massachusetts*; Governor Tim Pawlenty, *Minnesota*; Governor Matt Blunt, *Missouri*; Governor Haley Barbour, *Mississippi*; Governor Dave Heineman, *Nebraska*; Governor Kenny C. Guinn, *Nevada*; Governor Bill Richardson, *New Mexico*; Governor George E. Pataki, *New York*; Governor John Hoeven, *North Dakota*; Governor Bob Taft, *Ohio*; Governor Brad Henry, *Oklahoma*; Governor Theodore Kulongoski, *Oregon*; Governor Donald L. Carcieri, *Rhode Island*; Governor Mark Sanford, *South Carolina*; Governor M. Michael Rounds, *South Dakota*; Governor Phil Bredesen, *Tennessee*; Governor Rick Perry, *Texas*; Governor John Huntsman Jr., *Utah*; Governor Jim Douglas, *Vermont*; Governor Timothy M. Kaine, *Virginia*; Governor Christine O. Gregoire, *Washington*; Governor Joe Manchin III, *West Virginia*; Governor Dave Freudenthal, *Wyoming*.

STATEMENT OF STEVE GUERBER, STATE HISTORIC PRESERVATION OFFICER FOR IDAHO,  
AND EXECUTIVE DIRECTOR OF THE IDAHO STATE HISTORICAL SOCIETY

On behalf of the National Conference of State Historic Preservation Officers, I offer this testimony in support of the confirmation of Governor Dirk Kempthorne as Secretary of the United States Department of the Interior.

I have known Governor Kempthorne since 1986, the year we were both elected Mayor of our respective Idaho cities (he the Mayor of Boise and I the Mayor of nearby Eagle). Since then I have maintained a relationship while serving as CEO of the Idaho Community Foundation and, most recently, as Executive Director of the Idaho State Historical Society, an agency of state government.

Throughout the relationship, I found an important attribute of Governor Kempthorne to be a desire to build coalitions in dealing with issues and solving problems. Although the ultimate outcome of a final decision was not always acceptable to all parties involved, there was rarely a legitimate complaint that input was not solicited or given consideration. (As with Congress, not everyone is likely to be happy with the outcome of all his future such decisions and Governor Kempthorne would understand that in fulfilling his duties as Secretary of the Interior). The ability to listen and seek compromise should contribute to his being a good administrator of the U.S. Department of the Interior.

From the standpoint of historic preservation, the National Council of State Historic Preservation Officers believes Governor Kempthorne is well qualified to assume the responsibilities of the Secretary of the Interior and, more specifically, to administer the program created 40 years ago by the National Historic Preservation Act. The Act gives the Secretary the responsibility for the National Register of Historic Places, \$3 billion a year in rehabilitation programs, and a partnership relationship with Certified Local Governments (CLGs) throughout the United States. The first Secretary of the Interior chose to carry out such preservation program in partnership with the States, and since 1966 every Governor has appointed a State Historic Preservation Officer to implement the Act for the Department.

During his tenure as Mayor of Boise from 1986 to 1993, Governor Kempthorne gained important historic preservation experience from the local standpoint. In 1986 Boise became an official partner in the National Historic Preservation Program by becoming a Certified Local Government with his support. (Added to the Act in 1980, the CLG program works through the State Historic Preservation Office to bring the national preservation program to the local level). CLGs are eligible for Historic Preservation Fund grants (10% of a State's total allocation) and responsible for the National Register nominations within their jurisdiction.

The State Historic Preservation Officers have a direct interest in such duties as they relate to the Secretary of the Interior. Under the National Historic Preservation Act (16 U.S.C. 470), the State Historic Preservation Officers "work" for the Secretary in carrying out the nation's historic preservation program. The Secretary sets the standards and policies for historic preservation activity and the State Historic Preservation Officers put the standards and policies into practice.

I was appointed State Historic Preservation Officer for Idaho in 1997 by Governor Kempthorne. In that capacity, I have worked with him on several historic preservation projects ranging from preparations related to the planned restoration of the Idaho State Capitol and the adjacent Ada County Courthouse to the renovation of the Governor Alexander House. The Governor led the effort to acquire the historic Borah Station Federal Building for use as a State office building. The Governor also worked to secure funding for Idaho's state parks that included support for preservation of historic sites and restoration of buildings of historic significance in them.

It is clear that Governor Kempthorne knows the National Historic Preservation Program from the grass roots side. Work by the Governor's Lewis and Clark Trail Committee led to Idaho's important contributions to the nation's celebration of that bicentennial. He was also instrumental in transfer of the J. Curtis Earl Collection (a world-class exhibit of arms and military memorabilia) to ownership of the Idaho State Historical Society.

Further, it is apparent to anyone visiting his office in the Idaho State Capitol Building that Governor Kempthorne has a personal passion for history. In addition to the pieces of historic furniture and artifacts on loan from the Idaho State Historical Society that enhance the room at his request, his personal collection of Civil War-related items may reveal a "kid in a candy shop" approach that is likely to exist in his relationship with the National Park Service, those particular historic sites, and his duties as Secretary of the Interior to oversee their operation and protection.

Governor Kempthorne understands the "mixed use" nature of historic preservation. Unlike a strict conservation approach that treats historic places as museums, the National Historic Preservation Program seeks to preserve our nation's historic places by using them in our daily lives. Historic places when appropriately restored and marketed create a heritage tourism destination that can generate important income for the local economy. The related rehabilitation tax credit offers a federal income tax incentive that encourages the private sector to rehabilitate historic buildings for adaptive reuse for commercial and residential purposes that is generating a national investment of over \$2 billion annually.

My colleagues from throughout the country in the National Conference of State Historic Preservation Officers share my support for having an Interior Secretary who knows first hand the benefits of historic preservation as accomplished by State Historic Preservation Offices. They not only know of the high expectations of the

Department of the Interior for State activities, but of the disconnect that exists between Interior's expectations and Interior's budgetary recommendations for the States.

Finally, the variety of historic preservation experience developed by Governor Kempthorne during his career should be useful in fulfilling the Department's budget priority of Preserve America. Initiated by President George W. Bush and the First Lady, Preserve America is the government-wide program that encourages exploration and enjoyment of our American heritage. The State Historic Preservation Officers lay the foundation for historic preservation in America. We look forward to an opportunity to strengthen the State historic preservation role in Preserve America and in the Department under the leadership of Governor Kempthorne.

Thus, I personally and on behalf of the National Conference of State Historic Preservation Officers urge speedy confirmation of my friend Dirk Kempthorne as Secretary of the Interior.

---

COEUR D'ALENE TRIBE,  
*Plummer, ID, April 13, 2006.*

Hon. LARRY E. CRAIG,  
*Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR CRAIG: On behalf of the Coeur d'Alene Tribe (Tribe), I am conveying our support for Governor Dirk Kempthorne to be expeditiously and affirmatively confirmed as the next Secretary of the Interior. The Tribe believes that Mr. Kempthorne has a proven record of public service and has engaged in numerous public policy decisions that have given him the experience to serve the United States as the Secretary of Interior. As you well know, the state of Idaho has public land and natural resources that Mr. Kempthorne exercised stewardship over when he was the Governor of Idaho.

Mr. Kempthorne's immersion in issues related to public lands and natural resources in the beautiful western state of Idaho has provided him the foundation to be an experienced Secretary of Interior that will be accountable for managing a majority of America's public land and resources. In addition, Mr. Kempthorne has had to establish and maintain effective relationships with the five Indian tribes that have always called Idaho home. The Tribe has worked constructively with Mr. Kempthorne on a wide range of issues including environmental concerns, governmental regulation, education, and gaming. While we may not have always agreed on every issue that we addressed with Mr. Kempthorne, we have constructed a mutually beneficial relationship marked by open dialogue and free exchange of ideas.

The Tribe would hope that Congress stresses the solemn fiduciary duty that Mr. Kempthorne would have to uphold as the Secretary of Interior with regard to Indian tribes nationwide. As a part of that duty, the Tribe would consider Mr. Kempthorne as an equal partner in ensuring that Indian tribes' resources, homelands, and government are protected so that the road to true self-determination might be enriched. The Tribe sincerely hopes that Mr. Kempthorne's confirmation is positively moved forward and stands ready to assist you in any way possible. If you need additional information or require assistance, please contact my legislative director, Quanah Spencer, by telephone at (208) 686-0803 or by e-mail at [qspencer@cdatribe-nsn.gov](mailto:qspencer@cdatribe-nsn.gov).

Sincerely,

CHIEF J. ALLAN,  
*Chairman.*

---

STATEMENT OF THE NATIONAL AMERICAN INDIAN HOUSING COUNCIL

INTERIOR SECRETARY NOMINEE NEEDS TO BE CLEAR ON INDIAN ISSUES; SOLID  
RELATIONSHIP WITH TRIBES IS PROMISING FOR INTERIOR

WASHINGTON—March 27, 2006—The National American Indian Housing Council (NAIHC) congratulates Gov. Dirk Kempthorne on his nomination as Interior Secretary and is encouraged by his positive relationship with tribes as the governor of Idaho. NAIHC hopes that this will translate into a positive government-to-government relationship with tribes across the country as they work towards their self-determined goals for quality affordable housing and other needs.

President Bush nominated Kempthorne to the Interior Department Secretary position on March 16, to replace current Secretary Gale Norton, who announced her resignation March 10 after 5 years in the position. The Senate must confirm Kempthorne, however no hearing date has been announced. During the Senate confirma-

tion process it is important to look at Indian issues, including housing. The Bureau of Indian Affairs (BIA) is one of the largest bureaus within Interior and impacts the quality of life for more than two million Native Americans, say NAIHC leaders.

“Overall needs of Native Americans remain unmet, such as basic infrastructure in their communities, quality affordable housing, education and health care,” said NAIHC Chairman Chester Carl. “As 12% of Native Americans lack plumbing facilities, 11% lack kitchen facilities, 90,000 Native families are homeless or underhoused and 14.7% of homes are overcrowded, the Interior Department Secretary must be ready to take on these challenges.”

*BIA Head Should Be Appointed Quickly*

As head of Interior NAIHC hopes Kempthorne would nominate a new Deputy Secretary for the BIA quickly. This position has been vacant for more than a year. A new BIA head would help to implement the Title Status Report (TSR) Policy MOU that is intended to expedite mortgage transactions on tribal trust land, producing many benefits for Indian housing. The MOU guarantees that a BIA staff person will be able to certify TSRs within 30 days.

*Kempthorne Has Solid Reputation with Tribes in Idaho*

As governor, Kempthorne has collaborated with tribes on gaming compacts, signed agreements to recognize tribal sovereignty, water rights and other disputes. NAIHC hopes that this collaboration and understanding of tribal sovereignty will continue into the Interior position.

“If confirmed, Gov. Kempthorne will be responsible for honoring tribal sovereignty and respecting the need for consultation and collaboration in Indian country on all issues,” said NAIHC Executive Director Gary Gordon. “This includes collaborating with the Housing and Urban Development department and tribes on the sometimes deeply disturbing realities of housing and infrastructure needs in Indian country.”

The Coeur d’Alene Tribe in Idaho issued a statement last week stating that Gov. Kempthorne is fit to be the Interior Secretary. “Coeur d’Alene has constructed a solid foundation working with Gov. Kempthorne on a wide range of issues including gaming and environmental concerns,” said Quanah Spencer, Legislative and Public Affairs Director. The tribe’s chairman, Chief J. Allan, “mopes to continue that relationship, the trustee relationship with tribes firmly at the center.”

---

STATEMENT OF THE TRUST FOR PUBLIC LAND

SAN FRANCISCO—Alan Front, Senior Vice President of The Trust for Public Land, today issued the following statement on the nomination of Governor Dirk Kempthorne of Idaho to be the next Secretary of the Interior:

“The Trust for Public Land appreciates Governor Kempthorne’s abiding commitment to the conservation of wildlife habitat, recreation lands and access, natural and scenic landscapes, and other resource areas. Throughout his career, he has rightly placed a high priority on programs and projects that resolve land-use challenges faced by communities and property owners by securing threatened resource properties for public use and enjoyment. Among the positive results in recent years of Governor Kempthorne’s focused personal efforts on behalf of conservation is the strong Forest Legacy program he established in Idaho, which is helping to ensure that some of the state’s most treasured landscapes will continue to provide their natural, recreation, and economic bounty to the generations to come.”

“In the next few years, America’s public land resources and the communities that depend on them will face unprecedented challenges. We hope and expect that Governor Kempthorne, as Secretary of the Interior, would bring his considerable conservation perspective, experience, and leadership to bear on the key land protection decisions before the nation. We look forward to working with him to take full advantage of the conservation opportunities that bring the greatest benefits to America’s resources, communities, and the public at large.”

The Trust for Public Land, established in 1972, specializes in conservation real estate, applying its expertise in negotiations, public finance, and law to protect land for people to enjoy as parks, greenways, community gardens, urban playgrounds, and wilderness. With funding from the Forest Legacy Program, the federal Land & Water Conservation Fund, state and local open-space funds, and other public and private investments, TPL has helped to protect more than 2 million acres across the country. For more information, visit TPL on the web at [www.tpl.org](http://www.tpl.org).

NATIONAL WATER RESOURCES ASSOCIATION,  
Arlington, VA, May 1, 2006.

Hon. PETE V. DOMENICI,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington,  
DC.

Hon. JEFF BINGAMAN,  
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Wash-  
ington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: On behalf of the Board of Directors of the National Water Resources Association, NWRA, we would like to express our support for the nomination of Governor Dirk Kempthorne as the next Secretary of the Department of Interior. As water users in the 17 Western States, the Department of the Interior plays an integral role in the communities and livelihoods of our members.

Governor Kempthorne has a deep understanding of the western water issues important to our members. As a consensus builder, Governor Kempthorne has a history of working with both sides of the aisle to develop workable solutions to western land and water resource problems.

As Chairman of the Senate Subcommittee on Drinking Water, Fisheries, and Wildlife, Governor Kempthorne worked tirelessly and on a successful bipartisan effort to pass the Safe Drinking Water Act of 1996. Governor Kempthorne also possesses a wide breadth of knowledge and understanding about the importance of working in a positive manner to update the Endangered Species Act. His legislation, the Endangered Species Recovery Act of 1997, S. 1180, though unsuccessful, made much progress in forging bipartisan support for improving the act for species and people. Under his leadership, Idaho has become a model for developing positive solutions for endangered species protection that respect private property and state laws.

NWRA strongly supports the President's nomination of Governor Kempthorne and we urge the Senate to confirm his nomination.

Thank you for your time and consideration in this matter.

Sincerely,

THOMAS F. DONNELLY,  
Executive Director.

---

AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION,  
Washington, DC, March 28, 2006.

Hon. PETE V. DOMENICI,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington,  
DC.

DEAR CHAIRMAN DOMENICI: I am writing on behalf of the American Public Human Services Association (APHSA) in support of the nomination of Governor Dirk Kempthorne as Secretary of the Interior. Governor Kempthorne has dedicated the past two decades to a career in public service—first as Mayor of Boise, United States Senator and Governor. Through those years, he has attained positions of national leadership—as President of the Council of State Governments and Chairman of the National Governors Association (NGA).

Governor Kempthorne's efforts to preserve the national resources of the West are well-known and he has used his office to work with Western Governors to forge consensus strategies to protect those resources. APHSA knows Governor Kempthorne best through his initiatives and accomplishments in the areas of health and human services for the children and elderly of Idaho. It was his vision to launch the "Generation of the Child" to improve health and well-being of Idaho's children and his priority to explore the future of long term care services in this county when he led the NGA.

Governor Kempthorne is a man of vision and a leader with the passion and intelligence to tackle issues that will confront this nation in the future. We urge your support for his nomination as Secretary of the Interior.

Sincerely,

JERRY W. FRIEDMAN,  
Executive Director.

THE FOUNDATION FOR ENVIRONMENTAL AND ECONOMIC PROGRESS,  
*Washington, DC, April 24, 2006.*

Hon. PETE V. DOMENICI,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

Re: Support for the Nomination of Idaho Governor Dirk Kempthorne as Secretary, Department of the Interior

DEAR MR. CHAIRMAN: I am writing on behalf of the Foundation for Environmental and Economic Progress ("the Foundation" or "FEEP") to express support for the nomination of Idaho Governor Dirk Kempthorne as Secretary of the Interior. As a former mayor and Senator, and as a current Governor, Governor Kempthorne is uniquely qualified to work effectively with federal, state, and local officials to ensure wise stewardship of our nation's resources.

The Foundation is a national coalition of land-holding companies that advances balanced federal environmental law and policy affecting private land use. Foundation members have met regularly with Administration officials, testified at numerous Congressional hearings, and provided input to House and Senate members and their staffs regarding various alternative wetlands and endangered species proposals. We were pleased to work with then Senator Kempthorne on S. 1180, the Endangered Species Recovery Act of 1997. With strong bipartisan support, Senator Kempthorne drafted, negotiated, and led the Senate Committee on Environment and Public Works to report S. 1180. Though S. 1180 ultimately was not signed into law, debates in the current Congress on Endangered Species Act reform continue to cite S. 1180 as a favorable starting point for reform and applaud Senator Kempthorne's efforts as a model of consensus building.

Governor Kempthorne's experience at the local, federal, and state level will serve him well in his role as Secretary of the Interior. We urge the Committee to quickly report his nomination to the full Senate.

Sincerely,

VIRGINIA S. ALBRECHT,  
*Director of Government Affairs & General Counsel.*

---

WESTERN GOVERNORS' ASSOCIATION,  
*Washington, DC, May 3, 2006.*

Hon. PETE V. DOMENICI,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

Hon. JEFF BINGAMAN,  
*Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: On behalf of the membership of the Western Governors' Association, we are writing to express our unqualified support for Governor Dirk Kempthorne's nomination to be the next Secretary of the Interior. Governor Kempthorne was elected Idaho's 30th Governor in 1998 and was re-elected in 2002. As Governor, he has put forward initiatives to foster rural economic development, improve overseas marketing of Idaho products, and promote greater integration of the state's scientific, educational, and business communities. Idaho's children have also been his priority. He has established a range of programs to ensure that Idaho's children are healthy and well educated.

Governor Kempthorne has actively participated in the Western Governors' Association throughout his tenure and served as our Chairman in 2001. He is currently or has been a leader on a number of key WGA issues including forest health, Endangered Species Act reform, energy policy and drug policy.

He has been particularly active on our forest health efforts. In response to the devastating wildfires that struck Idaho and many other western states in the summer of 2000, Governor Kempthorne worked closely with the Governor of Oregon to develop the 10-Year Comprehensive Strategy: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment. He brought together his colleagues, the Secretaries of the Interior and Agriculture, local and tribal governments and a wide range of stakeholders to fundamentally shift our nation's approach to addressing forest health. He has worked effectively to implement this Strategy both through WGA and as the sole representative of all the Governors on the Wildland Fire Leadership Council.

The Western Governors believe Governor Kempthorne possesses extraordinary leadership skills and a keen understanding of public lands issues. He is highly qualified to become the 491 Secretary of the Department of the Interior. We urge the Senate to confirm him expeditiously and look forward to working closely with him thereafter.

Thank you for your consideration of our views.

Sincerely,

JANET NAPOLITANO,  
*Governor of Arizona.*

M. MICHAEL ROUNDS,  
*Governor of South Dakota.*

---

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION,  
*Harrisburg, PA, March 22, 2006.*

Hon. PETE V. DOMENICI,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN DOMENICI: I am writing to express my personal regard for Governor Dirk Kempthorne.

I want to make clear at the outset that I consider the policies of the Bush Administration with respect to public land management, environmental protection and conservation to be terribly misguided. The President has purpled a radical course that compromises our strength and security as a nation by squandering our natural capital.

Dirk Kempthorne, however, in my experience, has been a different kind of leader: I have found him open to discussion and inviting of varied perspectives I have found him to be measured, judicious and sober in his exercise of authority.

When I was before the U.S. Senate for confirmation as Chairman of the White House Council on Environmental Quality in 1994, then-Senator Kempthorne supported my nomination and worked to secure the support of his colleagues. He was clear at the time that he did not agree with all of the policies I had helped to formulate on behalf of President Bill Clinton with respect to resource and species conservation. In fact, on some policies he was strongly and publicly in disagreement with me. Nonetheless, he took a tough stand on my behalf because he felt that I had acted honestly, openly and with consideration of solid ecological science. In other words, in my mind he acted with integrity instead of just on the basis of political expediency.

Later, then-Senator Kempthorne reached out to me and my colleagues in the Administration in an effort to forge a compromise concerning the Endangered Species Act. Other Republican leaders then, as unfortunately continues today, were promoting legislation that essentially eviscerated the Act. Dirk Kempthorne, however, was willing to acknowledge that the Clinton Administration already had implemented important reforms to the program that we were both more protective of species and more sensitive to private property concerns. Dirk Kempthorne then acted to build his legislative proposal on those Clinton Administration innovations and invited us to the table to fashion a proposal that could actually gain support and work.

In summary, it is my experience that Dirk Kempthorne is a man of principle and not just of politics. And it is my hope that, if confirmed by the U.S. Senate, Governor Kempthorne will work to restore balance, respect for science and genuine commitment to the responsible protection of our natural resources—all now sorely and sadly lacking at the U.S. Department of the Interior.

In closing and at his express request, I would like to note that Pennsylvania Governor Edward G. Rendell extends his best regards to Governor Kempthorne as well. Governor Rendell holds Governor Kempthorne in the highest personal esteem and considers him a person of strong character and integrity.

Sincerely,

KATHLEEN A. MCGINTY,  
*Secretary.*