

INTERIOR, ENVIRONMENT, AND RELATED
AGENCIES APPROPRIATIONS FOR 2013

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND
RELATED AGENCIES

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INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR 2013

THURSDAY, FEBRUARY 16, 2012.

DEPARTMENT OF THE INTERIOR

WITNESSES

HON. KEN SALAZAR, SECRETARY OF THE INTERIOR

DAVID HAYES, DEPUTY SECRETARY OF THE INTERIOR

**PAMELA HAZE, DEPUTY ASSISTANT SECRETARY—BUDGET, FINANCE,
PERFORMANCE, AND ACQUISITION**

OPENING REMARKS OF CHAIRMAN SIMPSON

Mr. SIMPSON. The committee will come to order. Before we get started, since our organizational session got canceled a couple of times because of other events, let me go through a couple things first for the committee members.

Chairman Rogers and Ranking Member Dicks have agreed on moving aggressively to complete our bills through the regular order process. To do our part we are planning on completing our subcommittee hearings by the end of March so that we can be ready for markup on our bill in subcommittee in April or early May.

The subcommittee staff met with each of your staffs recently to go over the hearing schedule. Last year we held 22 subcommittee hearings. We have scheduled 16 subcommittee hearings this year. We have tried to cut it down as much as possible, but if we have time later in the year, I would also like to have some additional oversight hearings.

Once again this year we are having public witness hearings and tribal hearings. Instructions are posted on the committee website for those groups and tribes requesting to testify. If you have a specific individual group or tribe that would like to testify, please let the subcommittee staff know so that we can accommodate those specific requests. The staff and I want this to be a collaborative process and welcome your input and active participation.

Welcome, Mr. Secretary. It is good to have you here today, along with David Hayes and Pam Haze, your able staff.

Last year at our hearing, it was like the day after your birthday, and we are a couple of weeks before your birthday, so we will wish you a happy birthday before it arrives and before the hearing starts.

My colleagues and I hope to cover a lot of ground with you today from our conversations. I know that you are continuing to set an ambitious agenda for the Department on many fronts. I have said on many occasions that while we don't agree on every issue, I do

appreciate the fact that we can work together to find common ground.

I would like to begin by making several points on a few specific issues before we receive your testimony. There are some things in your budget request that I can support strongly and some things that I am concerned about. This is the beginning of a long process, so we have some time to work through these issues.

FUNDING FOR INDIAN PROGRAMS

As you know, Indian Country is a top priority of mine and a top priority of this subcommittee.

I am pleased that you have proposed full funding for contract support costs within BIA and that you are continuing to focus on strengthening law enforcement. I hope we can work together to provide adequate funding for education and to improve the conditions of our tribal schools.

Ms. McCollum was right when last year she said that children know how a community feels about them by the shape that their schools are in.

SAGE GROUSE CONSERVATION

I am also pleased with the proposed increase of the implementation of the sage grouse conservation and restoration efforts. This is a positive step toward preventing future listings of the species, and complements some of the sage grouse work already being done on the ground.

RANGELAND MANAGEMENT

We will likely have some conversations about your proposal to decrease funding for rangeland management and to increase fees on grazing. These are issues Western Members and I care deeply about.

PAYMENTS IN LIEU OF TAXES

Likewise, I am concerned with the way that your budget request addresses the PILT, payment in lieu of taxes, program. In Western States like Idaho where the Federal Government owns nearly two-thirds of the land, the PILT program is critical to local communities. PILT is a matter of fairness to many rural communities across the country. It is the Federal Government's responsibility to be a good neighbor by meeting its obligations to State and local governments.

Congress made PILT a mandatory program in 2008 and fully funded it for 5 years outside of the discretionary funding process and outside of the jurisdiction of this subcommittee. While that authorization expires at the end of this fiscal year, the Federal Government's obligation to fund PILT does not. I am particularly concerned that the Department has requested a year-long extension of the mandatory authorization without providing any details on how to pay for it.

Like many Western Members and Senators, I am concerned that the authorizing committees may not act on extending PILT before

this authorization expires. I look forward to working with you to find a long-term solution to this perennial issue.

LAND AND WATER CONSERVATION FUND

Your overall Land and Water Conservation Fund request is more reasonable this year as compared with last year. Though reduced substantially, it is still almost 40 percent above the Fiscal Year 2012 enacted level. I remain concerned that these increases, if enacted, would occur at the expense of other critical areas like construction accounts, which are down 16 percent in your budget request, and hazardous fuel funding, which is reduced by \$39 million. A reasonable conclusion is that the Department is increasing land acquisition too quickly and at the expense of other very important and deserving priorities.

HAZARDOUS FUELS

Reducing the threat of catastrophic wildfires is always a top priority for the Congress and the Department. Last year, however, the committee was very concerned about the constraint put upon the use of hazardous fuel dollars. These funds help clear brush and prevent forest and rangeland fires. The Department and OMB are requiring 90 percent of these dollars be spent in the wildland urban interface. The problem is that much of the land managed by the Department is not in the wildland urban interface. For example, many of our national parks, BLM rangelands and Fish and Wildlife Refuges are in remote areas. This doesn't mean we shouldn't protect areas like Yellowstone and Yosemite from catastrophic wildfires.

The fiscal year 2012 omnibus specifically directs the Department to remove this requirement and instead allow the agencies to allocate funds based on the highest priority projects in the highest priority areas. I was dismayed to hear that the Department and OMB are still pursuing this requirement, despite the report language and numerous meetings on this issue.

BOEM AND BSEE

Last year, I mentioned that increased funding for the former Minerals Management Service was not a blank check, and the same is true this year. Funding has been significantly increased for BOEM and for BSEE for the second year in a row, and I want to commend you and the Department for some of the progress made thus far on approving permits and plans. Still, we have hardly scratched the surface in meeting our potential in oil and gas exploration and production, both onshore and on the Outer Continental Shelf.

There is also a lot of work to do in hiring much-needed engineers and inspectors. At your request we included language in the fiscal year 2012 bill authorizing the Department to hire inspectors and engineers at a higher pay scale competitive with the oil and gas industry. As a result, the bureaus now have both the funding and the tools you told us that they needed. With gas prices on the rise again, the public and the Congress will have little patience for more delays.

In closing, Mr. Secretary, no hearing with you would be complete without expressing our thanks to the fine professional staff that you have.

David Hayes has been very helpful on a number of issues over the past year and, as I have said before, our subcommittee frankly couldn't do its work without Pam Haze, and we appreciate all that they do.

Again, I truly appreciate the collaborative effort and the way that you have worked with both me and with this subcommittee in addressing our problems. In the field of public service you are truly one of the good guys. Thank you for being here today.

Secretary SALAZAR. Thank you, Mr. Chairman.

Mr. SIMPSON. Ranking Member Moran.

OPENING REMARKS OF CONGRESSMAN MORAN

Mr. MORAN. Thank you, Mr. Chairman, and it is good to note the presence of the chairman of the full committee and the ranking member of the full committee here underscoring the importance of this bill.

Mr. Secretary, I want to join the chairman, my friend Mr. Simpson, in welcoming you to the subcommittee today, and I do also appreciate the presence of Deputy Secretary David Hayes and your top-notch lead budget person Pam Haze. We figure we are going to do better if we get her name in the transcript there, not that she cares about that stuff.

Mr. Secretary, as we look over your budget requests, we can't help but be struck by the wide-ranging responsibilities carried out by the Department of the Interior. We welcome your efforts to balance these responsibilities as a steward of America's natural and cultural heritage.

URANIUM MINING

It is with that in mind that I want to particularly commend you for your recent decision to withdraw more than a million acres of public land within and near the Grand Canyon from further uranium mining. That was a stewardship decision that millions of Americans today and future generations to come will appreciate and for which they will owe you a great debt of gratitude.

We are blessed in this country with so much natural beauty and an array of natural resources for our constituents and all our fellow citizens to enjoy. However, as the respected Republican and former EPA Administrator William Ruckelshaus once noted, "Nature provides a free lunch, but only if we control our appetites."

Do you like that one, Mr. Chairman?

Mr. SIMPSON. I am going to write that one down.

Mr. MORAN. Well, David will get it for you.

OIL AND GAS

So much of life is a question of balance and your challenge is ensuring that this Nation's natural resources not only provide us benefits today but are there for future generations as well. It is with this observation in mind that I note in your testimony, Mr. Secretary, that you mentioned that the Interior Department oversees

the development of 24 percent of America's domestic oil and gas supplies.

To hear some people talk, though, you would think that President Obama and you are bent on locking up America's oil and natural gas. What some of the administration's critics don't seem to want the public to know is that under your watch we are today producing more oil and gas off of public lands and waters than was produced in the later years of the previous Bush administration. I think it is fair to say that no one really accused former President Bush and Vice President Cheney, two oil men, of being timid in their development of oil and gas on public lands, and yet you are producing at a higher rate, and I would add that with the industry's record profits, oil and gas companies have profited handsomely from the use of the public resources that are owned by the American taxpayer. I support your efforts, Mr. Secretary, to make these companies contribute to the Department's inspection and administrative costs.

I also appreciate, Mr. Secretary, that you and the President recognize that as a finite and depleting resource oil and gas are not the long-term future for America's energy needs. Fossil fuel sources are neither sustainable nor renewable. And while some pay lip service to an "all of the above" energy strategy, you and the Department have put action to those words. In just the past few years we have seen a tremendous increase in renewable energy produced on public lands, substantially increasing American production in solar and wind energy.

Mr. Secretary, there is a great deal to like in your stewardship of the Interior Department and particularly in this budget request, so I appreciate the passion and the enthusiasm you do bring to this job. I think this budget reflects much of that, and I do look forward to your testimony this afternoon, and thank you, Mr. Chairman, for giving us the opportunity to make a statement.

Mr. SIMPSON. The chairman of the full committee, Mr. Rogers.

OPENING REMARKS OF CHAIRMAN ROGERS

Mr. ROGERS. Thank you, Mr. Chairman, for yielding. Mr. Secretary and staff, welcome, I am glad to have you here. Yesterday we heard from Secretary Napolitano about matters pertaining to Homeland Security. This morning our former colleague, Defense Secretary Panetta, testified regarding our national security. This afternoon we expect to hear from you on issues pertaining to U.S. energy security, an area which, frankly, I have deep concerns with that this country is falling woefully behind.

ENERGY DEVELOPMENT

After reviewing your request, nothing alleviates my anxiety. It appears we are continuing to move in the wrong direction where our country's energy independence is concerned and that many components of this budget request merely reflect this administration's political posturing and alarming misunderstanding of our country's energy needs.

To be frank, if the administration has an overarching energy plan, I am at a loss to recognize it. During a weak economic recov-

ery, American families struggling to make ends meet desperately want lower and more consistent energy and fuel prices.

While the President would make it sound as though his administration has made great progress in expanding domestic production of conventional energy since 2008, the actual picture is far less rosy. Instead of pursuing commonsense proposals to shore up our energy security for the short and long term, the administration has turned loose the EPA regulators on the coal and natural gas industries, using draconian regulations to shut down the permitting process.

The State Department bowed to extreme environmentalists in denying the Keystone XL Pipeline extension, a bipartisan and publicly supported effort to supply our country with cheap, secure Canadian oil.

The Department of Energy has thrown away taxpayer monies supporting companies like bankrupted Solyndra and floundering Fiskar, whose products would never have benefited middle-class Americans, our economy, or the environment. And your agency continues to hold hostage OCS oil and gas reserves that could fuel our economy for decades.

BLM AND OSM CONSOLIDATION

Meanwhile, Interior is surging ahead with a universally decried and legally dubious proposal to merge the Bureau of Land Management and Office of Surface Mining that by all accounts will bring permitting for coal and other minerals to a standstill.

If there is a common thread, tying all of these efforts together, it seems to me that they raise energy costs, eliminate needed jobs and reduce our energy security. With Iran creating instability in the Middle East and threatening the Strait of Hormuz, aggressive expansion by Chinese state-owned enterprises to monopolize energy and commodity markets, and rapidly growing demand by emerging economies, America must attain greater energy independence to ensure a secure and prosperous future.

ENERGY DEVELOPMENT

Mr. Secretary, while our primary purpose is to discuss your budget request for fiscal 2013, you no doubt understand the wider implications of the actions taken by your Department regarding the production of domestic energy, inherently vital to powering our economy and maintaining our national security.

So I hope you can touch on these issues in your remarks or the questions and answers so that we could better understand the Department's plans. Thank you.

Mr. SIMPSON. The ranking member of the full committee, Mr. Dicks.

OPENING REMARKS OF CONGRESSMAN DICKS

Mr. DICKS. I want to welcome Interior Secretary Ken Salazar and David Hayes and your outstanding performer, Pam Haze. All of you are outstanding as far as I am concerned. I would like to see how we can straighten out the difference between the Moran

statement and the chairman's statement, but that will come at a different moment.

The fiscal year 2013 budget for the Department of Interior delivered to the Hill on Monday is more or less a continuation of the spending levels of the past few years. While I would prefer higher funding levels for the important programs administered by the Interior Department, I think that this is a responsible proposal that strikes a good balance between providing enough funding for a proper functioning of the Department's various agencies and the fiscal constraints that we have voted to impose on the Appropriations Committee.

FUNDING FOR INDIAN PROGRAMS

Despite the relatively flat funding proposal, I do want to commend the Secretary on moving forward with some important initiatives. First of all, I want to thank the Secretary for nearly maintaining the recently increased budget levels for the Bureau of Indian Affairs. The programs that serve tribal and Native Alaskan communities are vitally important, and I am proud of the working relationship between the subcommittee and the BIA to meet our shared responsibilities.

COBELL SETTLEMENT

I also want to work with the Department as the Cobell settlement is put in place, which is a long time coming. And I also would mention that this committee, on a bipartisan basis, has supported Native American programs, including the Indian Health Service.

LAND AND WATER CONSERVATION FUND

Other noteworthy enhancement efforts that have been proposed for fiscal year 2013 include increased funding for the Land and Water Conservation Fund. I also want to applaud the continued development of your America's Great Outdoors Initiative, the means to get folks to better utilize and appreciate our Federal lands. I support the fact that this budget aims to get better answers on what exactly are the health and environmental threats posed by the controversial energy extraction process known as hydraulic fracturing.

ENERGY DEVELOPMENT

I am happy to note that the fiscal year 2013 budget request should put to rest the baseless charge that the Obama administration has hobbled energy production in this country. The \$2 billion in increased revenue from energy production on Federal land and offshore areas, compared to last year, the 30 percent increase in oil production since 2008 from the Outer Continental Shelf, and the 50 percent increase in proposals by industry for oil and gas exploration leases on BLM land shows that this administration and this Interior Department have been effective in increasing domestic energy supply from our Federal lands.

And I think you said earlier that while we used to have like 60 percent of our oil imported, now it is down to 45 percent. I think that is pretty good.

URANIUM MINING

I deeply appreciate your efforts to protect the Grand Canyon from foreign uranium mining, and I also hope you will fight against the Pebble Mine near Bristol Bay where the greatest salmon run in the world is threatened by this project. I think it is a State project, but it is one that I know that is going to require permitting. I think this is a terrible mistake. I have fished in that area. And I know the BLM is taking this very seriously, but I wanted to call that to your attention.

Now, Mr. Secretary, I certainly enjoyed being with you last September in Port Angeles at the celebration to commence the deconstruction of two dams along the Elwha River. I understand you are heading back out to Washington State this weekend for a visit on the future of the San Juan Islands. I would suggest that you might also want to visit the great estuary restoration work done at the Nisqually Wildlife Refuge south of Tacoma on one of your return trips to my home State and see the great job the Fish and Wildlife Service did, including the effective use of ARRA stimulus money.

And I have really appreciated working with you, and I think we have got to try to be bipartisan on this committee, which we always have been, and protect the important programs in the Department of Interior and the Forest Service.

And I know you have done a good job on reforming our offshore drilling program, too. That was essential after the terrible oil spill in the Gulf.

Thank you, Mr. Chairman.

Mr. SIMPSON. Thank you, Mr. Secretary. We look forward to your testimony.

OPENING REMARKS OF SECRETARY SALAZAR

Secretary Salazar.

Thank you very much, Chairman Simpson, Ranking Member Moran, and Chairman Rogers and my friend, Ranking Member Dicks, for your opening statements.

Let me at the outset say thank you to this committee and to the leadership for your work on the 2012 budget. It was a difficult process. I know there was a lot of deliberation about it but at the end of the day I know this Congress and this committee worked through some very, very tough issues. I just want to say thank you, to you, Chairman, and to you, all the members of the committee, as well as to your staff, who have a great working relationship with our people, including the great Pam Haze. So thank you all very, very much.

Now, let me make a few comments about the budget and maybe in that context answer some of your questions. I know we will have an opportunity to have a much more in-depth dialogue about some of the issues on your mind.

TOUGH CHOICES

First, the way I would characterize the 2013 budget from my point of view is that it is a squeeze budget with tough choices and

some painful cuts. Those painful cuts are real and I will describe some of them in a minute.

It is a budget which cuts government, and in cutting government it actually asks the Department of the Interior and its employees to do more with the responsibilities that have been assigned to the Department of the Interior over the centuries. It is a budget which supports job creation. Yes, Chairman Rogers, major job creation through the energy world, including oil and gas and conventional energy, as well as the energy future through renewable energy and natural gas and other parts that are included in this budget.

CONSERVATION

It is a budget which supports conservation and outdoor recreation and tourism. In any of your districts, whether it is Cuyahoga National Park, where I was not far from there, Congressman LaTourette, in Cleveland, Ohio, we know when you invest in conservation and outdoor recreation it is one of the cornerstones, of tourism here in the United States.

JOB CREATION

We have independent reports that tell us we can create an additional 2.1 to 3.3 million jobs in the next 10 years. In many of your States and your communities, you look at the national icons or the wildlife refuges, the importance they represent to hunters and to anglers and to bicyclists. We know this is a huge part of our economy and one in which I now have the honor of serving as co-chair of the President's Tourism Task Force with Secretary Bryson. We hope to be able to continue to build on the successes we have with tourism and outdoor recreation.

WATER

It is a budget that supports our water agenda for the United States of America, by making sure we are taking care of the resource that really sustains our communities and is the lifeblood of our world.

FUNDING FOR INDIAN PROGRAMS

I appreciate the comments you all made with respect to the tribal parts of this budget. I know many of you have been advocates for us creating a new chapter in our relationships with Native Americans. We have done that. I think in this area, this committee perhaps has the template for how you can make great progress. With the work of Congressman Cole, along with the advocacy from Congresswoman McCollum, you see what we can do when we work together on these issues. I very much appreciate your support.

Let me just quickly say on the budget, when you compare it to where we have been and you look at the 2011 budget, we are 3 percent below where we were in 2011. This proposal for 2013 is 1 percent above what you enacted in 2012. So it is essentially what I would characterize as a freeze budget.

Let me spend just a few minutes describing what we have done in terms of taking a look at our Department to make sure we are running as efficient a government agency as we possibly can.

2013 BUDGET

The 2013 budget foresees that we will reduce the size of the Federal workforce in the Department of Interior by 591 FTE. That is a significant downsizing in times when there is huge demand for the services we provide across all of our agencies. We are also proposing in the 2013 budget program terminations and downsizing of a total of \$517 million.

Now, are these painful cuts? If you look at the National Heritage Areas Program, where we are proposing an \$8 million cut, National Heritage Areas are significant and important to preserve the heritage of America and continue to tell America's story, but it is a cut we are proposing.

The Central Utah Project program, we are merging into the Bureau of Reclamation. We are looking at an \$8 million cut in terms of CUPCA. CUPCA is a very important project we have been working on for a very long time. We have identified in the budget \$207 million of administrative efficiencies as well.

JOBS AND ENERGY

Let me move on to the next point, jobs and energy. Every member of this committee can agree that energy security for the United States of America is very important. To the chairman's comments, Chairman Rogers, and to others, we have been working very hard on implementing the President's vision for an all-of-the-above energy agenda. I can tell you, not as a political statement but, frankly, unequivocally here that I am proud of the work we have been able to do over the last 3 years on all fronts of our energy agenda.

The budget proposes \$662 million for conventional energy. That is mostly in the oil and gas arena and the work we are doing in the Gulf, onshore, as well as other offshore areas. It also proposes \$86 million for renewable energy where we are virtually creating a renewable energy revolution on public lands. We are proud of the work we have done in the renewable energy arena as well.

LAND AND WATER CONSERVATION FUND

I have spoken a bit about jobs in outdoor recreation. The Land and Water Conservation Fund is very much a part of that program. I hear the concerns of Chairman Simpson, and we have had many conversations about this. I know the need out there for our investments in preservation and conservation far outstrip even the \$900 million which is authorized for the Land and Water Conservation Fund annually.

I know Congresswoman Lummis has advocated and been a strong proponent, for example, on the purchase of the inholdings in the Grand Teton National Park. Right now, the commitments we have there are essentially consuming a huge percentage of the allocations we have under the Land and Water Conservation Fund. If you wanted to do it right in terms of conservation and if you want to do right in terms of preservation, whether it is the battlefields of Virginia or whether it is the preservation and protection of the Crown of the Continent in Montana and so many other areas around the country, it probably would be about a \$5 billion need we would have to fund.

This is, for me, a very painful part of the budget when I come before you and I say our budget request is for \$450 million for the Land and Water Conservation Fund. I wish it could be much, much, more because I think the needs are there, including the \$4 million, Congressman LaTourette, we have put into Cuyahoga National Park, which is one of the top 10 visited national parks in our country.

WATER

Enough said on jobs and outdoor recreation. Let me quickly move on to water. We have a proposed increase of \$20 million over 2012. We believe through all of the water facilities, including those in your State Congressman Simpson, the Department of the Interior through the water supplies we have, is responsible for the creation of 416,000 jobs, and provides water to 31 million people.

As we move forward with the implementation of our water agenda and watersmart agenda within the Department of the Interior, which you and this committee have supported, we can tell you by the time we finish up the 4 years we will have been able to increase the water supply in Bureau of Reclamation facilities by an amount of 730,000 acre feet. That is a significant achievement I am very proud of.

INDIAN COUNTRY

Finally, you have spoken eloquently about our work on tribal homelands. I am proud of our work that David Hayes in his own leadership and his own capacity has contributed to, ranging from Cobell to the major work and success that we have had in bringing a water supply to the Navajo reservation and in dealing with water rights issues across the country. We have turned a new page in Indian Country. It would not have happened without the bipartisan leadership of this Congress and particularly the members of this committee. Let me just say that I want to thank you for that.

In conclusion, Mr. Chairman, what I would say, it is a squeeze budget with tough choices and painful cuts. It cuts government and asks government to do more with less. It invests in job creation in a very significant way through energy, both conventional and renewable. It invests in conservation and tourism and outdoor recreation, in water and tribal homelands and all the other matters that are addressed in the budget.

I appreciate the opportunity to have this hearing and to describe to you in more fullness what it is we are proposing to do in 2013 in this very tough fiscal climate.

[The statement of Secretary Salazar follows:]

**STATEMENT OF KEN SALAZAR, SECRETARY OF THE INTERIOR
BEFORE THE SUBCOMMITTEE ON INTERIOR, ENVIRONMENT
AND RELATED AGENCIES,
HOUSE COMMITTEE ON APPROPRIATIONS
ON THE 2013 PRESIDENT'S BUDGET REQUEST**

February 16, 2012

Mr. Chairman and members of the Committee, I am pleased to be here today to present the details of the 2013 budget request for the Department of the Interior. I want to thank the members of this Committee for your efforts to enact a 2012 appropriation. The 2012 appropriations process was challenging for the Congress and the agencies – it required a coming together of diverse philosophies and views. We appreciate the support of this Committee for our priorities including America's Great Outdoors, which enhances our efforts to be responsible stewards of the Nation's lands and resources, expanded responsible development of domestic energy sources with reforms in the oil and gas programs, high levels of youth hiring and education in all of our programs, and support for improved living and economic conditions for American Indians and Alaska Natives. Lastly, I appreciate the ongoing support of this Committee and your strong interest in our programs. Although we may not always share the same views, we have been able to accomplish a lot in these last three years.

The 2013 budget builds on this strong foundation with \$11.5 billion requested in the President's budget for the Department of the Interior. This includes \$10.5 billion for programs under the jurisdiction of the Interior, Environment and Related Agencies Subcommittee and included in the Interior bill. The budget for current appropriations is \$140.3 million or one percent above the 2012 level. The request includes reductions and savings of \$516.8 million. We made difficult choices in this budget, sacrificing in many areas, deferring projects, and programming savings for efficiencies in order to maintain funding for key priorities and investments that will contribute to strengthening the economic vitality and well-being of the Nation.

As the President has detailed in his *Blueprint for an America Built to Last*, the budget proposes investments in an economy that works for everyone. Our budget request supports responsible domestic energy development, advances an America's Great Outdoors strategy to maintain our legacy and stimulate new opportunities, applies science to address the most formidable natural resource challenges, and invests in self-determination and economic development to strengthen tribal Nations. This Committee has been an active partner in advancing these priorities. I look forward to our continued collaboration during the 2013 appropriations process.

Introduction

The mission of the Department of the Interior is to protect and manage the responsible use of America's natural resources, support our cultural heritage and honor the Nation's trust responsibilities to American Indians and Alaska Natives.

Interior's people and programs impact all Americans. According to a Department study, in 2010, Interior programs and activities supported over two million jobs and approximately \$363 billion in economic activity. The Department is the steward of 20 percent of the Nation's lands. Interior man-

ages the resources of the national parks, national wildlife refuges, and public lands and assists States, Tribes, and others in the management of natural and cultural resources.

Interior manages many of the Nation's natural resources, including those that are essential for America's industry – oil and gas, coal, and minerals such as gold and uranium. On public lands and the Outer Continental Shelf, Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface mined lands. The Department of the Interior oversees the responsible development of 24 percent of America's domestic oil and gas supplies, while striving to ensure safety and environmental protection and the effective collection of revenue from this development. We estimate that energy and minerals development on Federal lands supported 1.3 million jobs and \$246 billion in economic activity in 2010.

The Department is also the largest supplier and manager of water in the 17 Western States, promotes and assists others to conserve water and extend water supplies, and provides hydropower resources used to power much of the Country. The Department estimates that the use of water, timber, and other resources produced from Federal lands supported about 370,000 jobs and \$48 billion in economic activity.

Interior works to ensure that America's spectacular landscapes, unique natural life, and cultural resources and icons endure for future generations, tells and preserves the American story, and maintains the special places that enable the shared American experience. In 2012, visitors made 476 million visits to Interior-managed lands and supported an estimated \$47 billion in economic activity.

Interior manages and delivers water, arbitrates long-standing conflicts in water allocation and use, and actively promotes water conservation. As one of the Nation's primary natural and cultural resource stewards, the Department makes decisions regarding potential development on the public lands and offshore coastal areas that can greatly impact the Nation's energy future and economic strength. Factored into this balance is the Department's unique responsibility to American Indians and Alaska Natives. The Department supports cutting edge research in the earth sciences – geology, hydrology, and biology – to inform resource management decisions at Interior and organizations across the world and in earthquake, volcano, and other hazards to protect communities across the Nation. Maintaining and building the capacity to carry out these responsibilities on behalf of the American people is Interior's primary focus.

Powering America's Economy

Stewardship of America's lands and natural resources is at the heart of the national spirit and the economy – from the responsible management and development of natural resources and increasingly, the economic power of outdoor recreation.

In 2011, the Department of the Interior generated a total of \$13.2 billion in receipts benefitting the U.S. Treasury – from a combination of fees, royalties, rents and bonuses from mineral, timber, and other natural resource development. The Department estimates that conventional and renewable energy produced on Interior lands and waters results in about \$230 billion in economic benefits each year. In 2011, of the total receipts generated by Interior, \$11.3 billion was collected from energy production on public lands, tribal lands, and Federal offshore areas – a \$2.0 billion increase over the

previous year – with receipts disbursed and revenues shared among Federal, State, and tribal governments.

Since 2008, oil production from the Federal OCS has increased by 30 percent, from 450 million barrels to more than 589 million barrels in 2010. Balancing the need for safety and environmental enforcement, Interior currently manages over 35 million acres of the OCS under active lease. A recently proposed five-year oil and gas leasing program would make more than 75 percent of undiscovered technically recoverable oil and gas estimated on the OCS available for development.

Onshore, the Bureau of Land Management held 32 onshore oil and gas lease sales in 2011. The BLM offered 1,755 parcels of land covering nearly 4.4 million acres. Nearly three-quarters or 1,296 of those parcels of land offered were leased, generating about \$256 million in revenue for American taxpayers. This was a 20 percent increase in lease sale revenue over 2010, following a strong year in which leasing reform helped to lower protests and increase revenue from onshore oil and gas lease sales on public lands. The BLM recently has seen a 50 percent jump in industry proposals to lease for oil and gas exploration. Oil and gas companies nominated nearly 4.5 million acres of public minerals for leasing in 2011, up from just under 3 million acres the year before. Industry nominations are the first step in the BLM leasing process. After evaluating the parcels, BLM may offer them at auction. Successful bidders can then apply to drill for oil and gas.

Interior is moving aggressively to put the President's energy strategy, *Blueprint for a Secure Energy Future*, into action and expand secure energy supplies for the Nation – a strategy that includes the responsible development of renewable energy sources on the public lands. At the start of this Administration, there were no solar energy facilities sited on the public lands, and wind energy development was relatively limited compared to development on private lands. Since March 2009, 29 onshore projects that increased approved capacity for production and transmission of power have been approved including the first ever utility scale solar project, five wind projects, and eight geothermal projects. The Cape Wind Energy Project, approved for construction and operation, is the first ever offshore commercial wind operation. The 2013 budget reflects an expansion of these accomplishments with the goal of permitting 11,000 megawatts by the end of 2013.

The President's *Blueprint* recognizes the economic potential of renewable energy development. The economic benefits could be particularly significant in America's remote and rural places near public lands. The Department's 2010 estimates identified nearly \$5.5 billion in economic impacts associated with renewable energy activities, a growing economic sector that supports high paying jobs.

Growing the Economy Outdoors

Interior is at the forefront of the Administration's comprehensive effort to spur job creation by making the United States the world's top travel and tourism destination. In a recent statement, President Obama cited Department of Commerce figures showing that in 2010, international travel resulted in \$134 billion in U.S. exports. International travel to the U.S. is the Nation's largest service export industry, with seven percent of total exports and 24 percent of service exports. The Bureau of Economic Analysis estimates that every additional 65 international visitors to the United States can generate enough exports to support an additional travel and tourism-related job. According to the travel industry and Bureau of Economic Analysis, international travel is particularly important as overseas or "long-haul" travelers spend on average \$4,000 on each visit.

President Obama has asked me to co-chair an interagency task force with Commerce Secretary Bryson to develop a National Travel and Tourism Strategy to expand job creation by promoting domestic and international travel opportunities throughout the United States. A particular focus of the Task Force will be on strategies for increasing tourism and recreation jobs by promoting visits to the Nation's national treasures. The Department of the Interior manages iconic destinations in the national parks, wildlife refuges, cultural and historic sites, monuments, and other public lands that attract travelers from around the country and the globe. According to a Departmental study, in 2010, 437 million visits were made by American and international travelers to these lands, contributing \$47.9 billion in economic activity and 388,000 jobs. Eco-tourism and outdoor recreation also have an impact on rural economies, particularly in Arizona, California, Colorado, Florida, Nevada, North Carolina, Oregon, Utah, and Wyoming.

Interior is working to maximize the benefit of the outdoors for the millions of Americans at home. Hunting, fishing, and outdoor recreation contribute an estimated \$730 billion to the U.S. economy each year. More than 12 million Americans hunt; more than 30 million Americans fish; and three out of four Americans engage in some kind of healthy outdoor activity. One in twenty U.S. jobs is in the recreation economy.

Through the America's Great Outdoors initiative, the Administration continues to expand opportunities for recreation – through partnerships with States and others and the promotion of America's parks, refuges, and public lands. The 2013 budget requests \$5.1 billion in support of this initiative, a \$145.6 million increase compared to 2012. Funding is focused on programs supported through the Land and Water Conservation Fund, land management operations, and other grant and technical assistance programs that promote conservation and improve recreational access.

By encouraging innovative partnerships in communities across the Nation, the Administration is expanding access to rivers and trails, creating wildlife corridors, and promoting conservation while working to protect historic uses of the land including ranching, farming, and forestry. As part of America's Great Outdoors, Interior is supporting 101 signature projects in all States across the Country to make parks accessible for children, create great urban parks and community green spaces, restore rivers, and create recreational blueways to power economic revitalization. Projects were selected in concert with governors, tribal leaders, private landowners, and other stakeholders, and were evaluated based on the level of local support, the ability of states and communities to leverage resources, and the potential to conserve important lands and promote recreation.

Among these priority projects is the Boise River Greenbelt along the Boise River a signature attraction of the city of Boise and its 600,000 urban residents. The 22 miles of paths along the river connects parks, historic features, residential areas, and the downtown area. The AGO project will extend the greenbelt to 63 miles long, from Lucky Peak Dam to the confluence of the Snake and Boise rivers, creating a recreational expressway to Eagle Island State Park. Connecting pathways will provide recreation access and bicycle commuting to and from 10 cities in Idaho's Treasure Valley. The Bureau of Reclamation, National Park Service, Fish and Wildlife Service and Bureau of Land Management are part of a coalition of Federal, State, local and private partners providing technical and financial assistance to the project.

Of benefit to the National Capitol region is another AGO partnership project, the John Smith Trail. Administered by NPS, the trail traces the historic water routes of Captain John Smith's voyages exploring the Chesapeake Bay following waterways in Virginia, Maryland, Delaware and the District of Columbia. The trail connects with major cities and scores of historic and natural areas, and provides tremendous opportunities for recreation, tourism, education and conservation.

The America's Great Outdoors initiative is being implemented in partnership with communities and stakeholders across the Country. In January of this year, I accepted the first donation of land in south-central Florida to officially establish the Everglades Headwaters National Wildlife Refuge and Conservation Area – conserving one of the last remaining grassland and longleaf pine savannah landscapes in eastern North America. The new refuge and conservation area – the 556th unit of the national wildlife refuge system – was established with the support of local ranchers, farmers, and landowners who are working cooperatively with Interior and the Fish and Wildlife Service to conserve the wildlife values on their lands while retaining their right to raise livestock or crops, an approach championed by the Obama Administration.

The Everglades Headwaters National Wildlife Refuge and Conservation Area is one example of the new parks and refuges Interior has recently established to protect key natural and cultural resources for future generations. In addition to 650 miles of new national trails, designation of several national natural and historic landmarks, Interior welcomes the Martin Luther King, Jr. Memorial in Washington, D.C.; the Paterson Great Falls National Historical Park in New Jersey; the Fort Monroe National Monument in Virginia; the Dakota Grassland Conservation Area in North and South Dakota; New Mexico's first urban national wildlife refuge, the Middle Rio Grande National Wildlife Refuge in Albuquerque; and a signature America's Great Outdoors project in the Crown of the Continent Conservation Area in Montana. Interior launched significant efforts to protect America's enduring icons including upgrading the Statue of Liberty, initiating repairs to earthquake damage at the Washington Monument, and withdrawal of over one million acres in the vicinity of the Grand Canyon from additional uranium and hardrock mining, to protect and preserve the natural beauty of the Grand Canyon.

Interior's 2013 budget request for appropriations from the Land and Water Conservation Fund includes a total of \$450 million for Interior and Forest Service Program. The budget requests \$212.0 million for Federal land acquisition within national parks, national wildlife refuges, and BLM public land boundaries, including \$83.6 million for a collaborative program to support landscape-scale conservation projects developed in a collaborative process conducted by the Forest Service and Interior land management bureaus. Investments in ecologically important landscapes will be coordinated with State and local efforts to maximize ecosystem benefits, support at-risk species, and create wildlife corridors. The request includes \$128.4 million for acquisition to facilitate protection of parks, refuges, and BLM designated areas based on bureau mission-specific priorities.

The 2013 Federal land acquisition budget for BLM includes funding to will improve access for hunters and anglers to the public lands. Often these sportsmen and women are frustrated by complicated "checkerboard" land ownership and are unable to access BLM lands that provide recreation opportunities. The budget includes \$2.5 million that will be used to purchase easements to alleviate these challenges and provide improved access for public recreation.

An additional \$120 million is proposed for key grant programs supported by the LWCF, including \$60 million each for the Cooperative Endangered Species Conservation Fund program and State LWCF grants.

Spurring Growth and Innovation Through Science

Investments in research and development promote economic growth and innovation, ensure American competitiveness in a global market, and are critical to achieving the mission of the Department of the Interior. Investments in Interior's research and development will improve management of U.S. strategic energy and mineral supplies, water use and availability, and natural hazard preparedness. Sustainable stewardship of natural resources requires strong investments in research and development in the natural sciences.

Research and development funding is increased by nearly \$60 million in the 2013 budget, with R&D funding increases among all of the DOI bureaus, and particularly USGS, FWS, BSEE, BLM and BOR. With these investments, Interior will support research that addresses critical challenges in energy production and the management of ecosystems, invasive species, public lands, and water.

Recent technology and operational improvements have led to increased use of hydraulic fracturing in developing natural gas resources. To ensure the prudent and sustainable development of this important source of domestic energy, economic development, and job creation, the 2013 budget invests in research and development that proactively addresses concerns about the potential impacts of hydraulic fracturing on air, water, ecosystems, and earthquakes. The 2013 budget supports a \$45 million interagency research and development initiative by the USGS, the Department of Energy, and the Environmental Protection Agency aimed at understanding and minimizing potential environmental, health, and safety impacts of shale gas development and production through hydraulic fracturing.

The BOEM is working with the University of Texas and a team of arctic researchers on a five year comprehensive study of the Hanna Shoal ecosystem in the Chukchi Sea off Alaska's northwest coast. Past studies have identified this area as an important biological ecosystem, which supports a high concentration of marine life. Valuable data on physical and biological processes in the area obtained from this research effort will be combined with the results of previously conducted studies. The resulting information will be used by industry, as well as by BOEM in decisions regarding energy development in this region, and will be included in future National Environmental Policy Act analyses.

In 2011, USGS used cutting edge technology to complete the genome sequencing of the fungus that causes the skin infection that is a hallmark of the white-nose syndrome, which is decimating bat populations across the country. This sequencing will support further research that is necessary to develop management strategies to mitigate the spread of the syndrome among bats. Recognizing the impact of this is not limited to wildlife health, USGS and university partners produced a study which determined that bats contribute \$3.7 billion to the agricultural economy by eating pests that are harmful to agricultural and forest commodities. The 2013 budget provides \$1.8 million for USGS to conduct further research and development to address this critical issue.

In 2013, the Budget requests a \$2 million increase in the BLM Wild Horse and Burro program to fund research on contraception/ population control. Research may include topics such as studies on

herd genetics, animal behavior and overall rangeland use as it relates to sterilization and other population growth suppression techniques. The goal of the research will be to develop additional methods to minimize wild horse population growth and maintain herd health.

Delivering Sustainable Growth through Water

Although the Bureau of Reclamation is within the jurisdiction of the Energy and Water Subcommittee, it plays a critical role in addressing the Nation's water challenges which are of interest the Subcommittee. Reclamation maintains 476 dams and 348 reservoirs with the capacity to store 245 million acre-feet of water. The bureau manages water for agricultural, municipal, and industrial use, and provides flood control and recreation for millions of people. Reclamation's activities, including recreation, generate estimated economic benefits of over \$55 billion and support nearly 416,000 jobs.

These facilities deliver water to one in every five western farmers to irrigate about ten million acres of land, and provide water to over 31 million people for municipal and industrial uses and other non-agricultural uses. The water managed by Interior irrigates an estimated 60 percent of the Nation's vegetables each year. Reclamation facilities also reduce flood damages in communities where they are located and thereby create an economic benefit by sparing these communities the cost of rebuilding or replacing property damaged or destroyed by flood events.

WaterSMART, established in 2010, has assisted communities in improving conservation, increasing water availability, restoring watersheds, resolving long-standing water conflicts, addressing the challenges of climate change, and implementing water rights settlements. The program has provided more than \$85 million in funding to non-Federal partners, including Tribes, water districts, and universities, including \$33 million in 2011 for 82 WaterSMART grant projects. In December, Interior released a report on the effectiveness of the WaterSMART program, which demonstrates the importance of this work to the sustainability of resources in the Colorado River Basin.

Another example of Interior's efforts to stretch water resources is the Yuma Desalting Plant in Arizona. Reclamation recently completed a year-long pilot operation of the Plant in collaboration with California, Arizona, and Nevada water agencies. The pilot demonstrated the capability of the Plant to augment Lower Colorado River supplies and produced sufficient water for use by about 116,000 people in a year. Reclamation and the regional water agencies are reviewing the results of this effort to evaluate the potential for long-term and sustained operation of the desalting plant.

Encouraging Economic Development in Indian Country and Honoring Trust Responsibilities

The Department has a unique responsibility to American Indians and Alaska Natives, which is upheld by Interior's support for a robust government-to-government relationship as demonstrated by a new comprehensive and transparent consultation policy that ensures there is a strong, meaningful role for tribal governments. The Department and the President hosted the third White House Tribal Nations Conference in December 2011, bringing together tribal leaders from across the United States and enabling tribal leaders to interact directly with Administration representatives and identify priority actions for American Indians and Alaska Natives.

In 2011, Interior began planning to implement the landmark \$3.4 billion settlement of the *Cobell v. Salazar* lawsuit, and appointed a Secretarial Commission on Trust Administration and Reform to oversee implementation of the Settlement agreement. The Commission is undertaking a forward looking, comprehensive evaluation of Interior's management of nearly \$4 billion in American Indian and tribal trust funds – with the goal of making trust administration more transparent, responsive, customer focused, and accountable.

The Department held regional consultations across the Country to set the framework for the Cobell land consolidation program. The Settlement establishes a \$1.9 billion fund for the voluntary buy-back and consolidation of fractionated land interests to provide individual American Indians with an opportunity to obtain cash payments for divided land interests and consolidate holdings for economic and other uses, a significant benefit for tribal communities. Almost four million individually owned interests involving nearly nine million acres have been identified as part of this effort.

To further encourage and speed up economic development in Indian Country, the Department took a significant step forward announcing the sweeping reform of antiquated, “one-size-fits-all” Federal leasing regulations for the 56 million surface acres the Federal government holds in trust for Tribes and individual Indians. The proposed rule identifies specific processes – with enforceable timelines – through which the Bureau of Indian Affairs must review leases. The regulation establishes separate, simplified processes for residential, business, and renewable energy development, so that, for example, a lease for a single family home is distinguished from a large solar energy project. The proposed regulation incorporates many changes requested by tribal leaders during extensive consultations this past year to better meet the goals of facilitating and expediting the leasing process for trust lands. During the initial consultation period more than 2,300 comments were received from more than 70 Tribes as well as several Federal agencies, including the Departments of Housing and Urban Development, Agriculture, and the Internal Revenue Service. The BIA regulatory drafting workgroup is expected to review the comments and publish the final rule in 2012.

The Claims Resolution Act of 2010 settled the Cobell lawsuit and four settlements that will provide permanent water supplies and economic security for the five New Mexico Pueblos of Taos, the Crow Tribe of Montana, and the White Mountain Apache Tribe of Arizona. The agreements will enable construction and improvement of reservation water systems, irrigation projects, a regional multi-pueblo water system, and codify water-sharing arrangements between Indian and neighboring communities. The primary responsibility for constructing water systems associated with the settlements was given to the Bureau of Reclamation and BIA is responsible for the majority of the trust funds.

Reclamation is requesting \$21.5 million in 2013 for the continued implementation of these four settlements and \$25.0 million for the Navajo-Gallup Water Supply project. In total, the Indian Affairs budget includes \$36.3 million for ongoing Indian land and water settlements, which includes \$9.5 million for the seventh and final payment for the Nez Perce/Snake River Water Rights Settlement.

A key responsibility for Indian Affairs is ensuring and improving the safety of Indian communities. Some Indian reservations experience violent crime rates that are twice the national average. The high crime rates are a key issue for tribal leaders as they degrade the quality of life for residents, attract organized crime, and are a real disincentive for businesses to consider these communities for economic development. FY 2011 was the second year of a two-year pilot at four reservations to conduct expanded community policing, equip and train the law enforcement cadre, partner with the

communities to organize youth groups and after school programs, and closely monitor results. The results exceeded expectations with a 35 percent overall decrease in violent crime in the four communities. Information about the four reservations is being analyzed and the program will be expanded in 2013 to an additional two communities. The 2013 budget includes \$353.9 million for Public Safety and Justice programs, a program increase of \$8.5 million to support this expansion and other public safety activities.

Interior's Budget in Context

President Obama has challenged agencies to encourage American innovation, employ and educate young people, rebuild America, and promote economic development. Interior's 2013 budget invests in areas that are responsive to these challenges and more. This budget continues funding for important programs that will protect the Nation's significant natural resources and cultural heritage, makes strategic investments in energy development, advances partnerships to leverage resources, and seeks improved outcomes for Indian communities. At the same time, this budget recognizes the need for fiscal responsibility. The priority programs that are level funded with 2012 and limited strategic investments proposed in 2013 are balanced by reductions in lower priority programs, deferrals and planning efficiencies.

Taking Fiscal Responsibility – Interior made its 2013 budget decisions in the context of the challenging fiscal environment. The 2013 budget of \$11.5 billion, including Reclamation, eliminates and reduces lower priority programs, defers project start-ups, reduces duplication, streamlines operations, and captures savings. The 2013 request is \$97.9 million, essentially level with 2012 enacted and \$280.4 million below 2011.

The 2013 budget contains \$516.8 million in program terminations, reductions, and savings from administrative efficiencies. Staffing reductions of 591 FTEs are planned for 2013, a reduction of 741 FTEs from 2011 levels. These personnel reductions are focused on areas where there are funding reductions. Staffing reductions will be achieved through attrition, and buy-outs in order to minimize the need to conduct reductions in force to the greatest extent possible.

This budget is responsible, with strategic investments in a few, targeted areas, and maintains the core functions that are vital to uphold stewardship responsibilities and sustain key initiatives. The budget also continues efforts to shift program costs to industry where appropriate. Permanent funding that becomes available as a result of existing legislation without further action by the Congress results in an additional \$6.0 billion, for \$17.5 billion in total budget authority for Interior in 2013.

Administrative Savings – As part of the Administration's Campaign to Cut Waste, the Department will achieve additional administrative efficiencies that result in cumulative savings of \$207.0 million from 2010 to 2013. These reductions are being implemented throughout Interior and result from changes in how the Department manages travel, employee relocation, acquisition of supplies and printing services, and the use of advisory services. The proposed savings in administrative functions will not have an impact on programmatic performance, and to the greatest extent possible savings will be redirected into priority programmatic areas.

The Department's 2013 budget reflects a freeze on Federal salaries for 2012 and a 0.5 percent pay increase in 2013. The budget fully funds fixed costs for the civilian pay increase, anticipated

changes in the Federal contributions to health benefits, rent increases, changes in workers and unemployment compensation costs, programs financed through the Working Capital Fund, and specific contract requirements for P.L. 93-638 agreements with Tribes.

Cost Recovery – Significant portions of Interior’s budget are funded by cost recovery, offsetting collections, and discrete fees linked to uses of lands and resources. The budget proposes to increase cost recovery to offset the cost of some resource development activities that provide clear benefits to customers. The proposed fees on oil and gas inspections are consistent with the recommendations of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. The Commission’s report stated the oil and gas industry should be “required to pay for its regulators” so that the costs of regulation “would no longer be funded by taxpayers but instead by the industry that is permitted to have access to a publicly owned resource.”

The budget includes \$48.0 million from new inspection fees to be paid by onshore oil and gas producers. Instituting these fees will allow for a \$10.0 million program increase to be used to strengthen the BLM inspection program, along with a \$38.0 million decrease in current appropriations for BLM as a whole. Similar fees were proposed in 2012 but not adopted due to concerns about impacts on the producers. The fees would be on average, 0.2 percent of the annual income collected by the producers. In addition to the proposed onshore inspection fees, estimated fee collections from the offshore oil and gas inspections instituted in 2012 are slightly increased in 2013 to \$65.0 million. This fee-based funding is critical to maintaining the Administration’s aggressive implementation of a robust offshore safety program.

The 2013 budget proposes a new grazing administrative fee of \$1.00 per animal unit month on a three-year pilot basis. The fee is estimated to generate \$6.5 million in 2013 and will be used to assist BLM in processing grazing permits. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing fee as a cost recovery fee after the pilot expires.

The 2013 budget continues an offsetting collection initiated in 2012, allowing the Office of Surface Mining to retain coal mine permit application and renewal fees for the work performed as a service to the coal industry. An estimated \$3.4 million will be collected in 2013.

Major Changes in the 2013 Request

The Department’s 2013 budget request totals \$11.5 billion in current authority including \$10.5 billion for programs funded by the Interior, Environment, and Related Agencies Appropriations Act. This is \$140.3 million, or 1.4 percent, above the 2012 level. The 2013 request for the Bureau of Reclamation including the Central Utah Project Completion Act, funded in the Energy and Water Development Appropriations Act, is \$1.0 billion in current appropriations, \$42.4 million or 3.9 percent below the 2012 level.

Interior continues to generate more revenue for the U.S. Treasury than its annual appropriation. In 2013, Interior will generate receipts of approximately \$13.9 billion and propose mandatory legislation with a total net savings of roughly \$2.5 billion over ten years.

Bureau of Land Management – The 2013 request is \$1.1 billion, essentially level with the 2012 enacted budget. This includes a decrease of \$8.2 million for BLM’s two operating accounts, an increase of \$11.2 million for Land Acquisition, and a reduction of \$3.6 million that eliminates the Construction account.

To advance the America’s Great Outdoors initiative, the request includes \$6.3 million in programmatic increases for recreation, cultural resources, and the National Landscape Conservation System for BLM to expand and improve opportunities for recreation, education, and scientific activities while enhancing the conservation and protection of BLM managed lands and resources.

The BLM will continue to promote and facilitate the development of renewable energy on public lands, as part of the New Energy Frontier initiative. The 2013 budget includes a program increase of \$7.0 million for renewable energy to support wind, solar, and geothermal energy. An additional \$13.0 million in program increases are requested to maintain and strengthen management of the oil and gas program, along with a requested \$10 million increase in mandatory funding specifically focused on strengthening BLM’s oil and gas inspection program. These increases would be more than offset by \$48.0 million in proposed inspection fees to shift the cost of the oil and gas inspection and enforcement activity from taxpayers to the oil and gas industry.

The other major program increase is \$15.0 million to implement sage grouse conservation and restoration measures to help prevent the future listing of the species for protection under the Endangered Species Act. The BLM will use \$10.0 million of the requested increase to incorporate the necessary protections into BLM’s land use plans to address conservation of the sage grouse. These plans will guide energy development, transportation, and other uses and ensure conservation of sage grouse habitat. The remaining \$5.0 million funds on-the-ground projects to restore and improve sage grouse habitat and additional inventory, monitoring, and mapping efforts to delineate areas of highest priority habitat in the range of the sage grouse. Other program increases in the BLM budget include \$1.5 million for the Secretary’s Western Oregon Strategy, \$2.0 million for research and development on population control in the Wild Horse and Burro Management program, and \$4.4 million in the Resource Management Planning program to support high priority planning efforts.

A \$15.8 million program decrease is proposed in the Rangeland Management program, however, the impact of this funding decrease will be mitigated by a new grazing administrative processing fee of \$1.00 per animal unit month that BLM proposes to implement on a pilot basis through appropriations language, estimated to raise \$6.5 million in 2013. The 2013 budget reduces programmatic funding for the Alaska Conveyance program by \$12.4 million from the 2012 level. Interior will explore opportunities to further streamline the program. A \$3.5 million program reduction is proposed in the Public Domain Forest Management program.

Bureau of Ocean Energy Management – The 2013 operating request is \$164.1 million, including \$62.7 million in current appropriations and \$101.4 million in offsetting collections. This is an increase of \$3.3 million above the 2012 enacted level.

The 2013 budget includes program increases of \$2.0 million from the 2012 enacted level for activities to promote offshore conventional and renewable energy development that is safe and environmentally responsible. Increased funding will be used to develop baseline characterization and moni-

toring capabilities in the Gulf of Mexico that are required as a result of the Deepwater Horizon incident, as well as to support renewable energy lease auctions.

Bureau of Safety and Environmental Enforcement – The 2013 operating request is \$222.2 million, including \$96.3 million in current appropriations and \$125.9 million in offsetting collections. This is an increase of \$24.8 million above the 2012 enacted level. The \$4.8 million increase for offsetting collections includes an estimated \$3.0 million increase in inspection fee collections.

The 2013 budget includes funds to increase operational safety capabilities, develop the National Off-shore Training and Learning Center for inspectors, and conduct research and development activities on critical safety systems associated with offshore oil and gas development.

Office of Surface Mining – The 2013 budget request is \$140.7 million, a decrease of \$9.5 million from the 2012 enacted level. The reduction reflects decreases in grants to States and Tribes to encourage regulatory programs to recover costs from fees charged to the coal industry and finalize the transition of abandoned mine land reclamation from discretionary to mandatory funding.

I signed a Secretarial Order on October 26, 2011, to review certain functions of OSM and BLM for potential consolidation. As part of this effort, I asked the Directors of OSM and BLM and other Interior officials to report by February 15, 2012 on the results of discussions with the bureaus' employees, congressional committees, and interested parties, such as Tribes, State regulatory officials, industry representatives, and representatives of communities affected by coal mining. Our efforts in consolidation will respect existing law and identify actions that will strengthen these two bureaus.

U. S. Geological Survey – The USGS budget request is \$1.1 billion, \$34.5 million above the 2012 enacted level. The President's budget supports science, monitoring, and assessment activities that are critical to understanding and managing the ecological, mineral, and energy resources that underlie the prosperity and well-being of the Nation. The 2013 budget includes a program increase of \$51.0 million to fund research and development priorities in disaster response, hydraulic fracturing, coastal and ocean stewardship, and ecosystem restoration. The budget also supports the Secretary's initiatives in responsible energy development and further resolution of water challenges with funding above the 2012 enacted level.

The USGS budget also includes investments in important science programs to help meet societal needs. A program increase of \$13.0 million above 2012 for the WaterSMART Program will be used to conduct research on predictive models on regional water availability, explore methods of integrating and disseminating data through science platforms, and establish a National Groundwater Monitoring Network.

A program increase of \$8.6 million is requested to improve rapid disaster response to natural disasters. Funding will be used to improve capacity to provide timely and effective science and information products to decision makers, in order to minimize the risks hazards pose to human and natural systems. Funding will be invested in capability improvements to the USGS monitoring networks for rapid response to earthquakes, volcanoes, volcanic ash, debris flow, tsunamis, floods, hurricanes, and other potential threats to populations and infrastructure.

The budget includes a program increase of \$13.0 million to support the hydraulic fracturing research and development effort with the Department of Energy and Environmental Protection Agency to understand and minimize potential adverse environmental, health, and safety impacts of shale gas development through hydraulic fracturing. New work will build on existing efforts and address issues such as water quality and quantity, ecosystem impacts, and induced seismicity.

With a program increase of \$16.2 million, USGS will conduct science in support of ecosystem management for priority ecosystems such as the Chesapeake Bay, California Bay-Delta, Columbia River, Everglades, Puget Sound, Great Lakes, Upper Mississippi River, and the Klamath Basin. With an increase of \$2.0 million, the USGS will address overarching ecosystem issues related to the invasive brown tree snake, white-nose syndrome in bats, and coral reef health. These increases will provide information management and synthesis and land change science support for these ecosystem activities. Included in the total above is \$500,000 identified for research efforts through the DOI Climate Science Centers to enhance work with Tribes to understand the impacts of climate change on tribal lands. Funding increases will also support priorities in sustaining our National environmental capital, including development of the first coordinated multi-departmental effort of its kind to develop a standardized ecosystem services framework.

The 2013 budget also provides a program increase of \$6.8 million to sustain and enhance existing activities and for a new initiative on Science for Coastal and Ocean Stewardship that supports priority objectives of the National Ocean Policy in the areas of marine and coastal science, resource and vulnerability assessments, ecosystem based management, and providing science based tools to inform policy and management. The USGS will work with partners to provide access to comprehensive maps and assessments of seabed and coastal conditions and vulnerability. The increase will improve the integrated science needed to inform development of resources while conserving the Nation's coastal and marine ecosystems.

Fish and Wildlife Service – The 2013 budget includes \$1.5 billion, an increase of \$72.0 million above the 2012 enacted level. In addition, the budget includes a \$200.0 million cancellation of prior year unobligated balances in the Coastal Impact Assistance program. The budget includes America's Great Outdoors increases of \$20.9 million in the Resource Management account and \$52.3 million for land acquisition. There is a \$3.9 million increase in the North American Wetlands grants program, a component of the AGO initiative. State and Tribal Grants are funded at \$61.3 million, level with 2012. Funding for the Construction account is reduced by \$3.9 million.

The budget proposes a program increase of \$4.0 million for activities associated with energy development. This enables FWS to participate fully in priority landscape level planning and assist industry and State fish and wildlife agencies as they plan for renewable energy projects and transmission corridor infrastructure. The 2013 budget continues the commitment to ecosystem restoration by including \$13.5 million for the Everglades, an increase of \$3.0 million; \$4.9 million for California's Bay-Delta, level with 2012; \$10.2 million for the Gulf Coast, level with 2012; \$10.3 million for the Chesapeake Bay, a program increase of \$145,000; and \$47.8 million for the Great Lakes, a program increase of \$2.9 million. Funding for the Cooperative Landscape Conservation and Adaptive Science activity is \$33.1 million, an increase of \$856,000. This funding supports the operation of 14 Landscape Conservation Cooperatives.

The budget includes \$994.7 million available under permanent appropriations, most of which will be provided in grants to States for fish and wildlife restoration and conservation.

The 2013 budget proposes a reduction of \$14.0 million to eliminate the discretionary contribution to the National Wildlife Refuge Fund payments to counties to offset local tax loss due to Federal land ownership. An estimated \$8 million in mandatory receipts collected and allocated under the program would remain. Payments collected by counties can be used for non-conservation purposes and as such, this Fund does not provide the high priority conservation benefits delivered by other FWS programs. The budget also proposes the cancellation of \$200 million in prior year balances within the Coastal Impact Assistance Program.

National Park Service – The 2013 budget includes \$2.6 billion, \$1.0 million below the 2012 enacted level. Within the total available for NPS in 2013, \$2.4 billion is for programs that support the goals of the America’s Great Outdoors initiative. The budget proposes strategic increases to advance the goals of the initiative, including increases of \$13.5 million for park operations and \$17.5 million for Land Acquisition and State Assistance. The budget proposes reductions of \$7.8 million in the National Recreation and Preservation account from the National Heritage Areas program, and \$24.2 million from Construction. The request for the Historic Preservation Fund is level with 2012 – grants to States and Tribes are continued at the 2012 level of \$55.9 million.

Select programmatic increases in the park operations account include \$5.0 million for Climate Change Adaptive Management tools, \$2.0 million for U.S. Park Police operations including \$1.4 million in support of the Presidential Inauguration, \$1.2 million for National Capital Area parks in support of the Presidential Inauguration, and \$610,000 for the Challenge Cost Share program. These increases are offset with strategic reductions of \$24.8 million to park operations and service-wide programs.

Funding for Land Acquisition and State Assistance totals \$119.4 million and includes a programmatic increase of \$2.5 million for Federal land acquisition. The Land Acquisition proposal includes \$9.0 million for matching grants to States and local entities to preserve and protect Civil War battlefield sites outside the national park system. The budget also requests a programmatic increase of \$15.1 million for the State Assistance grant program. The \$60.0 million request for State grants includes \$20.0 million for competitive grants that support urban parks and green spaces, blueways, and landscape level conservation projects in communities that need them the most.

Funding for Construction includes a programmatic reduction of \$25.3 million for line-item construction projects, however, the budget proposes funding for the most critical health and safety projects in the national park system. It also includes programmatic reductions of \$1.5 million from construction program management and planning, \$760,000 from the housing improvement program, \$443,000 from construction planning, \$450,000 from management planning, and \$228,000 from equipment replacement.

Indian Affairs – The 2013 budget includes \$2.5 billion for Indian Affairs programs, a decrease of \$4.6 million from the 2012 enacted level. This includes an increase of \$11.7 million for Operation of Indian Programs and a decrease of \$17.7 million in the Construction account. The budget includes an increase of \$3.5 million in Indian Land and Water Claim Settlements and a decrease of \$2.1 million in the Indian Guaranteed Loan program.

In 2013, the largest increase, \$8.8 million, is in Contract Support Costs and the Indian Self-Determination Fund, both high priorities for Tribes. Public Safety and Justice activities receive a program increase of \$8.5 million to support additional police officers and detention corrections staff.

The budget proposes program increases of \$7.8 million for the Trust Natural Resources programs and \$7.0 million for Trust Real Estate Services programs. Funding increases for Trust Land Management programs are proposed to assist Tribes in the management, development, and protection of Indian trust land and natural resources. The budget proposes a \$2.5 million program increase to support increasing enrollment at tribal colleges.

The 2013 request reflects a reduction of \$19.7 million as the bureau will undergo a consolidation in 2013 to streamline and improve oversight operations. The BIA will engage in extensive consultation with Tribes to identify strategies that will ensure tribal needs and priorities are addressed. Following consultation, Indian Affairs will construct an implementation plan for a streamlined, cost-effective organization. The budget also includes \$13.9 million in administrative savings from reductions to fleet, travel, contractors, and awards.

Departmental Offices and Department-wide Programs – The 2013 request for the Office of the Secretary is \$261.6 million, a reduction of \$266,000 from the 2012 enacted level. Of this, \$119.6 million is for Office of Natural Resources Revenue including a program increase of \$1.2 million to complete termination of the Royalty-in-Kind program and a program decrease of \$2.3 million for completed information management system upgrades. The budget for OS includes a program increase of \$1.6 million for minerals receipts modeling development to improve revenue estimation and reporting capabilities and a program increase of \$2.0 million for facilities rent necessitated by the delay in the Main Interior Building modernization project. Other changes include a general program reduction of \$3.7 million and the transfer of the Indian Arts and Crafts Board from OS to BIA resulting in a reduction of \$1.3 million.

The Department's 2013 request for the Working Capital Fund appropriation is \$70.6 million, an increase of \$8.7 million from the 2012 enacted level. Within this request is \$62.1 million to continue deployment of the Financial and Business Management System including implementation of the acquisition and financial assistance functionality as recommended by an independent assessment of the program. The budget proposes an increase of \$3.5 million to improve Interior's stewardship of its cultural and scientific collections and an increase of \$2.5 million to expand collaboration similar to the Service First to improve delivery and operating costs. Proposed reductions include \$5.0 million to reflect the shift of the Department's Information Technology Transformation initiative from appropriated funds to the Departmental Working Capital fund and \$2.5 million for completion of the Department's Acquisition Improvement initiative.

Major changes in other Departmental programs include an increase of \$243.0 million in the Wildland Fire Management program. The net increase is comprised of a program increase of \$195.8 million that fully funds the 10-year suppression average and a program reduction of \$39.0 million in the Hazardous Fuels Reduction program reflecting a refocusing of the program toward treatments in the wildland-urban interface.

The budget request for the Office of Insular Affairs is \$88.0 million, a decrease of \$16.4 million from the 2012 enacted level. The budget includes \$5.0 million to mitigate the impacts and costs of Compact migration and \$3.0 million to implement energy projects identified by the Territories' sustainable energy strategies. Funding of \$13.1 million for the Palau Compact is not requested for 2013 as it is expected the Compact will be authorized in 2012.

The Office of the Special Trustee request is \$146.0 million, \$6.1 million below the 2012 enacted level. The 2013 request includes a program increase of \$3.0 million for the Office of Trust Review and Audit to conduct compliance audit reviews for Interior bureaus. The budget includes program decreases of \$9.9 million for streamlining, administrative savings, and the completion of certain trust reform activities.

Mandatory Proposals

In 2013, Interior will collect \$13.9 billion in receipts and distribute \$6.0 billion in permanent funding without further appropriation for a variety of purposes, under current law. The budget includes 13 legislative proposals that will be submitted to the Congress to collect a fair return to the American taxpayer for the sale of Federal resources, to reduce unnecessary spending, and to extend beneficial authorities of law. Together these proposals will save a net total of approximately \$2.5 billion over the next decade.

Reform Coal Abandoned Mine Land Reclamation – The Administration proposes to reform the coal Abandoned Mine Lands program to reduce unnecessary spending and ensure the Nation's highest priority sites are reclaimed. First, the budget proposes to terminate the unrestricted payments to States and Tribes that have been certified for completing their coal reclamation work because these payments do not contribute to abandoned coal mine lands reclamation. Second, the budget proposes to reform the distribution process for the remaining funding to competitively allocate available resources to the highest priority coal abandoned mine lands sites. Through a competitive grant program, a new Abandoned Mine Lands Advisory Council will review and rank the abandoned coal mine lands sites, so OSM can distribute grants to reclaim the highest priority coal sites each year. These reforms will focus available coal fees to better address the Nation's most dangerous abandoned coal mines while saving taxpayers \$1.1 billion over the next ten years.

Create a Hardrock Abandoned Mine Reclamation Fund – To address the legacy of abandoned hardrock mines across the U.S., the Administration will propose legislation to create a parallel Abandoned Mine Lands program for abandoned hardrock sites. Hardrock reclamation would be financed by a new abandoned mine lands fee on the production of hardrock minerals on both public and private lands. The BLM would distribute the funds through a competitive grant program to reclaim the highest priority hardrock abandoned sites on Federal, State, tribal, and private lands. This proposal will hold hardrock mining companies accountable for cleaning up the hazards left by their predecessors while generating \$500 million in savings over 10 years.

Reform Hardrock Mining on Federal Lands – The Administration will submit a legislative proposal to provide a fair return to the taxpayer from hardrock production on Federal lands. The legislative proposal would institute a leasing program under the Mineral Leasing Act of 1920 for certain hardrock minerals including gold, silver, lead, zinc, copper, uranium, and molybdenum, currently covered by the General Mining Law of 1872. After enactment, mining for these metals on Federal lands would be governed by the new leasing process and subject to annual rental payments and a

royalty of not less than five percent of gross proceeds. Half of the receipts would be distributed to the States in which the leases are located and the remaining half would be deposited in the Treasury. Existing mining claims would be exempt from the change to a leasing system but would be subject to increases in the annual maintenance fees under the General Mining Law of 1872. Holders of existing mining claims for these minerals could, however, voluntarily convert claims to leases. The Office of Natural Resources Revenue will collect, account for, and disburse the hardrock royalty receipts. The proposal is projected to generate revenues to the U.S. Treasury of \$80.0 million over ten years.

Fee on Non-producing Oil and Gas Leases – The Administration will submit a legislative proposal to encourage energy production on lands and waters leased for development. A \$4.00 per acre fee on non-producing Federal leases on lands and waters would provide a financial incentive for oil and gas companies to either get their leases into production or relinquish them so the tracts can be leased to and developed by new parties. The proposed \$4.00 per acre fee would apply to all new leases and would be indexed annually. In October 2008, the Government Accountability Office issued a report critical of past efforts by Interior to ensure companies diligently develop their Federal leases. Although the report focused on administrative actions the Department could undertake, this proposal requires legislative action. This proposal is similar to other non-producing fee proposals considered by the Congress in the last several years. The fee is projected to generate revenues to the U.S. Treasury of \$13.0 million in 2013 and \$783.0 million over ten years.

Net Receipts Sharing for Energy Minerals – The Administration proposes to make permanent the current arrangement for sharing the cost to administer energy and minerals receipts, beginning in 2014. Under current law, States receiving significant payments from mineral revenue development on Federal lands also share in the costs of administering the Federal mineral leases from which the revenue is generated. In 2013, this net receipts sharing deduction from mineral revenue payments to States would be implemented as an offset to the Interior Appropriations Act, consistent with identical provisions included in the Act since 2008. Permanent implementation of net receipts sharing is expected to result in savings of \$44.0 million in 2014 and \$449.0 million over ten years.

Repeal Oil and Gas Fee Prohibition and Mandatory Permit Funds – The Administration proposes to repeal portions of Section 365 of the Energy Policy Act, beginning in 2014. Section 365 diverted mineral leasing receipts from the U.S. Treasury to a BLM Permit Processing Improvement Fund and also prohibited BLM from establishing cost recovery fees for processing applications for oil and gas permits to drill. Congress has implemented permit fees through appropriations language for the last several years and the 2013 budget proposes to continue this practice. Upon elimination of the fee prohibition, BLM will promulgate regulations to establish fees for applications for permits to drill administratively, with fees starting in 2014. In combination with normal discretionary appropriations, these cost recovery fees will then replace the applications for permits to drill fees currently set annually through appropriations language and the mandatory permit fund, which would also be repealed starting in 2014. Savings from terminating this mandatory funding are estimated at \$18.0 million in 2014 and \$36.0 million over two years.

Geothermal Energy Receipts – The Administration proposes to repeal Section 224(b) of the Energy Policy Act of 2005. Prior to passage of this legislation, geothermal revenues were split between the Federal government and States with 50 percent directed to States, and 50 percent to the Treasury. The Energy Policy Act of 2005 changed this distribution beginning in 2006 to direct 50 percent to

States, 25 percent to counties, and for a period of five years, 25 percent to a new BLM Geothermal Steam Act Implementation Fund. The allocations to the new BLM geothermal fund were discontinued a year early through a provision in the 2010 Interior Appropriations Act. The repeal of Section 224(b) will permanently discontinue payments to counties and restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the Treasury. This results in savings of \$4.0 million in 2013 and \$50.0 million over ten years.

Deep Gas and Deepwater Incentives – The Administration proposes to repeal Section 344 of the Energy Policy Act of 2005. Section 344 mandated royalty incentives for certain “deep gas” production on the OCS. This change will help ensure Americans receive fair value for Federally owned mineral resources. Based on current oil and gas price projections, the budget does not assume savings from this change; however, the proposal could generate savings to the Treasury if future natural gas prices drop below current projections.

Repeal of Authorities to Accept Royalty Payments In Kind – The Administration proposes to solidify a recent Departmental reform terminating the Royalty-in-Kind program by repealing all Interior authorities to accept future royalties through this program. This change will help increase confidence that royalty payments will be properly accounted for in the future. The budget does not assume savings from this change because the Administration does not anticipate restarting the program; however, if enacted, this proposal would provide additional certainty that a new Royalty-in-Kind program could not be initiated at some point in the future.

Federal Land Transaction Facilitation Act – The Administration proposes to reauthorize this Act that expired July 25, 2011 and allow lands identified as suitable for disposal in recent land use plans to be sold using the Act’s authority. The sales revenues would continue to be used to fund the acquisition of environmentally sensitive lands and to cover the administrative costs associated with conducting sales.

Federal Migratory Bird Hunting and Conservation Stamps – Federal Migratory Bird Hunting and Conservation Stamps, commonly known as Duck Stamps, were originally created in 1934 as the annual Federal license required for hunting migratory waterfowl. Today, 98 percent of the receipts generated from the sale of these \$15.00 stamps are used to acquire important migratory bird areas for migration, breeding, and wintering. The price of the Duck Stamp has not increased since 1991, while the cost of land and water has increased significantly. The Administration proposes to increase these fees to \$25.00 per stamp per year, beginning in 2013. Increasing the cost of Duck Stamps will bring the estimate for the Migratory Bird Conservation account to approximately \$58.0 million. With these increased receipts, the Department anticipates additional acquisition of approximately 7,000 acres in fee and approximately 10,000 acres in conservation easement in 2013. Total acres acquired for 2013 would then be approximately 28,000 acres in fee title and 47,000 acres in perpetual conservation easements.

Compact of Free Association – On September 3, 2010, the U.S. and the Republic of Palau successfully concluded the review of the Compact of Free Association and signed a 15-year agreement that includes a package of assistance through 2024. Under the agreement, Palau committed to undertake economic, legislative, financial, and management reforms. The conclusion of the agreement reaffirms the close partnership between the U.S. and the Republic of Palau. Permanent and indefinite funding for the Compact expired at the end of 2009. The 2013 budget seeks to authorize permanent

funding for the Compact as it strengthens the foundations for economic development by developing public infrastructure and improving health care and education. Compact funding will also support one or more infrastructure projects designed to support Palau's economic development efforts. The Republic of Palau has a strong track record of supporting the U.S. and its location is strategically linked to Guam and U.S. operations in Kwajalein Atoll. The cost for this proposal for 2013-2022 is \$184.0 million.

Extension of Payments in Lieu of Taxes –PILT payments are currently authorized only through 2012. The budget proposes a one-year extension of mandatory PILT payments at the current authorization levels in 2013. These payments support local government services in counties that have significant Federal lands within their boundaries. The Administration looks forward to working with Congress to develop a longer-term strategy for providing sustainable levels of funding for PILT payments, in light of overall constrained budgets and the need for appropriate offsets for new mandatory spending. This extension utilizes the current PILT payment formula that is prescribed by law and based on population, certain receipt sharing payments, and the amount of Federal land within an affected county. The cost for this proposal in 2013 is estimated at \$398.0 million.

Offsetting Collections and Fees

The budget includes several proposals to increase cost recovery fees, so that industries share some of the cost of regulation.

Fee Increase for Offshore Oil and Gas Inspections – Through appropriations language, the Administration proposes to continue the current offshore inspection fee levels authorized by Congress in 2012. These fees are estimated to generate \$65.0 million in 2013, up from \$62.0 million in 2012, from operators with offshore oil and gas drilling facilities that are subject to inspection by BSEE. The increased fees will fund an expanded inspection program, and as enacted for 2012, operators will now be charged for the inspection of drilling rigs in addition to production platforms. These inspections are intended to increase production accountability, human safety, and environmental protection.

New Fee for Onshore Oil and Gas Inspections – Through appropriations language, the Administration proposes to implement an inspection fee in 2013 for onshore oil and gas drilling activities that are subject to inspection by BLM. The proposed inspection fee is expected to generate an estimated \$48.0 million in 2013, \$10.0 million more than the corresponding \$38.0 million reduction in requested BLM appropriations, thereby expanding the capacity of BLM's oil and gas inspection program. The fee would support Federal efforts to increase production accountability, human safety, and environmental protection.

Onshore Oil and Gas Drilling Permit Fee – The 2013 budget proposes to continue a fee for processing drilling permits through appropriations language, an approach taken by Congress in the Interior Appropriations Acts. A fee of \$6,500 per drilling permit was authorized in 2010, and if continued, would generate an estimated \$32.5 million in offsetting collections in 2013.

Grazing Administrative Fee – The 2013 budget includes a new grazing administrative fee of \$1.00 per animal unit month. The BLM proposes to implement the fee through appropriations language on

a three-year pilot basis. The budget estimates the fee will generate \$6.5 million in funds that will assist the BLM in processing grazing permits. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing fee as a cost recovery fee after the pilot expires.

Surface Mining and Reclamation Permit Fee – The 2013 budget continues an offsetting collection initiated in 2012, allowing OSM to retain coal mine permit application and renewal fees for the work performed as a service to the coal industry. The fee will help ensure the efficient processing, review, and enforcement of the permits issued, while recovering some of the regulatory operations costs from the industry that benefits from this service. The fee, authorized by section 507 of SMCRA, would apply to mining permits on lands where regulatory jurisdiction has not been delegated to the States. The permit fee will generate an estimated \$3.4 million in offsetting collections in 2013.

Conclusion

Thank you for the opportunity to testify on the President's 2013 budget request for the Department of the Interior. We have a tremendous opportunity to invest in America's energy independence and economic growth. This budget balances forward looking investments with fiscal restraint. For America to be at its best, we need lands that are healthy, waters that are clean, and an expanded range of energy options to power our economy. I thank you again for your continued support of the Department's mission. I look forward to working with you to implement this budget. This concludes my written statement. I am happy to answer any questions that you may have.

Ken Salazar
Secretary of the Interior

Ken Salazar, a fifth-generation Coloradan, was confirmed as the 50th secretary of the U.S. Department of the Interior on Jan. 20, 2009, in a unanimous vote by the U.S. Senate.

Prior to his confirmation, Salazar served as Colorado's 35th U.S. senator, winning election in November 2004 and serving on the Finance Committee, which oversees the nation's tax, trade, social-security, and health-care systems. He also served on the Agriculture, Energy and Natural Resources, Ethics, Veterans Affairs and Aging Committees.

As a U.S. Senator, Salazar was a leader creating and implementing a vision for a renewable-energy economy that is less dependent on foreign oil. He was involved in every major bipartisan legislative effort on energy since 2005, including helping craft the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007. Salazar also tackled the challenge of providing affordable health care by fighting to broaden the Children's Health Insurance Program and by working to improve health care for older Americans.

Salazar has been a champion for farmers, ranchers, and rural communities, leading efforts to pass the 2007 Farm Bill and to create food and fuel security for America. He worked to help veterans in rural communities get better access to health care by creating the Office of Rural Health in the Department of Veterans Affairs and by pressing that agency to open new rural outreach clinics in Colorado.

He also exercised a leadership role in championing a new defense and foreign policy that restores American security and influence around the world and pressed for a change in mission in Iraq to better advance America's national security interests. Salazar worked to strengthen our military to ensure that we are able to confront emerging threats.

From 1999 to 2004, Salazar served as Colorado's thirty-sixth Attorney General, winning statewide elections in 1998 and 2002. He chaired the Conference of Western Attorneys General and received the Profiles in Courage award from his fellow state attorneys general for his dedication to preserving and promoting the rule of law.

As Colorado's attorney general, Salazar led efforts to make communities safer, fight crime, strengthen the state's sex offender laws, address youth and family violence, enhance and enforce Colorado's consumer protection laws, combat fraud against the elderly, and protect Colorado's environment. He established the first-ever Colorado Attorney General Fugitive Prosecutions Unit to apprehend and prosecute fugitive murderers, the first-ever Attorney General Gang Prosecution Unit, and an Environmental Crimes Unit.

From 1987 to 1994 Salazar served in the Cabinet of Gov. Roy Romer as chief legal counsel and executive director of the Colorado Department of Natural Resources, where he crafted reforms for oil, mining, and gas operations to better protect the environment and the public. He fought to uphold Colorado's interstate water compacts, created the Youth in Natural Resources program to educate thousands of young people about Colorado's natural resources, and authored the Colorado constitutional amendment creating Great Outdoors Colorado. He served as the first chairman of that movement, helping make it one of the most successful land conservation efforts in the United States.

Salazar's family settled in the American West before the United States was a country. After settling in New Mexico four centuries ago, his family planted roots in Colorado's San Luis Valley, where they have farmed and ranched the same land for five generations. Raised on a remote ranch without electricity or telephone, Salazar learned the values of hard work, family, and faith. Thanks to his parents' lessons, he and his seven brothers and sisters all became first generation college graduates.

A farmer for more than thirty years, Salazar was a partner with his family in El Rancho Salazar. He and his wife have owned and operated small businesses, including a Dairy Queen and radio stations in Pueblo and Denver.

Salazar worked for 11 years as a water and environmental lawyer with some of the top firms in the West. During his time in the private sector and as Colorado's Attorney General, Salazar worked on cases from the trial courts to the Colorado and U.S. Supreme Courts.

He received a political science degree from Colorado College in 1977, and graduated with a law degree from the University of Michigan in 1981. He also received honorary doctorates of law from Colorado College in 1993 and the University of Denver in 1999. Salazar and his wife, Hope, have two daughters, Melinda and Andrea, and one granddaughter, Mireya.

Deputy Secretary of the Interior

David J. Hayes

David J. Hayes was confirmed as Deputy Secretary of the Department of the Interior on May 20, 2009. He was nominated for the position on February 27, 2009, after serving as a leader in President Obama's Transition Team, heading the agency review process for the Department of Energy, Department of Agriculture, Department of the Interior and Environmental Protection Agency.

Deputy Secretary Hayes is the second highest ranking official at the Department of the Interior. By statute, he serves as the Department's Chief Operating Officer and has authority over all of the Department's bureaus and agencies. He is involved in implementing the Secretary's priorities for the Department, including climate change, conservation of our treasured landscapes, responsible energy development on our public lands and offshore resources, fulfilling our trust responsibilities to American Indians and Alaskan Natives, western water issues, and other matters relating to Interior's mission to conserve our nation's natural and cultural resources.

Throughout his career, Deputy Secretary Hayes has been involved in developing progressive solutions to environmental and natural resources challenges. He previously served as the Deputy Secretary and counselor to the Secretary of the Interior in the Clinton Administration. He is a former chairman of the Board of the Environmental Law Institute; he served as a Senior Fellow for the World Wildlife Fund, and was the Vice-Chair of the Board of American Rivers. Hayes was a consulting professor at Stanford University's Woods Institute for the Environment and he has written and lectured widely in the environmental and natural resources field. He also worked for a number of years in the private sector where he chaired the Environment, Land and Resources Department at Latham and Watkins, an international law firm.

Hayes is a native of Rochester, New York. He graduated summa cum laude from the University of Notre Dame and received his J.D. from Stanford University, where he was an editor of the Stanford Law Review. He is the former Chairman of the Board of Visitors for Stanford Law School.

Hayes and his wife Elizabeth reside in Arlington, Virginia and he has three children, Katherine, Stephen and Molly.

Pamela K. Haze
Deputy Assistant Secretary – Budget, Finance, Performance, and Acquisition

Pamela Haze is the Deputy Assistant Secretary – Budget, Finance, Performance and Acquisition. She was appointed to this position in October, 2009. She is responsible for oversight and management of the Department's programs and policies in budget, finance, acquisition and property management, performance management, and small and disadvantaged business.

Prior to her appointment as the Deputy Assistant Secretary, Ms. Haze was the Director of the Department's Office of Budget, a position she occupied beginning on January 5, 2007. She served as the Deputy Director and Co-Director of the Office of Budget from December, 1999 to December 2006.

Ms. Haze has spent the majority of her 34-year Federal career with the Department of the Interior. She worked for Interior bureaus including the Fish and Wildlife Service, the U.S. Geological Survey, the Bureau of Land Management, and the Bureau of Outdoor Recreation. Her experience with Interior agencies includes working as a planner, hydrologist, field biologist, contaminant biologist, program analyst, administrator, budget analyst, and manager.

Ms. Haze has experience with other Federal agencies including the Small Business Administration and the Office of the Federal Inspector for the Alaska Natural Gas Transportation System, an agency that was in operation during the 1980's to facilitate completion of the Alaska natural gas pipeline. She also worked for Cambridge Scientific Abstracts.

Ms. Haze received an undergraduate degree in wildlife biology and a graduate degree in environmental science/ecology at George Mason University.

Mr. SIMPSON. Thank you, Mr. Secretary. I appreciate your opening statement, except for that part where you are clearly pandering to Mr. LaTourette.

Secretary SALAZAR. Between Congressman LaTourette and Congresswoman Lummis there, they are using up all the Land and Water Conservation Fund money in their districts.

Mr. SIMPSON. That is a problem, all right. I will tell members that we are going to have votes around 4 o'clock or 4:30, and I believe you have a plane to catch and probably need to leave by 4:00 is that correct?

OIL AND GAS DEVELOPMENT

Secretary SALAZAR. If I may, Chairman Simpson, I have to head to Seattle to go to the San Juan Islands. Then I am heading to Mexico for part of the energy program, Chairman Rogers, where on Monday, if we can finalize this over the next day or so, we will actually be signing a major agreement between the United States and the country of Mexico with respect to oil and gas development in the Gulf.

It is a historic agreement that has escaped resolution and eluded the two countries for decades. What this agreement will do is essentially allow more production within the Gulf of Mexico, including the possibility of opening up additional sites on the Mexican border. For a lot of different reasons I would be happy to brief you on it. That is why I have to leave at 4:30.

Mr. SIMPSON. With that in mind, I want to tell members that we are going to try to stay to the 5-minute rule in terms of members. I am going to forego my opening questions and turn to Mr. Rogers.

STREAM PROTECTION RULE

Mr. ROGERS. Thank you, Mr. Chairman. Mr. Secretary, I want to talk to you about the Stream Protection Rule in the Office of Surface Mining.

Do you have an economic analysis of that proposed rule that would tell you about the employment ramifications of it, the number of jobs gained or lost?

Secretary SALAZAR. We are in the process of moving forward with the analysis on the Stream Protection Rule. The process has not yet been completed and I have not yet seen the reports or the conclusions that have been reached. I don't believe the conclusions have been reached, and I would ask if it would be okay, Mr. Chairman, to have the Deputy Secretary, who has been overseeing that project respond to the chairman's question?

Mr. SIMPSON. You bet.

Mr. ROGERS. You and I talked at length about a year ago about it, and we talked about the draft Environmental Impact Statement that had just been issued. And shortly after our conversation, OSM fired the subcontractors who had written the Environmental Impact Statement. These contractors have now gone under oath saying that OSM pressured them to change the underlying assumptions of their analyses to reduce the very dire jobs figures included in that draft report, which said that it would cause the loss of several thousands of jobs in the coal mining industry. They have provided supporting documentation to the Congress to that effect.

What do you make of that, and is this something that the Inspector General or somebody else or perhaps your office should investigate? I mean this is a pretty serious charge that they are making that the report that they prepared, contracted by the Department, said that there would be several thousands of jobs lost because of the Stream Protection Rule. Some have said even 29,000 jobs, and then they were told you have got to change that before it goes public and they said, "no", and then they were fired.

Is that essentially the facts as you know them?

Secretary SALAZAR. Let me have the Deputy Secretary respond because I have asked them to look into the issue that was a subject at the hearing we had yesterday as well.

Mr. ROGERS. Well, I had a coal company last week in my area—and this is typical—laid off 550 people, because the Federal Government is not issuing, or allowing permits to be issued, to mine coal. I mean, it is almost every week now that there is a big major coal company shutdown, and you can't get a permit to mine coal, and that has happened under your watch, and obviously I am quite disturbed.

Mr. HAYES. If I can, Congressman, when we appeared here last year there was no proposed Stream Protection Rule before you. There is none today. We are taking our time. We want to get this right. We are operating under the Stream Protection Rule that existed in the previous administration. Actually, some of it goes back to the early 1980s. Because of the concerns that have been raised, and I am happy to talk to your staff offline more about that, we are absolutely committed to have peer reviewed, strong economic analysis of whatever alternatives we develop and make public.

The Secretary and our Department have not yet decided on the approach that makes the most sense under the Office of Surface Mining. When we do we will come forward with peer-reviewed science and economics and have a full public airing of all of those issues so we can discuss them. We are not in a position to discuss what the alternatives might be because we have not decided what they might be, and we are in the same position without a new Stream Protection Rule today as we were last year.

Mr. ROGERS. Well, did this happen or not?

Mr. HAYES. There was an agreed-upon separation between the Department and this contractor. As you know, many of the States were very concerned about a wide variety of performance issues with that particular contractor, but we reached an agreement with the contractor. They finished their work. We have the benefit of their work, and we will utilize the benefit of their work and the work that continues as we drill down and make sure we get this right and make sure that the economics are peer reviewed. We will have a full public airing of whatever proposal we come out with. Again, we have not yet produced a proposed rule in this area.

Mr. ROGERS. Well, the question is, did you pressure those contractors to downplay the loss of jobs because of that proposed rule?

Secretary SALAZAR. Chairman Rogers, the answer to that is no, and if I found out otherwise, frankly, some heads would roll.

Let me also say that in terms of the overarching issue related to coal production, when we say an energy strategy that includes all of the above, it includes coal. I was with Governor Mead in Wyo-

ming where we frankly announced one of the largest coal lease sales in Wyoming on BLM lands. We continue to recognize that 50 percent of our electric generation comes from coal in this country. It is a significant part of our energy portfolio.

Mr. ROGERS. Not for long. You are running them out of business. We are losing mines every day in my part of Kentucky, and the tens of thousands of jobs that are involved, simply because OSM and the rules are prohibiting the issuance of permits.

Now, yesterday Congressman Bill Johnson, testified before the Natural Resources Committee, of which he is a member, and he released a December 2010 email that showed a mining office official telling those contractors not to discuss their review with outside parties. And that official, citing a conversation he had had with office director Joseph Pizarchik, said that sharing the material, quote, "would have extreme consequences", end of quote.

What do you say about that?

Secretary SALAZAR. I asked the Deputy Secretary to look into that quote and I will have him respond.

Mr. HAYES. Congressman, the contract we had with that contractor, as we do with virtually all contractors, protected the deliberative process approach the agency takes when evaluating alternatives before a proposal becomes public.

What Congressman Johnson did not cite was the section of the contract that required that before the contractor working with OSM could share information that is being evaluated prior to the promulgation of a rule, they needed to get permission from the Department. That is a customary thing.

Though what Congressman Johnson pointed to was a different section of the Statement of Work, which simply said the contractor had the right to ask for information, survey type information, production information from industry, not the right to share confidential, internal, deliberative process information that was being developed internally as the agency decided what type of rule might be appropriate.

In our review of the situation since yesterday's hearing, we see no untoward conduct there.

Mr. ROGERS. Well, as to whether or not the rules are killing jobs or adding jobs, I can show you my economic analysis. It is the daily newspaper that shows layoffs in the coal mines. And with the last one that I mentioned, 550 jobs were lost with a coal company that closed down last week, and that is becoming typical, I am here to tell you. The economic analysis is that it would cost jobs, I don't care what those contractors may say. I can tell you it is the truth, and it is in the papers and no one disputes it.

Can we get any help, Mr. Secretary? This is a poor area. The coal in this region is the best there is. It is low sulfur, high BTU coal. It is absolutely necessary. We are going to be burning coal regardless of what we do on wind, solar or other things for the next 50 or 100 years anyway. You can't simply make it up elsewhere. I can't understand the policy of the Department shutting down Appalachian area coal mining.

Secretary SALAZAR. Chairman Rogers, if I may, first, we will keep you very informed as we move forward with respect to the Stream Protection Rule and as soon as we have something that is

actually a proposed rule. I have not reviewed a proposed rule or any of the options of a proposed rule, but we will make certain we are keeping you informed.

Number two, with respect to OSM and their involvement in the permitting process, I have not heard it is OSM that is creating permitting issues with respect to mining, but I will check into that and see what it is we can do. I know on the BLM side, where I have been more involved with respect to overseeing the coal leasing side, there has been significant leasing of coal lands in the public land jurisdiction.

Mr. ROGERS. And that is in the West, but in Appalachia, where I am talking about, it is an altogether different story.

Secretary SALAZAR. We will make you a deal. I will come out and spend some time with you in Kentucky before we do anything on any rule.

Mr. ROGERS. I appreciate that very much. In all honesty, it is not only OSM, it is also EPA that is involved in the permitting process. But between the two of them, nothing is getting done. I thank you.

Mr. SIMPSON. Mr. Moran.

Mr. MORAN. Mr. Chairman, since we both have to be here for the whole hearing, we could have Ms. McCollum ask her questions and then Mr. Hinchey and then I will finish up the questions.

Mr. SIMPSON. Thank you. Ms. McCollum.

ST. CROIX RIVER CROSSING PROJECT

Ms. MCCOLLUM. Thank you, Mr. Chairman. I am putting up a graphic to illustrate what I have. And being a former teacher, I even have handouts to pass down to the committee members.

Mr. Secretary, as we have discussed previously, you are familiar with the legislation that passed the Senate. It is Senate bill 1134, the St. Croix River Crossing Project Authorization Act. This bill exempts the St. Croix River Crossing Project from the protections of the Wild and Scenic Rivers Act and, the legislation itself mandates the construction of an extra lift-bridge at a cost of \$700 million. This truly is a megabridge connecting Minnesota with rural Wisconsin.

I strongly oppose this legislation. It represents bad fiscal policy, bad transportation policy, and bad environmental policy. The proponents of this bridge are stretching the truth to win support for Senate bill 1134.

I would like to set the record straight on a few issues surrounding this bill. Last July the National Park Service testified in the Senate that the Department of Interior cannot support S. 1134 because this megabridge has, and I quote, a direct and adverse effect on the St. Croix River. Does the Interior Department still oppose S. 1134?

Secretary SALAZAR. Our position remains unchanged that the Wild and Scenic River is a Wild and Scenic River, and the position of the Park Service, as articulated a year ago, is the position of the Department. We have, as you know, Congresswoman McCollum, met with the delegations from the two States. Secretary LaHood and I have offered to work as part of a work group among the delegation to see whether an alternative can be found.

Ms. MCCOLLUM. Thank you, Mr. Secretary. My colleague, Congresswoman Michele Bachmann, strongly supports the \$700 million megabridge. Two weeks ago Congresswoman Bachmann was on TV in the Twin Cities and said quote, I have no doubt we will see this bridge built. We also have the Obama administration on board, end of quote.

Mr. Secretary, I doubt that my colleague has been speaking directly with President Obama. So is it your understanding that the Obama administration is on board with granting an exemption to build a \$700 million megabridge?

Secretary SALAZAR. That is not my understanding. My understanding is Secretary LaHood and I offered to work with the congressional delegations from both States to see whether we could find a common ground based on the alternative which you have proposed and the alternative other members of the congressional delegation have also proposed.

Ms. MCCOLLUM. Thank you. I would like to clear up another misstatement. This week in Roll Call Representative Bachmann and three other House colleagues wrote an op ed in support of the \$700 million megabridge. But the megabridge proponents stated in their op ed, and I quote again from that, the existing bridge cannot be removed or replaced because of its placement on the National Registry of Historic Places.

Secretary Salazar, is it impossible to remove a bridge on the National Historic Register?

Secretary SALAZAR. Is it impossible? I think it is probably possible. It may take an act of Congress and I don't know what else. But there are probably ways in which it can be done, although it obviously would be a difficult climb.

Ms. MCCOLLUM. Well, thank you, Mr. Salazar. In fact, in part of the handouts is some information on that to my colleagues. In fact, I made one simple call to the Minnesota Department of Transportation and received a list of three other Minnesota bridges in 2009 alone that have gone through the full 106 4(f) process allowing bridges to be removed and replaced.

Everyone knows the existing Stillwater lift-bridge is outdated. I raise this point to point out another false statement that is being made in support of this project. So, for the record, the National Park Service has also never approved a replacement bridge on a Wild and Scenic River without requiring an act of Congress. That is true?

Secretary SALAZAR. I believe that to be the case, but I am not absolutely certain of the conclusion there.

Ms. MCCOLLUM. Mr. Secretary, I have a visual, as I pointed out, that illustrates the oversized scale of this proposed bridge. Here you see an existing lift-bridge that carries 18,000 vehicles per day. On the other side you see an existing Interstate 94 bridge that carries 91,000 vehicles per day, and is under capacity and less than 6 miles from the proposed megabridge. As you can see, the proposed megabridge is 219 feet above the water and is near the height of the U.S. Capitol.

Are you aware of any similar exemption ever being granted to build such a massive bridge on a protected river?

Secretary SALAZAR. I have not studied the information to be able to answer that question.

Ms. MCCOLLUM. Then I am going to ask your opinion, sir, if you are willing to give it today.

In your opinion, if this legislation, which is a mandate, to build a bridge of this scale is passed, Congress would be establishing a legislative precedent that could apply to the other 200-plus Wild and Scenic Rivers in this country if we were to pass it as a mandate to build this scale bridge.

Secretary SALAZAR. Let me say the Wild and Scenic Rivers Act is, in fact, a law and we abide by that law. The statement of the National Park Service, where it raised its concerns about the construction of this bridge, is in accordance with existing law.

Ms. MCCOLLUM. Thank you, Mr. Chair. I thank the committee for allowing me to clarify some very gross misstatements that have been made on the record about the Department and about the administration's support of this bridge.

And if I have time I would like to talk about Asian carp later.

Mr. SIMPSON. We will maybe make another round if we get through these. Thank you.

Mr. Lewis.

SANTA ANA SUCKER

Mr. LEWIS. Thank you very much, Mr. Chairman. Secretary Salazar, Mr. Hayes, Ms. Haze, welcome. I will try to be as gentle as possible in my portion of this. But you may remember last year we talked about a minor little item and then my guess is that we now have an idea of who or what the Santa Ana Sucker is. But by way of taking you to that discussion in a different way, it seems to me that within the Department there has been a policy of giving priority to ensuring the availability of sustainable water supplies that would allow for sensible population growth and the like.

In California we have had some huge problems in connection with all of that. The California delta, ongoing issue, puts us in a circumstance where some of those communities in really upper, northern, central California have unemployment rates at like 40 percent.

In southern California, unless we get a handle on what may be happening with the Santa Ana Sucker and its surviving or not surviving, whatever, we could find ourselves with tremendously significant impacts upon population growth and future planning for much of the delegation that represents Los Angeles County, Orange County as well.

Can you bring us up to date as to how the status of the delta circumstance and then relate that to the questions I am asking about southern California water availability?

Secretary SALAZAR. Absolutely, Congressman Lewis. We recognize the complexity of both the water issues in California as well as the implementation of the ESA. Let me just say David Hayes has probably spent more time trying to work through the knots of California water than any other single person on the planet. We expect Governor Brown and I, with David's leadership and the leadership of the California Department of Natural Resources, will be able to announce a way forward on the Bay-Delta Conservation

Plan and the potential for future water supply. I will have him comment on that as well as commenting on the Santa Ana Sucker.

Let me make a quick comment on the ESA issue you raise in a more broad sense. My idea is that if we can avoid a listing of an endangered species that is the way we ought to go. If we can put together the conservation agreements that will help us get there, that is the way we ought to go. So even today, we are working close with Texas and with New Mexico, on the Sand Dunes lizard. We have created approximately a million acre conservation area that will allow the assurances to be there that may actually keep us in a position where we can say the listing is not warranted. We are not there yet, but we are working on it. This is the same kind of approach we are trying to take to the ESA issues.

If I can have David respond to the specific question and also to the more general question on water.

Mr. HAYES. Thank you, Mr. Secretary. Thank you, Congressman. It is not necessarily a compliment to be told that I have worked so hard on California water. I think 10 years ago we worked together with you and Mr. Calvert and many others, and we find ourselves not in a good situation still today.

To your broad point, we are completely committed to co-equal goals, meaning water supply and protection of the environment and that, of course, is what the California State legislature enacted into State law. We follow State law when it comes to water rights, and that is what we are working on very hard with the Bay-Delta Conservation Plan. We do not accept the notion that we cannot meet water needs because of endangered species.

We think we can work the issue and the Secretary has been very personally engaged here with the Governor. We are working overtime over the next several months to come up with a plan and to get out of the back room and put it out in public this summer.

On the Santa Ana Sucker, after the hearing we had last year, it seems like yesterday when you raised the issue, we went back to the office and looked into the Santa Ana Sucker issue. There has been quite a bit of activity since then. We are in litigation on both sides. We have been sued for the identification of critical habitat on the one side, we have been sued on the other side for the not having a recovery plan for the Santa Ana Sucker. Our focus, frankly, has been to make sure the water supply issues have not been impacted by the critical habitat designation.

I am assured they have not been and we will move forward in a way, like the Bay-Delta, to find an accommodation so water needs will be met at the same time we can deal with the restoration issues facing the Santa Ana Sucker.

We will stay with it. We would be happy to meet with your staff to make sure we have your point of view, and if we are missing anything we want to follow up with you on it.

Mr. LEWIS. Responding in a different way, in and around the Delta circumstance.

Mr. HAYES. Yes.

Mr. LEWIS. Several of my friends who happen to be on the Democratic side of the aisle have districts that are directly affected by this ongoing discussion with those rates of unemployment that I was talking about.

Mr. HAYES. Yes.

Mr. LEWIS. Certainly if I were to take you to southern California I certainly would not want to have us wait over decades to come to, finally, an agreement.

Mr. HAYES. No.

Mr. LEWIS. How long these Santa Ana Suckers are going to be around I don't know, but I do know that the Bay-Delta problem has been around for a long, long time.

Mr. HAYES. I will say we delivered more water south of the Delta last year than we have in the last 10 years.

Mr. LEWIS. A little flooding helps a lot.

Mr. HAYES. It does, it does. But we got through the drought. We put in place a lot of creative water movement, transfers, et cetera, to get the south side up to 45 percent. Of course, the last year was terrific.

What we have, though, is a situation that is untenable. We have got too much of a conflict, and that is what the Bay-Delta Conservation Plan is all about, potentially a major infrastructure investment in order to ensure you have a solid water supply at the same time you have a good restoration plan. It is going to require a lot of collaborative effort. We are getting hit on all sides from this, including from both sides of the aisle.

Mr. LEWIS. So if I am sitting in the audience next year listening to this testimony, I presume that you will already have available a plan relative to the Santa Ana Sucker.

Secretary SALAZAR. My expectation on the Santa Ana Sucker is we should have a recovery plan in place. We are working on putting together a recovery plan, and the way these work best, and we have so many examples on huge rivers like the Colorado River and the Platte River, is when you get the water users and the environmental community and the States all together, and you say we can do both things. We can move forward with water supply and the protection of water rights. At the same time, we can implement a restoration program that does, in fact, recover the species.

ENVIRONMENTAL LAWSUITS

Mr. LEWIS. Thank you very much for that response, and I must say, Mr. Secretary, you have mentioned specifically the difficulty we have with environmental lawsuits impacting the process as we are going forward. When we look at development of efforts for solar, energy, wind energy, et cetera, one more time, the lawsuits get in the way of real progress regardless of who wants to see the progress.

Thank you.

Mr. SIMPSON. Thank you. Mr. Hinchey.

HYDRAULIC FRACTURING

Mr. HINCHEY. Thank you very much, Mr. Chairman. Let me just say, Secretary Salazar, thank you very much, and Deputy Secretary Hayes and Deputy Assistant Secretary Pam Haze, thank you all very much for everything that you do.

I just want to commend you particularly for all that you have done to turn this Department around over the course of the last 3 years. While there has always been more work to be done, our

country has benefited from the way that you have managed our public lands and the waters, and that I deeply appreciate that.

I want to mention something about hydraulic fracturing and ask a couple of questions about that if you don't mind. First of all, I applaud you and the President for devoting new resources to studying and researching hydraulic fracturing, as well as for your commitment to proposing new rules to require all companies that drill for gas on public lands to disclose the chemicals that they use, which is something that is very natural and must be done. But it is not being done in a lot of cases.

There is a lot of controversy surrounding high volume hydraulic fracturing, but disclosing what chemicals are used is just common sense. Several States have already implemented disclosure rules and there is no good reason why similar rules should not be in place for public lands.

So I hope these rules are implemented as soon as possible. This has been something the Department has been talking about now for over the course of the last year.

So, Mr. Secretary, on the disclosure rules, when do you think that we can expect to see those? Two weeks ago there were media reports that new rules would include requirements for well bore integrity and produced water management.

Does the Department plan to include these requirements in its guidance regulations and also on the new coordinated research effort which you mentioned in your testimony, can you please describe USGS's role and what it will be doing as it gets to be done?

Secretary SALAZAR. Thank you, Congressman Hinchey, for that question, and let me respond first by saying that natural gas is a very important energy resource for the United States. The President has fully embraced the future of natural gas. We believe the 100-year supply we have here in this country now has great potential for job creation and for the energy security of this country, which goes to a common theme that both Democrats and Republicans here embrace.

Our approach to hydraulic fracturing and why we have taken a year to get to the point we are at today is because we have wanted to listen to people who have a stake in this. From a meeting I had with industry and experts at the Department of the Interior a year ago, to hearings Director Abbey held in places like North Dakota and Colorado, we have been trying to get it right.

We will, within a few weeks, announce the formal rules, and they will cover three areas. The first will be disclosure of the fluids injected into our earth so everybody knows what is being injected into our earth. The second will be the requirements with wellbore integrity because, to the extent there are fears with respect to water contamination and water supply aquifers, wellbore integrity should take care of that. The third will be to address the issue of flow-back water. When you inject the fluids into a well, you always have flow-back water, and so having a program that will deal with all those.

Now, as I have spoken about this issue often over the last year, I have also said I think if we fail to move forward on the 700-million-acre public estate with respect to hydraulic fracturing or if we fail to address it on a national level, what I think we are doing is

we are creating the achilles heel for natural gas. We believe strongly in the future of natural gas. We also believe there is a set of rules which most companies who are in the business would agree upon.

It is interesting. I was in Cleveland, Ohio, Congressman LaTourette, and I was told at the Cleveland Club, where I gave a speech on this issue, that your Governor in Ohio, a Republican, had basically said we needed to have common-sense rules on disclosure and other matters of hydraulic fracturing. And he said, while most companies do it responsibly, you don't want some—these are his words—some yahoo company going out and ruining this energy future for the United States. I very much agree with him.

Mr. LATOURETTE. I think it was a yahoo in California.

Secretary SALAZAR. In any event, I do think that your Governor and your Attorney General in Ohio are right. Our rules will be common-sense rules that I think will help us make sure we have a robust natural gas industry and one which proceeds in ensuring confidence on the part of the American people that we are doing it right, that we are protecting their health, and that we are protecting the environment.

Mr. HINCHEY. Protecting the environment and protecting the water particularly. All of those things are very, very critical, and we hope that they are going to be done in a very, very important and effective way. So I thank you very much, and we will look forward to that.

UNUSED DRILLING PERMITS

There is also unused drilling permits. This week, the House is debating an energy bill. That bill would mandate new drilling in the Arctic Wildlife Refuge as well as in a sensitive area off the east and west coasts and also in the Gulf of Mexico. At the same time, it weakens the rules governing offshore drilling and halts additional environmental reviews for oil shale drilling.

This is all done under the message that gas prices are high, and we are not producing enough from our public lands and waters. Yet it is my understanding that oil and gas companies are sitting on over 7,000 approved permits to drilling. In 2011 alone, the BLM issued over 4,200 drilling permits, but only 3,260 wells were actually drilled.

So can you tell us what is going on here with regard to this whole situation? Tell us what is really happening with regard to these circumstances. Why is the industry sitting on thousands and thousands of drilling permits approved and issued by the BLM?

Secretary SALAZAR. Congressman Hinchey, both on the onshore and the offshore, we have moved forward with oil and gas production. We have leased millions of acres in the offshore as well as the onshore. As you say, there are some 7,000 permits awarded to oil and gas companies onshore that are not essentially being exercised.

We have had a lease sale in the Gulf of Mexico in the wake of the Deepwater Horizon which I personally participated in in December.

We have another lease sale which will offer, I believe, some 38 million acres which is coming up in June of this year in the Gulf of Mexico.

We are moving forward with developing seismic information, even along the Atlantic, and are moving forward with places like the National Petroleum Reserve in Alaska. Again, here the great leadership of the Deputy Secretary, David Hayes, has resulted in bringing the Federal permitting process together in a way where ConocoPhillips is poised to perhaps move in the very near term. People have waited for decades for this to happen.

I think we are doing a lot under the President's direction to implement an all-the-above energy strategy, and we will continue to do that.

You know, the political atmosphere is hot now, and so you will hear all kinds of claims being made, but I think we have found the right balance. We believe in developing our natural resources, including our oil and gas resources. We also believe in doing it in the right way and in a responsible manner. Our Smart From the Start kinds of processes with both oil and gas and renewable energy, both onshore and offshore, is part of the program we are very proud of, and we have been implementing for the last 3 years.

Mr. HINCHEY. Well, thank you very much, and maybe there will be some discussion of this when you go down there to Mexico. Who knows? Something like that may come up at some point. Who knows?

Secretary SALAZAR. It may indeed.

OIL AND GAS ROYALTIES

Mr. HINCHEY. Yeah. In any case, just one more question; and it has to do with oil and gas royalties.

Mr. SIMPSON. A quick one. Quick.

Mr. HINCHEY. This subcommittee has spent a lot of time over the past few years discussing the importance of ensuring that the public gets fair return from the oil and gas drilled on public lands. The GAO and others have pointed out that the Federal Government, compared to other government entities around the world and in comparison to many States, charges a very low royalty rate for Federal oil and gas resources; and in past years your budget proposal has noted that the administration intended to propose an increase in royalties from the current 12.5 percent in order to assure that the taxpayers are getting fair market value for their oil and gas resources.

So it is just a simple question: Does the Department intend to propose an increase in onshore oil and gas royalties from Federal lands, and can you tell us when you will see a royalty rate increase to reflect your statutory mandate to receive fair market value for Federal oil and gas resources?

Secretary SALAZAR. Congressman Hinchey, it is included in the 2013 budget. Right now, the royalty rate is still the one that has been paid for oil and gas, I believe, dating back to the 1920s. The State of Texas and others charge 18, 20 percent for their royalty rates. Under the Bush administration, in the Gulf of Mexico the royalty rate was moved up to 18 percent because there is a fair certainty of the fact you are going to find oil and gas there.

The President's budget includes an estimated royalty rate which is at 18.75 percent for the onshore. The underlying principle is we are mandated by statute, mandated by fairness to make sure the

American taxpayer is getting a fair return for the assets the American people own.

Mr. HINCHEY. I thank you very much.

Mr. SIMPSON. Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman.

OIL AND GAS PRODUCTION

I appreciate that there has been increased oil and gas production in the United States, but, as you know, it takes years to get oil and gas fields up to production levels. Much of the production that is taking place today, started years ago in previous administrations. I just want to make sure that is on the record to reflect a fair examination of the facts.

SANTA ANA SUCKER

We were talking a little bit about water. I have heard from constituents that the Fish and Wildlife Service walked away from the collaborative process on the Santa Ana Sucker. It is my understanding, the Service claimed the Department of Justice told them the service had to abandon the collaborative process while the lawsuit that was filed by the Sucker Task Force was ongoing. I don't know if that is true or not, but I wanted to get your comment. And if you don't know, please respond for the record.

Secretary SALAZAR. Do you know any more on that, David?

Mr. HAYES. I do not know. I will get back to you on the record on that.

I know the Santa Ana Sucker conservation program that included those flood control entities was functioning well, and it will be disappointing if the litigation has interfered with that. I will look into that and see if there is a way around that.

[The information follows:]

SANTA ANA SUCKER

The U.S. Fish and Wildlife (FWS) has provided an amended Biological Opinion to cover the Western Riverside County Multiple Species Habitat Conservation Plan with respect to newly-designated critical habitat. Conservation efforts prescribed under the Plan are sufficient to compensate for covered activities.

Many of the water management agencies in the Santa Ana basin have sued FWS over its recent critical habitat designation. That litigation is still active. Lawsuits notwithstanding, FWS has continued to work with these water management agencies through a "Santa Ana Sucker Strike Team" to provide technical assistance as they try to develop and agree on a conservation framework for the Santa Ana Sucker. The water management agencies have hired a consultant to facilitate that effort. That consultant asked FWS to sign a type of coordination agreement that had problematic provisions. In light of the active litigation against FWS, the Department of Justice advised Service program managers not to sign this agreement, and FWS declined to do so. FWS does not need an agreement in order to provide technical assistance to the Strike Team, and we continue to work with them. FWS will continue to engage in a collaborative approach to address the conservation needs for the Santa Ana Sucker while meeting the needs of water users in the watershed.

The Recovery Plan for the Santa Ana Sucker is under development. FWS is reviewing an outline draft, which is the first step of recovery planning.

Mr. CALVERT. Obviously that is an important subject for me and my constituents.

QUANTIFICATION SETTLEMENT AGREEMENT LEGAL CHALLENGES

Speaking of lawsuits, as you know, we worked together years ago on the Quantification Settlement Agreement for the Colorado River, and I understand that there have been a number of subsequent legal challenges to the agreement. I want to know what the status of those legal challenges are.

Mr. HAYES. Congressman, I know we have stood tall together in protecting the agreements we reached and in defending those agreements we reached. I am not aware of any imminent concern on the litigation front. I used to be a lawyer. I am no longer a lawyer and try not to deal with it.

Mr. CALVERT. Did you give that up?

Mr. HAYES. I gave it up. We are not being informed of any imminent concerns, and we will continue to defend that agreement we worked so hard together on.

Mr. CALVERT. I am a little worried about you now, David, giving up being a lawyer.

DESALINIZATION PROJECTS

One last comment, as you know, in the West, we are going to have to figure out new ways to get water. I have always thought a novel idea is to have a water swap agreement and allow desalination plants to be built in areas where this technology may be viable.

I know Mexico has been interested in doing that and certainly certain parts of southern California as well, Mr. Secretary. This is something to think about, and I would hope that you would consider the idea.

OIL AND GAS FEES

I have one other issue. I am going to submit a question for the record regarding some of the fees that are being put on the oil and gas industry. I know the government wants to make sure we get a fair return on investment. As you know, some oil and gas is easier to get to than other oil and gas, and you have to reflect that in the royalties you charge.

Deepwater drilling is extremely expensive. It takes many, many years to get a return on investment. A lot of permits are taken out, and then companies look at the lease to find out if it is economical to recover that resource. I am sure that you keep that in mind as you negotiate for the best return you can get for oil and gas and you make sure the fees you charge are not so punitive that they prevent the well from going into any kind of production at all.

I will have a question for the record that I will submit in the interest of time, Mr. Chairman.

Mr. SIMPSON. Thank you.

Mr. SIMPSON. Mr. Moran.

DESALINIZATION PROGRAM

Secretary SALAZAR. If I may, Mr. Chairman, just a quick sentence on the desalination program.

It is an important effort I think needs to be examined. We certainly are leading the country in the Bureau of Reclamation with

funds made available by this Congress in the Yuma desalting plant where, as a result of the success of that effort, additional water has been made available to the States in the lower basin of the Colorado River. So it certainly can be done.

I think, as we look especially at the Colorado River basin, which so many of your States depend on, we are looking at significant declines in water supply because of the changing climate and all of the models that have been run. Water managers, Democrats and Republicans, are very much focused on what we are going to do with a declining water supply on the Colorado River. I think we need to not only do good management but also examine those kinds of opportunities.

Mr. CALVERT. There is a big reservoir out there. Lots of water.

Mr. SIMPSON. Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman.

COMPETITIVE STATESIDE LWCF PROGRAM

Mr. Secretary, I note in your budget you include \$20 million for a competitive Stateside land and water conservation program. As you know, I do support a competitive grant component. Can you elaborate on what you might hope to accomplish and how you would go about choosing competitive grants? Do you or Mr. Hayes want to do that?

Secretary SALAZAR. Congressman Moran, we believe that in the same way we have spoken with the Governors of all 50 States and have identified 101 conservation projects, two of them for each State and one of them for the District of Columbia, that the States know where it is they have their most important priorities. What we have done in the America's Great Outdoors process is to identify these 101 projects and are trying to align all the resources we can bring from the United States with resources from nonprofits as well as State and local governments to make them happen. What we will do with the \$20 million request in the 2013 budget is set up a competitive process where we would be able to demonstrate the best of these collaborative, cooperative projects around the country.

Mr. MORAN. So you want \$20m and will leverage other money devoted to that.

Secretary SALAZAR. Indeed.

Mr. MORAN. Thank you.

COBELL SETTLEMENT

We legislated in the last Congress the Cobell settlement. I wonder if you could give us an update on the status of implementation of Cobell, and you might also tell us where we are in terms of the Carciari decision.

Secretary SALAZAR. Okay, I will have the quarterback, David Hayes, give you a quick update.

Mr. HAYES. Congressman, we are still waiting for the courts to finish all appeals; and under the law you helped us all pass we are not able to implement the Cobell potential payout either for the class action recipients or for the land consolidation program until all appeals have been finally resolved. The District Court of Appeals here in the District of Columbia has some cases they have

moved along very quickly. We are hoping for a speedy resolution. We will be ready to move forward.

We did get permission from the court to go forward with consultation with tribes. We did a series of 10 tribal consultations all around the country to get ideas from tribes on how best to implement Cobell. We have been working internally to set up a structure that will enable us to, as soon as the gun goes off, implement this program fairly, effectively, and quickly.

Mr. MORAN. Thank you.

PYTHONS IN THE EVERGLADES

Mr. Secretary, I have been struck by some of the television shows on the Everglades and the effect that pythons have had. Well, you know, we laugh about it, but it is serious stuff.

Mr. SIMPSON. Well, I don't go down there.

Mr. MORAN. Well, I am not sure they can swallow you or me, Mike, but they can swallow lesser mammals, I will tell you that.

Mr. SIMPSON. I do not like snakes.

Mr. COLE. They might swallow Congresswoman Lummis.

Mr. MORAN. But they are destroying many of the species. It is a serious issue. They have no natural predator, they are multiplying, and they really are destroying much of what we have tried to create and maintain in the Everglades. Can you address where we are on this?

Secretary SALAZAR. Absolutely.

CARCIERI

Just a quick sentence on Carcieri. So many of you are working on this, Congressman Moran, Congressman Cole, it is in the 2013 budget as a proposal. I hope we can get that done.

Mr. MORAN. Good. Thank you for that.

PYTHONS IN THE EVERGLADES

Secretary SALAZAR. On the python and on the Everglades, let me just say I think it is imperative we do everything we can to get the Burmese python and other invasive snakes under control. What we have done is we have moved forward with the banning of the importation into this country of the Burmese python. We will make it illegal for the transport of the Burmese python across State lines.

You are correct in your assessment that they have killed off many of the bobcats native to the Everglades and many of the other species. I always, when I worked on this issue, which I worked on a lot over the last several years, always noted to people what happened in Guam is that all the birds in Guam are now dead, and they are dead because the brown tree snake has taken over the habitat.

We don't want that to happen in the Everglades, because the Everglades truly are a World Heritage site, which the Members of this Congress have really made happen. The progress we have made over the last 3 years in restoring the flow back into the River of Grass is Herculean in nature, and we cannot have the Burmese python come in and destroy the progress made.

Mr. MORAN. Have we figured out what we can—how do you control the population?

VOICE. Hunt.

Mr. MORAN. They say the traps destroy—catch too many other animals. If you poison it, the other animals are going to suffer from that. There aren't a whole lot of things you can do, they say, to rid yourself of the pythons.

Secretary SALAZAR. We are doing a number of things. Besides the ban on the importation, we also are looking at ways in which we can lure them out to places where they can be killed and gotten rid of. I worked closely with the gladesmen in Florida and with the Florida Wildlife Commission to make sure we are doing everything humanly possible to stop this scourge from moving forward.

Interestingly, Congressman Moran, Florida had a very natural kill-off of many of the pythons last year just because it got a little bit cold. They cannot stand the cold. So last year there were probably thousands, if not tens of thousands, of pythons that died because of the freeze that occurred in Florida.

Mr. MORAN. But climate change is going to lessen that likelihood, it would seem.

Mr. SIMPSON. A good thing about climate change.

Mr. MORAN. Mr. Chairman, thank you.

Mr. SIMPSON. I am just curious how you lure them out. How do you call a python? Come on, little python.

Mr. MORAN. If Mike and I went down there, would that be seductive to them, to stand there?

Mr. SIMPSON. We could make snake cowboy boots out of them after—

Mr. LaTourette.

Mr. LATOURETTE. Well, thank you, Mr. Chairman, and thank you, Mr. Secretary.

And I would be remiss if I did not say that I was pleased at the beginning of this hearing that we got a quote from Secretary Ruckelshaus from Mr. Moran. Because I have come to treasure his quotes, and it has kept me from having to buy one of those obnoxious quote-of-the-day calendars to put on my desk.

So thank you. Thank you very much.

Mr. MORAN. It is nice to be appreciated.

Mr. LATOURETTE. And, secondly, on the python, perhaps when you are done looking at the program that deals with the python, you could turn over to Swamp People and see how we could take care of this problem on the History Channel. That is also a very good program.

CUYAHOGA VALLEY NATIONAL PARK

Mr. Secretary, I want to thank you very much for something that you mentioned a couple of times. You know, one of my difficulties is that I am following in the footsteps of my mentor Ralph Regula, who was former chairman of this subcommittee and has almost everything to do with the Cuyahoga Valley. At the time, it was forest and now park. You correctly indicate that it is one of the most visited parks in the system.

The first half of that land purchase I was able to accomplish the old-fashioned way, the earmark way, until somebody around here

ruined that. We were very much dependent upon the good graces of the President, so I am very appreciative to the President for including it in his budget last year and very appreciative to you for completing the purchase. And I know the chairman will be fascinated by this, but that property was owned by the Cleveland Orchestra, actually.

Mr. SIMPSON. Really?

Mr. LATOURETTE. Yes. And like a lot of programs within the arts and institutions, it was suffering some financial woes. So the transfer of that property not only preserved that acreage and permits us to put it into the park, but also causes the Cleveland Orchestra to be able to have sufficient funds.

You know, the chairman sort of ribs me on this. We were in New Zealand recently, he and I, and we were having lunch with the Attorney General of New Zealand. And we were doing the obligatory where are you from, where are you from. I said I am from Cleveland, Ohio; and the first words out of his mouth were the Cleveland Orchestra. I know that Chairman Simpson has difficulty believing that there is such a fine institution in the city of Cleveland, but in fact there is.

I actually have—you were in Cleveland on Valentine's Day, and I have a very nice picture of you from the Cleveland Plain Dealer relative to your appearance at the City Club, and I thank you for going to do that. I think you also went to Lincoln Electric and a couple of other places, and I thank you for doing that as well.

HYDRAULIC FRACTURING

You were asked a question about hydraulic fracking at the City Club, I understand. And you are correct that Governor Kasich, in I think a good move, has said, let's just take a deep breath and make sure we get this right, as you are indicating you are going to do. Because, you know, the Marcellus and Utica shale formations have the ability to be a huge economic driver and source of energy forever in western Pennsylvania and eastern Ohio and other places as well.

One of the things that is happening is that there are all these urban legends sort of springing up around fracking, and even though it has been going on for decades. The director of the USGS was in my office yesterday and talking about her initiative, and I thank you for including in your fiscal year 2013 budget sufficient money so she can move forward with what she wants to do.

As I understand it, what she told me is, of the 144,000 well sites out there, less than 1 percent are causing the difficulties that occur. But what has happened is, you have had some groundwater contamination, and people say that is because of fracking.

Recently, there was an earthquake in Youngstown, Ohio, and Youngstown, Ohio, is one of those places that is difficult to tell they have had an earthquake, before or after, but people are saying that it is because of hydraulic fracking. And so you have a lot of stuff going on.

So I am excited about what USGS is going to do. Because one, it is my understanding that the director says she can finish her work in a year, so we are not talking about some 5-year process; and, two, all the stakeholders are going to get together and we are

going to have a definitive piece of work that either these things are true, they are not true, what are the best practices, and how do we capture this valuable natural resource that is going to create so many jobs and heat so many homes without negatively impacting the environment.

So, my only concern is, relative to your BLM work as well—and I know most of the drilling that I am talking about is not on Federal lands—but what would be bad would be—is if BLM completes their work and they come up with one set of conclusions and USGS completes their work and they come up with another set of conclusions.

Because, as you know—even though Mr. Hayes is not a lawyer anymore—from the world of litigation, that is what they sort of want. I mean, the groups on either side of an issue want conflicting expert reports so they can grab onto the one that favors their position and move forward. And I would hope that there is going to be sort of a gold standard for fracking research relative to land, at least in the eastern United States, that people could move forward with and feel comfortable that it was not only going to be safe for the environment but could also move forward and capture the resources. So that is my only concern about what is going on.

Secretary SALAZAR. Congressman LaTourette, first, let me say, again, the President I remember in early 2009, speaking about the importance of natural gas. At the time, the Alaska natural gas pipeline that was being proposed and hopefully still will get done. We have been supporters of natural gas from day one, and we continue to see it as a huge opportunity for the United States for job creation as well as for energy security.

You characterize it correctly. I think there are urban legends that creep up; and water contamination that does occur can occur sometimes through the flow-back water that is not appropriately controlled or it can occur through, as your Governor said, a yahoo company that might not do the well construction correctly.

Mr. LATOURETTE. You keep leaving out “from California.” He did say that, “from California.”

Secretary SALAZAR. The other thing, frankly, I think to be true is that people are concerned when they don’t know something.

Mr. LATOURETTE. That is right.

Secretary SALAZAR. They think that is why Wyoming, Colorado, and Texas have all moved forward to having requirements on disclosure. I think for us at Interior, in the management of the 700-million-acre mineral estate of the United States, it is important for us to let the American owner of that real estate know what is being injected into the earth.

Mr. LATOURETTE. I couldn’t agree with you more. I hope whatever resources are necessary for USGS to finish this important task, you come and ask us for and we get it done as quickly as possible so we can move forward in an environmentally safe way.

Secretary SALAZAR. Thank you very much.

Mr. LATOURETTE. Thank you very much.

Thank you, Mr. Chairman.

Mr. SIMPSON. Even Idaho is looking at requiring disclosure on fracking in their legislature this year.

But, just for the record, I want you to know that I have come to deeply appreciate the cultural aspects of Cleveland.

Mr. LATOURETTE. Thank you.

Mr. SIMPSON. Mr. Cole.

Mr. COLE. I, for one, remain unconvinced about that, but that is a topic for another day. Nobody from Oklahoma could throw stones anyway, so I will be very careful here.

INDIAN COUNTRY

I would like to go back, if I may, Mr. Secretary. First of all, just thank you for the wonderful work you do and Deputy Secretary Hayes has done and certainly Secretary Echo Hawk. You guys have really done an absolutely tremendous job across the board in working in Indian Country and recognizing tribal sovereignty and removing a lot of barriers to economic development, and you have done well. As you know, there is a long way to go, a lot of challenges there, but I have very little to quibble about and much to praise in your record, and I appreciate it very greatly.

LAND CONSOLIDATION

Secretary Hayes and I actually had a chance to visit privately about this matter, but it relates to the Cobell decision. As I am sure you are aware, there is a lot of confusion over the land fractionated part, which I think is actually one of the really revolutionary parts of the agreement that you negotiated with Secretary Hayes.

A lot of tribes are under the impression that when land is—after it is purchased from individual owners and then conveyed to them, it is going to have a lien placed on it. I understand there is some legal concern about this, and I am wondering if language that would clarify that that kind of transfer under Cobell did not require a lien would be in order.

Secretary SALAZAR. The quarterback and actually the creator of the concept of dealing with these fractionated interests is David Hayes, so let me ask him to respond on the record on that.

Mr. HAYES. Thank you, Mr. Secretary.

Thank you, Congressman Cole. As we talked the other day, thank you for your leadership. We would not have the Cobell settlement without your leadership, and we deeply appreciate that.

The intent, I believe, of Congress, and the intent of the Administration, was this \$1.9 billion would be spent to purchase back the individual undivided interests that individual landowners have in lands that as a result, are locked up essentially because of the fractionation that has occurred. When would then provide that land in trust to the tribal communities in which they reside. There was never an intent there be a lien put on that land. If the land happens to be productive and is providing some funds, those funds would have to essentially be paid back into the \$1.9 billion.

We have worked with our Solicitor, and we believe, under the current law, we can proceed without requiring reimbursement from the tribe or a lien. But, as we discussed the other day, certainly an additional clarification of that intent, I think, would be welcome.

Mr. COLE. I would like to work with you on that kind of language, just to make sure there is never any doubt about this, and this question is not raised at some point because, again, the confusion is out there.

If I may, let me move on to a more parochial concern that I have.

INDIAN RESERVATION ROADS

As you know, Mr. Secretary, or you may know, you guys manage obviously a lot of Indian road money, question 10 money, as it is sometimes called. Oklahoma is in a rather unique circumstance in that we have more Indians than anybody else but no reservations. That was not by the choice of the tribes. So some of the formulas that both the BIA and the Transportation Department is developing is basically moving money away from, quote, landless tribes to land-based tribes.

I have, by the way, no argument that there needs to be more money spent on infrastructure and roads in reservation country. Mr. Simpson and I, Ms. McCollum had an opportunity to see how tremendous some of those needs are in some of the Sioux reservations in South Dakota. I just don't want it done at the expense of other tribes that also have legitimate economic developments. So I would like to get with you at some point and just talk to you about that problem.

I am having the same problem, by the way, with the highway bill. But some people forget there are lots of Indians that don't live on reservations. Tribal economies, tribal governments, trust land that is impartial, and road money for those tribes who partner up economically is incredibly important to them and their local communities as well.

So, again, I would like to work with you on that if I may.

Secretary SALAZAR. We would be delighted to work with you. And, again, I think it demonstrates how this Congress is blessed to have you and your understanding of the first Americans of this Nation.

Mr. COLE. Well, you are more than generous.

WATER RIGHTS

Let me move you on to another area, and this is more of a theoretical area, but it is a legitimate question of mine, and let me frame it—because there is actually a dispute developing in my own home State between the State government, and tribal governments over water rights. I am curious as to what role—and these are water rights that were granted by treaty.

But we have a very unique circumstance in Oklahoma in that—well, it is not unique that all the treaties were broken, but it is unique in that the reservations don't exist anymore. So is that an issue that Interior or the Federal Government in some area would tend to be involved in if we move into litigation?

Secretary SALAZAR. Let me first say I think the work we have done in the last 3 years on water rights on the Crow reservation, the Navajo, and so many other places, now in Arizona working closely with Senator Kyl, has been probably more than has been accomplished in recent history.

Mr. COLE. I could not agree more. You should be very pleased. It has been a spectacular achievement.

Secretary SALAZAR. We are very pleased, and it could not have happened without the support of the Congress.

With respect to the water rights issue for landless tribes, it is not something I am familiar with. Let me see if David might be, but I am not.

Mr. HAYES. I know, Congressman, we have been involved in the issues in your State. We do have a Secretary's Office of Indian Water Rights, and we have negotiating teams in different areas. Letty Belin, who works with me directly and with the Secretary, is the head of that group. I will ask her what the current status is. I know there have been discussions about the Choctaw.

Mr. COLE. Choctaws and Chickasaws are involved.

Mr. HAYES. Right, right. I know that there has been activity. I don't have the latest, and I would be happy to follow up with her on it.

Mr. COLE. If you could have somebody get in touch with us and sort of brief us.

Mr. HAYES. Sure.

Mr. COLE. I am about to run out of time here.

HYDRAULIC FRACTURING

One question—I am going to send you a question for the record just to ask about hydraulic fracturing on BLM and Indian lands. This has been a helpful discussion so far, and I appreciate that.

REORGANIZING GOVERNMENT

Mr. COLE. But one last question. The President laid out some discussion about moving NOAA to the Department of the Interior. I have a shameless parochial interest. The Severe Storm Laboratory is in Norman, Oklahoma, in my district. And I don't sit on CJS, but I sure get to sit on Interior. So I am just curious what the status of that is, what the timeline, if you have got any particular thoughts about that. Because we are very unclear as to sort of where we are in this particular proposal.

Secretary SALAZAR. Congressman Cole, the President is very much a hundred percent behind the authority to give him the same authority President Reagan had, which was basically to realign executive branch functions in order to gain efficiencies in government. His focus and his announcement had to do with jobs and economic development. The fact is we have business functions spread out over so many places and wanting to have an ability to consolidate from five different agencies and the agencies that are really involved in economic development.

He also made a comment with respect to NOAA within the Department of Commerce. You know, we have not gotten into any discussions about how that would happen or what the timeline would be, because at this point in time what the President awaits hopefully is this Congress to act and to give the President the authority to go ahead and make these alignments.

Mr. COLE. If that were to come about, I would be delighted to welcome you down there. It would be one of the crown jewels of your domain, Mr. Secretary, without a doubt.

I yield back. Thank you very much for your service. Appreciate very, very much what you and your team are accomplishing for the country.

Secretary SALAZAR. Thank you very much.

Mr. SIMPSON. Mr. Flake.

Mr. FLAKE. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for coming in.

NAVAJO GENERATING STATION

I want to first compliment the Secretary and Mr. Hayes for the work they have done with regard to the Navajo generating station with the rule that is about to come out. I know that you have worked closely with the tribes in particular to make sure that the outcome is favorable for them or that economic activity for them can continue.

As you know, this is extremely important for Arizona. The Navajo generating station produces the power for the Central Arizona Project, which brings water to about 80 percent of the population in Arizona as well as agricultural users and others. So I know you are working closely with the tribes, and that is important, and you have been out front on the issue and taken a proactive stance, and that is very much appreciated.

URANIUM MINING

Second, I just wanted to address something that Mr. Moran said at the beginning of the hearing, that he was pleased that you had taken out of circulation a million acres, he said, in and around the Grand Canyon for uranium mining. I just want to clarify something there. None of the lands that was affected by this ban, this 20-year withdrawal, is within or is in the Grand Canyon, correct?

Secretary SALAZAR. That is correct.

Mr. FLAKE. Okay. None of the land that is being affected here is within the boundaries of the Grand Canyon National Park, which is a pretty big buffer around the Grand Canyon; is that correct?

Secretary SALAZAR. That is correct.

Mr. FLAKE. Okay. Thank you.

Mr. MORAN. We did use the term "around," though.

Mr. FLAKE. In and around. It is the "in" I have a problem with. When this was being debated in this committee and elsewhere, there was a lot of hyperbole about in the Grand Canyon. And on the floor when it has been discussed Members have even come and said, you know, I don't know if that glow in the Grand Canyon is a beautiful sunset or radioactivity or things like this.

So there is a lot that is said that just is maybe a little bit beyond, particularly for those of us who are from Arizona, who have spent our lives there, who grew up there. In fact, my family has been in northern Arizona for five generations, and we value the beauty and splendor of the Grand Canyon. And that is why the Arizona Wilderness Act was enacted in the 1980s, to set aside at that time three million more acres to make sure it remains the pristine wonder that it has always been and always will be.

We also value economic activity that can take place and has been allowed to take place in the Arizona strip, the area north of the

Grand Canyon below the Utah border, and that is what we are concerned about here. Many of us are very concerned with this withdrawal and the economic activity that it prevents. And there is also some misnomer about that this is stopping mining. It simply stops new claims. There is mining already happening.

And there is one thing that I just wanted to ask you about. Initially, it seemed that the justification for removal here was based on environmental concerns. Later on, it seemed to be more economic concerns with regard to tourism. I just wanted to get your reaction on that.

It does not seem inconsistent with tourism to have mining activity. And, in fact, during the 1980s, which was the peak of mining in that area, where mining claims still exist but not much is happening now, that was the peak of economic—I am sorry—tourism to the Grand Canyon as well.

So I don't think that these things are inconsistent, and I just wanted to know what justification was really there. Was it economic or environmental for the withdrawal?

Secretary SALAZAR. Congressman Flake, thank you very much. Thank you for your correspondence over the last year and your advocacy for your position on the Grand Canyon.

The final decision to set aside the million acres for the next 20 years from mining claims recognized a couple of things I think are very important that you allude to.

One is that there are already mining claims in the area, and so it is conceivable that several uranium mines will move forward under the scenario which currently is in play for this particular area.

Second, we are moving forward with additional studies to understand the relationship between uranium mining and water quality within the Colorado River system. As you well know, the Colorado River supplies water not only to so many people in Arizona but also throughout the Southwestern part of the United States. The assurance that uranium development can move forward without having a negative impact on this very precious lifeblood of that whole one-fifth of the United States is something that is very important. The United States Geological Survey was very involved with us in providing this input into this decision, and it is something we will continue to study and monitor over the years ahead.

Mr. FLAKE. Thank you.

Just a couple more, very quickly.

RESOLUTION COPPER

Resolution Copper we passed in the House Land Exchange, that would allow that to go forward. I understand the Department of Interior is opposed to that, yet the Department places big value on wind and solar. I would just like to make mention that, if we are talking about wind turbines, the big ones use about five tons of copper in each. We have got to have some kind of supply of copper, and this is I think the third richest copper ore body in North America that we are talking about here. And studies are moving ahead certainly, but just to take a position that seems to be rather arbitrary that this should be opposed, I am just wondering why.

Secretary SALAZAR. Congressman Flake, I visited the Resolution Copper Mining area in Superior, now it is about 2 years ago. There was legislation that I believe cleared either the committee in the Senate or maybe even the entire Senate last year which would have authorized the Resolution Copper Exchange to move forward with the appropriate processing to undertake the consultation that needs to be taken with the tribes in the area who believe very strongly in some of the heritage within the vicinity, the mining area as well as addressing some of the water issues.

That kind of process, in our view, is what needs to happen with respect to the evaluation of this very valuable copper deposit in Arizona. The legislation which I understood you sponsored here in the House, I think, would have directed a shortcut that would not have allowed that kind of evaluation to take place.

Mr. FLAKE. As we talked about here—and I will end with this—sometimes the evaluation and process in a place in this case would simply kill the project. I mean, you have investors that have sunk so much money in for so long and can only wait for so long before moving on. And so we can—I mean, it seems at times that the Department, on a project they don't like, will use the excuse of we have got to just do this, this, and this, and then just frog-walk the entire process until it is too late, and that is a concern that I have.

Secretary SALAZAR. If I may, Congressman Flake and Mr. Chairman, I think there is a constructive approach to this.

I do agree with you and with Senator McCain that the ore deposit there is a very valuable ore deposit.

I also agree with you that the company has brought forward some very significant conservation measures and perhaps an exchange here would actually address many of the issues that have been raised by some of the tribal communities in that area.

I think the resolution that had been agreed upon in the last Congress is a resolution that might work. Frankly, we would not have been having those conversations if we did not think you might be able to get to a place that would be appropriate to move forward by going through that kind of a process.

Mr. FLAKE. Thank you, Mr. Chairman.

Mr. SIMPSON. Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman. Thank you, Mr. Secretary.

SODA ASH ROYALTY RATE

My first question is about trona or soda ash. As you know, trona is a hard rock, and when you grind it up, it makes soda ash, and soda ash is used for, oh, baking soda, toothpaste, glass. Recently, the royalty rate was raised from 2 percent to 6 percent on trona, and it is produced in Wyoming and California in its natural form. Elsewhere in the world it is a synthetic. It is very difficult for natural trona soda ash that is produced in the U.S. to compete with China that not only makes the synthetic but subsidizes it.

So I have been working with Ambassador Kirk and the Commerce Department to try to keep our soda ash competitive. But it is kind of a one-step-forward, two-steps-back thing when I am working with Ambassador Kirk on one side so we can save our jobs

and our industry here and then the Department of the Interior slaps an increase in the royalty on it.

So over the years you have raised the royalty through an administrative process, but then when it came to reducing the royalty or not allowing it to go back up, you yesterday informed the soda ash industry that it could not grant them temporary relief from the royalty imposed on them since October. So it has been a pretty frustrating experience for somebody who is focused on jobs and the economy in a way that is trying to preserve jobs that currently exist.

Did you consult with Ron Kirk and Commerce Secretary Bryson before—about the implications of your decision before you made it?

And then, secondly, if I could just throw the second question in, Ron Wyden and I, Senator Wyden from Oregon, have some legislation on this because his ports are being used to provide this global commodity to the rest of the world so we can also increase our export capacity, as the President has also advocated.

I would really like to be able to work with you on these issues so we can keep these jobs in the U.S. and keep this nonhydrocarbon product that is natural out there so it can compete with a synthetic product that is subsidized elsewhere in the world.

Comments?

Secretary SALAZAR. Yes. Congresswoman Lummis, I am going to have the Deputy Secretary, who has been working on this issue on my behalf, respond.

Let me just say at the outset, if there was something we could do under the law to get you the relief you and Senator Wyden have been requesting, we would absolutely do it. I think at the end of the day, having spent a good deal of time working on this issue, including meeting with Chairman Simpson at one point on this issue, there is a legal constraint we cannot get around.

But David has been working more recently on it, so I am going to have him comment on it as well.

Mr. HAYES. Yes, thank you.

We do take this very seriously. I had a meeting in Chairman Simpson's office with a number of folks in the industry. The background, as you know, is that there was a 5-year period when Congress had in place a reduction in the royalty for this industry from 6 percent to 2 percent. That period expired recently. The question to us was, can we administratively impose the same discount basically on the royalties? Because of the seriousness of the issue raised by you, by the Chairman, by Senator Wyden and others, we put our top folks on it and worked it very, very hard.

We did have a meeting yesterday. We will be delivering a thorough analysis of this to the industry tomorrow.

What we found was we have authority to adjust royalty rates for this commodity and others, but we have regulations that lay out the criteria that have to be established in order to qualify for a discount. And, unfortunately, the industry came in and essentially said, as a group, we cannot satisfy those regulatory criteria in the law, but we ask you to just use your general discretion to provide this discount.

We put our top lawyers on it. I am no longer a lawyer, but we put our best folks on it, and we just cannot do that. We need to follow the law.

We are obviously open to a legal change, either by the Congress or potentially by new regulations. That does not happen overnight. We will be providing this analysis in writing; and, as I have said to a number of folks, we know how important this industry is. The industry has had a good run here in the last several years, and we certainly don't want to impact that, but we have to follow our legal requirements.

Mrs. LUMMIS. Thanks.

HYDRAULIC FRACTURING

I would like to switch subjects now to fracking.

As you know, Wyoming has the most tough rules on fracking disclosure in the country, and they apply to Federal public lands. If somebody is drilling on Federal public lands in Wyoming, they have to disclose to the Oil and Gas Commission in Wyoming.

So I wanted to ask a question about something that came up yesterday in the Natural Resources Committee. Secretary Salazar, you were quoted as saying—and I suspect that you may not have meant to say this, so I just want to give you a chance to clarify your position. Yesterday, you said that there were many in the industry who would rather have a national standard than different standards from State to State.

And I have a letter here from the Independent Petroleum Association, API, American Exploration and Production Council, American National Gas Alliance, U.S. Oil and Gas Association saying they want to dispel any suggestion that there is a need for a new Federal framework to address the fracturing chemical disclosure issue or to develop a national well construction model.

Did you mean to say what you said? Do you want to clarify your statement of yesterday? There is a disconnect here between this letter and what you—

Secretary SALAZAR. Congresswoman Lummis, what I said is many people in the industry have supported the efforts we have on the three-pronged approach to hydraulic fracturing. The CEOs of many of the most involved companies in hydraulic fracturing have communicated that to me personally in different meetings we have had.

About a year ago, perhaps even more than a year ago, I had stakeholders from industry, including some of the leading companies, along with environmental groups at a meeting we had at the Department of the Interior where we had a conversation about natural gas and hydraulic fracturing; and many of the leading companies in the industry that are involved in this arena were suggesting we needed to move forward in this way with respect to disclosure.

I would submit to you that many of the companies that I am aware of have activities in more than one State; and at least some of those companies would, I think, benefit from the fact that they know that if they are doing hydraulic fracturing in Wyoming and they cross State lines to Utah or over to Colorado that it is the same set of requirements in terms of disclosure, wellbore integrity, and flow-back water requirements.

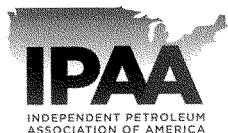
It seems to me common sense, and we will see. The rules are not yet final. We will be moving forward with the proposed final rule, and then we will take that through the process. But certainly working closely with the States, now not only the State of Wyoming but the State of Colorado, State of Texas and others, we will also learn from their experiences and incorporate that into our work on hydraulic fracturing.

Mrs. LUMMIS. Thank you, Mr. Secretary.

And, Mr. Chairman, I would like to submit this letter for the record.

Mr. SIMPSON. Without objection.

[The information follows:]



February 15, 2012

The Honorable Doc Hastings
Chair
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

At the Committee hearing on the Department of Interior budget, Secretary Ken Salazar responded to a question from Representative Scott Tipton, in part, with the following comment regarding the Department's intent to develop regulations related to hydraulic fracturing:

Your question really goes to the fact that if you have states now coming on board and saying that they are going to develop their own regulatory regime, why is it necessary for the United States to develop its regulatory regime on public lands? My answer is to that is I think we have a responsibility; I believe we have a responsibility under laws of this country to make sure that the 700 million acres of the American citizen owned public estate that we are taking care of those lands in a way that any land manager or any land owner would do. In addition to that ... I would also add that I think there are many in the industry who have spoken to me who have said they would rather have a standard that they can follow from state to state, so they aren't subjected to ... most of the companies that are involved in hydraulic fracturing and natural gas production operate across many state lines and what I always hear from industry is that they don't like to deal with a patchwork of regulations; it makes it difficult for them to address different sets of regulations. Our regulations will deal only with the public estate, but it also seems to me that it may create the template for what ought to be happening across the country as well.

We, the undersigned organizations, want to explicitly state that our member companies support the current state processes for regulation of hydraulic fracturing. More importantly, we have repeatedly requested that the Department of Interior utilize the state operated FracFocus reporting system instead of attempting to create a different, costly and unnecessary new reporting process.

While we plan to continue to press for a FracFocus approach, we want to dispel any suggestions that there is a need for a new federal framework to address the fracturing chemical disclosure issue or to develop a national well construction model. Such a framework or model would be counterproductive given the efforts by state governments to tailor regulation to local demands.

Sincerely,

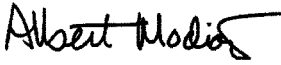


Barry Russell
President and Chief
Executive Officer
IPAA

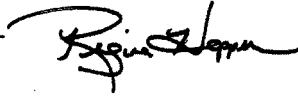


Jack N. Gerard
President and Chief
Executive Officer
API

Bruce Thompson
President
AXPC



Albert Modiano
President
USOGA



Regina Hopper
President and Chief
Executive Officer
ANGA

CLEAN ENERGY

Mrs. LUMMIS. One more question, Mr. Secretary, and it is about clean energy. In the State of the Union address, the President direct—he said, I am directing my administration to allow the development of clean energy on enough public land to power three million homes.

Now, yesterday, also at the Natural Resources Committee, you agreed with Representative Landry's inquiry that about natural gas as being clean energy. And one of the things that I would like to encourage you to look at when we are looking at onshore production of clean energy is that you can produce so much more energy for three million homes from natural gas than you can from wind and solar, especially wind, when it comes to the surface disturbance.

Like a good stiff drink, one is wonderful; and institutionally sized wind farms can be, when they proliferate, can have a surface disturbance that begins to detract from the beautiful public lands that we have in our huge States. Whereas if it is being produced in the form of natural gas, the surface disturbance, the viewshed is less, and yet you can produce so much more power.

So while I am a proponent of all of the above—I believe in wind energy, solar energy, and traditional forms of energy—I just want to encourage you that, when we are looking at clean energy, that natural gas really be considered a form of clean energy. Because, among the things that I love about our public lands is the viewsheds, and I don't think we should trade off our viewsheds when we don't have to, when natural gas is such a clean resource that we can get from our public lands without the significant surface disturbance associated with some of these industrial-scale wind projects.

Now, solar has a much smaller footprint than wind on the surface but a much larger footprint than natural gas. So I just throw that comment in, and thank you for being here today, both of you—all three of you.

Mr. CALVERT. If the gentelady will yield.

Mrs. LUMMIS. I will.

Mr. CALVERT. You have obviously driven down the 10 freeway to Palm Springs and seen the beautiful wind machines that we have along the way.

Mrs. LUMMIS. I have.

Mr. CALVERT. You are right about the viewshed.

Mrs. LUMMIS. I yield back, Mr. Chairman. Thank you.

Mr. SIMPSON. I kind of have to agree with that. I drove over to Boise last week, and in one area by American Falls they put so many of these huge windmills up that it is distracting to drive down the road. I mean, you are sitting there watching these things in amazement as you are driving down the interstate. It is a little scary.

But, anyway, let me ask you a couple questions. If there are any of these you would like to answer for the record, just let me know.

PAYMENTS IN LIEU OF TAXES

The first one is your proposal for payment in lieu of taxes. You propose extending the mandatory spending aspect of it for an additional year but no recommendation on how to pay for it. If Congress is unable to find a way to pay for it, it would be funded out of the Interior bill. That would be \$398 million that would come out of some other programs in the bill. You could not get a bill passed with all the westerners if you did not have that payment in lieu of taxes program. Are you going to recommend legislation to extend this for a year and a way to pay for it or is that just going to be up to us to try to find it?

Secretary SALAZAR. Yes, we hope legislation is passed as part of the budget. It is included in the 2013 budget and paid for within the 2013 budget, Chairman Simpson.

Mr. SIMPSON. You found—are you going to identify some ways that you would recommend paying for it?

Secretary SALAZAR. I think within the 2013 budget, it is a balanced budget, which the President proposed; and included in there would be the resources.

Mr. SIMPSON. We haven't had to worry about it for the last 5 years, because it has been on the mandatory side, and it hasn't been under our jurisdiction or under our control. It has just been a mandatory pay-for every year. Now the mandatory nature of that spending is dropping off. And if we are going to extend that mandatory period for another year, we are going to have to find a way to pay for that somehow or it will have to come out of other programs within the budget.

Secretary SALAZAR. Maybe I can have Pam Haze respond in part to the question.

But let me say at the outset that, first of all, the Payments in Lieu of Taxes program is a very important program. You know, a U.S. Senator from Colorado worked very hard to preserve payments. We need to make sure that we continue to have payments. When you have land ownership patterns, as you do in Idaho or Colorado or any of our States, it is essential for the functioning of those counties. So we need to find a solution.

The fact that the mandatory 5-year program does expire has created this issue for us. What we want to do is to work with the Congress to find a solution to make sure we have a Payments in Lieu of Taxes program that works. This is a bipartisan challenge. Many Senators on both sides of the aisle are very concerned about the issue.

In terms of how to pay for it, if I may, Chairman Simpson, may I ask Ms. Haze to help me respond.

Ms. HAZE. Mr. Simpson, we will submit a legislative proposal in the coming weeks to the Congress, to the authorizing committees, seeking the 1-year extension on PILT as a mandatory program.

Mr. SIMPSON. With a pay-for?

Ms. HAZE. It is paid for within the overall framework of the 2013 budget.

So we would suggest you look at the legislative proposals that are included in the budget for reductions. There is \$2.5 billion in

our budget alone over the next 10 years in savings identified, so that is where we point you to.

Mr. SIMPSON. Okay. My fear is is that the resources committee doesn't take this up—or extends it without paying for it and just expects the Appropriations Committee to come up with \$400 million out of the budget that you have proposed. You know, you propose \$450 million or something like that for LWCF, and money is going to come out of somewhere if they don't act.

So I guess this is my pleading to the—not to you but to the Resources Committee to get busy and get this extended. I would like to see them do it on a more permanent basis and find permanent funding for this so that it doesn't run out every 5 years and we run into this problem every 5 years.

LIVESTOCK TRAILING

Second question, last year, we put language in our appropriation bill to really help the BLM with the issue of trailing. It was related to our discussions with the BLM and the backlog of approving grazing permits.

We had specific language in our bill that dealt with that. We worked in conference with the solicitor from your office who convinced us that language that he proposed would better address the problem. Now that the language has gone into effect, The Department of Justice said that they are not going to defend the State BLM offices that use this trailing provision as Congress intended, because the solicitor's office has changed its interpretation of the language it wrote.

What happened here—and, understand, I am not doing this for me and I am not doing it for a cattle ranch. I am doing it for the BLM so that they can address the backlog. We put additional resources in their budget so that they could address that backlog. Now it looks like those additional resources won't go to addressing the backlog but will go to making sure that they do NEPA compliance and so forth on these trailing permits. Trailing, as you know, is getting cattle from one location to another, and has very minimal impact.

And I agree that they need to include trailing in the permit process. BLM, for some reason, hasn't done it over the years, didn't feel like it was necessary. The Forest Service has, and the BLM is moving toward that—including trailing in the permit process. But they need some time out while they get caught up. Any idea what the problem is with the language and how we are going to address this?

Secretary SALAZAR. Chairman Simpson, let me just say, first of all, I very much agree with the trailing provision. I think it is very onerous, if you will, to have a rancher essentially have to go through the whole NEPA process when they are just moving cattle from one place to another and happen to be crossing some BLM range. It is a policy initiative which you led which I support.

Second of all, with respect to what is happening now in Interior and BLM, this issue was raised with me just yesterday or day before, and I am in the process of working with our Solicitor to see what can be done and to make sure that at the end of the day the streamlining process, which you were aiming at, is something we

develop. Give me a little more time to work on it, and we will be back.

Mr. SIMPSON. Okay, I appreciate that. Because I think we all want the same thing here. We want to protect the environment, but as you know, some people are using lawsuits and the permitting process to essentially remove cattle or sheep from public lands. They don't think we ought to have cattle or sheep on public lands. So through lawsuits they try to stop that.

And the more complicated and the more difficult you can make it—and the more expensive you can make it—you know, ranchers are just deciding it is not worth it anymore and are leaving the business. While we are not trying to exempt them from following the environmental laws, there are some things that we can do to help them comply.

QUAGGA AND ZEBRA MUSSELS

One other question, Quagga and Zebra mussels, we all have problems with nonnative species. This is a question that comes to me from my Department of Agriculture in Idaho. These species pose a serious threat to water infrastructure and hydropower systems in Idaho, not to mention the impacts on native habitat. I understand that these destructive mussels have moved from the Great Lakes to western waters mainly on trailered boats. Has your Department used your authority under the Lacey Act to enforce interstate transport of these mussels?

I understand that the 100th Meridian Initiative, a collaborative effort between State, local, and Federal agencies, was created within your Department to keep these mussels out of the West. Great concept, but given the fact that the mussels were discovered in Lake Mead in 2007 and have spread rapidly throughout the Federal waters of the lower Colorado system, do you feel that the 100th Meridian Initiative is a successful program? If so, how do you gauge success in this instance?

We appropriated \$1 million in the fiscal year '12 Fish and Wildlife Service budget for mandatory inspections and decontaminations of boats coming out of infested federally managed water bodies. Can you tell me how your Department intends to implement this operational program and use it to assure that boats that leave mussel-infested places like Lake Mead National Recreation Area do not carry mussels into Idaho water?

Secretary SALAZAR. Let me see if the Deputy Secretary has the information to respond to that question; and, if not, we will get back to you with a formal response.

Mr. HAYES. We are going to want to supplement this with you, Chairman Simpson.

I will say that we have gone ahead and used the fiscal year 2010 bump up to follow through and hire a coordinator for this, who was coming up with a plan to deal with the specific issue of the trailered boats. We will give you some more context and flesh this out some more offline, if we can.

[The information follows:]

QUAGGA AND ZEBRA MUSSELS

The Department of the Interior is working in partnership with 19 western States, Tribes, Federal agencies and other invasive species stakeholders to prevent the spread of quagga and zebra mussels. The Quagga-Zebra Mussel Action Plan for Western U.S. Waters was prepared in 2009 under this partnership. The plan identifies the highest priority actions and resources needed to minimize the impacts of these invasive shellfish. The Department is involved in a number of activities in support of the plan including:

- Fish and Wildlife Service will spend \$2 million in 2012 for the control of quagga and zebra mussels, as directed in the 2012 Interior Appropriations report. This two-fold program will include inspection and decontamination stations in western waters, most likely at Lake Mead and possibly Lake Havasu and provide cost-shared funding to support State and interstate eradication and control plans;
- National Park Service supports ongoing prevention programs at many National Park units and privately supported cooperative boat inspection and cleaning programs; and,
- U.S. Geological Survey is researching methods to deliver biocides to aquatic invasive species including quagga and zebra mussels; evaluating the potential of bacteria and other natural methods of control; completing a study of zebra mussels in the St. Croix National Scenic Riverway in 2012; and continuing preventive research and working with partners on early detection and monitoring in the Columbia River Basin in 2013.

Ms. MCCOLLUM. Mr. Chairman, with your permission.

Mr. SIMPSON. Yes, go ahead.

Ms. MCCOLLUM. I would like to be in on the loop on that. Because we have had the problem. We have been working on it at State level that requires that people trailer and do things. And anything that you are looking at doing cutting edge, we would be happy to in Minnesota working with our DNR to share anything we have. It is a huge problem.

Mr. SIMPSON. Yes, it is.

Mr. HAYES. The thing I want to emphasize is that our fiscal 2013 budget request should not be interpreted as a lack of commitment to continue this special program. We are going to find a way to make it happen and make it continue to happen.

Mr. SIMPSON. Part of the complaint I hear—concern, not complaint, really—from my Department of Agriculture is that there is a requirement that they decontaminate the boats or wash them off when they come across the State line into Idaho. They ought to decontaminate them when they leave the water, when they pull them out of the water at Lake Mead and other places that they know are contaminated, instead of tracking them halfway across the United States and then washing them off before they come into Idaho. And we need to work on that issue. Because it is a huge issue, more so than I ever thought.

SAGE GROUSE

One other thing, sage grouse, you know the problems that will exist if the sage grouse is listed, and I know that you have a strategy to address this working with the BLM and Fish and Wildlife Service. Have you looked at the recent decision by Judge Winmill in Idaho and its impact on the resource management plans that have been put into effect or are proposed to be put into effect?

Secretary SALAZAR. Mr. Chairman, we have. We are working very hard to develop a sage grouse program that will be effective in the States across the West. Governor Mead from Wyoming, Governor Hickenlooper of Colorado, and Bob Abbey are heading up a

task force to come up with recommendations on how we can address the sage grouse issue.

Let me say, I am hopeful we will be able to find a resolution here by developing a conservation kind of program in the same way that it is now happening in Texas and New Mexico with respect to the Sand Dunes Lizard. There, the oil and gas industry has come together to work with the Fish and Wildlife Service to protect about 1.1 million acres of habitat. It is our hope, although this is still in formation, that over the next several months we will be able to make some decisions that will allow the Fish and Wildlife Service to perhaps reach a decision that the listing is not warranted.

If we could do the same thing with respect to sage grouse, we may be able to get there as well, but it is going to require the kind of leadership we have seen from the Governor in the State of Wyoming relative to developing a sage grouse strategy that is protecting the habitat. At the end of the day making sure the fragmentation that occurs from development does not occur across these 11 western States.

Mr. SIMPSON. Well, thank you. I know that it is about time for you to go catch a plane.

So if there are any brief questions—if anybody has a brief one. I know you would. No, I am just kidding.

Ms. MCCOLLUM. Well, no. It came up here quite a bit because Steve talked about it, you talked about it.

ASIAN CARP

We have got Asian carp. And I know you have got a full schedule planned, but maybe the staff can brainstorm on how we can kind of talk about what we need to do about invasive species. Because we can't be fighting over them. And, you know, there are limited dollars working with States on how to do grant match programs. There are programs out there. But it is sectorized. Some is in Fish and Wildlife. It is in many different places, and maybe what we need is a better strategy.

Mr. SIMPSON. Let me suggest that after we have done our budget hearings with the different departments maybe we could put together a briefing from the different agencies on how we address the Endangered Species Act. It is not only animal invasive species but also plant invasive species that are a problem, so—

Mr. Secretary.

Mr. FLAKE. One second, this will take less than 30 seconds, if I can.

Mr. SIMPSON. Okay.

URANIUM MINING

Mr. FLAKE. Just kind of the flip side of the question I asked earlier about the Grand Canyon and the mining issue. By the same token, those of us who disagree with the decision to remove a million acres, nobody in the Department can say or it is not true that we are advocating to mine in the Grand Canyon, correct?

Secretary SALAZAR. That is exactly correct.

Mr. FLAKE. Okay. And, by the same token, none of us who disagree with the Department's decision can be said to be advocating mining within the Grand Canyon National Park either.

Secretary SALAZAR. That is correct.

Mr. FLAKE. Okay. Thank you.

Mr. SIMPSON. Thank you, Mr. Secretary, for being here today. Thank you for all you do.

We look forward to working with you as we try to create a budget that can address the problems that face our country.

Secretary SALAZAR. Thank you very much, Mr. Chairman; and to the members of the committee and your staff, you are the template of a great committee. So thank you so much.

Mr. SIMPSON. Thank you. Appreciate it.

The Subcommittee notes that the QFR responses from the Agency did not arrive in enough time to inform the FY 13 Appropriations bill. The Department of the Interior, Office of the Secretary received questions from the Subcommittee on March 5th and did not submit OMB-cleared responses to the Subcommittee until June 12th.

Hearing Questions for the Record (QFR) Prepared for the Department of Interior, Office of the Secretary

Hearing: Department of the Interior FY 13 Budget Oversight
Thursday, February 16, 1:30pm Rayburn 2359

Questions for the Record from Chairman Simpson

Oil and gas exploration and permitting

Oil prices are rising again and analysts are now predicting the return of \$4/gallon gas in the United States by Memorial Day. As I stated in my opening statement, it seems that both BOEM and BSEE are beginning to move in the right direction, though I still hear concerns from the bureaus that they may not be able to meet expectations. This is concerning because the bureaus now have the dollars and tools they need.

Simpson Q1: Can you commit to me that these bureaus will consider exploration plans and permits in a reasonable amount of time?

Answer: Both BOEM and BSEE are committed to reviewing plan and permit applications in a manner that ensures that the applicants are meeting all necessary environmental and safety standards. BOEM and BSEE are also committed to completing the reviews in as efficient a manner as possible given the resources available to us. Over the past year, both agencies have worked diligently to shorten the times required to approve plans and permits significantly and to increase predictability for operators. We will continue to identify ways to promote compliance and make the process more transparent, efficient, and timely. Variations in a number of factors, including the quality and complexity of individual plans and permits, operator experience, water depth, operational complexity, and the quality of the applications submitted can affect the time needed to conduct reviews. We are committed to using additional resources provided by Congress to continue to meet the need for a predictable and timely review process, while ensuring that operations on the Outer Continental Shelf are conducted safely and responsibly.

Simpson Q2: How will the bureaus hire the much-needed engineers and inspectors needed to fulfill the bureau's work load?

Answer: BSEE and BOEM are committed to active recruitment and placement of highly competent engineers, inspectors, and other subject matter experts, particularly in the Gulf of Mexico Region. BOEM and BSEE have jointly contracted with Image Media Services (IMS) to launch a targeted marketing campaign nationwide. IMS will analyze methods for recruiting for hard-to-fill positions, design materials in various media to promote employment with the bureaus, and support current recruitment activities such as career

fairs and departmental visits. Both BOEM and BSEE websites will have an Employment Opportunities feature designed to attract potential candidates. Each bureau has a recruitment team that is targeting entry and mid-level engineers and scientists by visiting universities; including their engineering departments, and university-sponsored conferences. Representatives from these teams have participated in various events held at universities and have developed professional contacts with the engineering department heads through site visits. Additionally, continued utilization of compensation flexibilities and recruitment strategies has helped to recruit both engineers and inspectors. These strategies include offering advanced pay grade steps to applicants with superior qualifications, repayment of student loans, relocation payments, exceptional benefits packages, additional training, opportunities for limited telework, and an overall worker and family-friendly culture. Additionally, BSEE and BOEM are working with the Department and Office of Personnel Management (OPM) to quickly and effectively implement the special salary rate position authority provided by Congress for FY 2012 and 2013. This special salary authority applies specifically to petroleum engineers, geologists, and geophysicists in the Gulf of Mexico Region. We expect it to be helpful in attracting highly qualified recruits to fill these essential positions. Advertisements are being placed in petroleum journals, scientific magazines, and newspapers in order to increase applicant pools. A direct hire authority also was approved for a limited time last year, and BSEE and BOEM are discussing the possibility of an extension of that authority from OPM. The direct hire authority from OPM could potentially enable BSEE and BOEM to expedite hiring if a critical need or severe shortage of qualified candidates exists.

Goals for domestic energy production

You have been an outspoken proponent of renewable energy and your budget request reflects that interest again this year. The administration has outlined very specific goals for domestic renewable energy production.

Simpson Q3: Should the administration have similar goals for domestic oil and gas production to ensure that we are making progress toward decreasing our reliance upon foreign sources of oil?

Answer: America's oil and natural gas supplies are critical components of our Nation's energy portfolio. Their development enhances our energy security and fuels our Nation's economy. Recognizing that America's oil supplies are limited, we must develop our domestic resources safely, responsibly, and efficiently, while taking steps that will ultimately lessen our reliance on fossil fuels and help us move towards a clean energy economy.

In 2011, American crude oil production reached its highest level since 2003, increasing by an estimated 120,000 barrels per day over 2010 levels to 5.6 million barrels per day. In 2011, American oil production reached the highest level in nearly a decade and natural gas production reached an all-time high. Much of this increase has been the result of growing natural gas and oil production from shale formations as a result of technological

advances. These resources, when developed with appropriate safeguards to protect public health, will play a critical role in domestic energy production in the coming decades.

The Department manages Federal lands and waters that provide resources that are critical to the Nation's energy security. To encourage robust exploration and development of the Nation's resources, the Department has offered millions of acres of public land and Federal waters for oil and gas leasing. Oil production from the Outer Continental Shelf increased more than a third – from 446 million barrels in 2008 to more than 589 million barrels in 2010. Responsible oil production from onshore public lands also increased – from 109 million barrels in 2009 to 114 million barrels in 2010. The Department's Proposed Outer Continental Shelf Oil and Gas Leasing Program for 2012-2017 promotes future development of domestic resources by making more than 75 percent of undiscovered technically recoverable oil and gas resources estimated in Federal offshore areas available for exploration and development.

More than 70 percent of the tens of millions of offshore acres under lease are inactive—including almost 24 million inactive leased acres in the Gulf of Mexico, where an estimated 11.6 billion barrels of oil and 59.2 trillion cubic feet of natural gas of technically recoverable resources are going undeveloped. Onshore, about 57 percent of leased acres – almost 22 million acres in total – are neither being explored nor developed.

The Department adopted lease terms for offshore sales that are designed to encourage faster exploration and development of leases. Minimum bid requirements for the most recent Gulf of Mexico lease sale were increased from \$37.50 to \$100 per acre, adjusted for inflation, based on a rigorous historical analysis which showed that leases that received high bids of less than \$100 per acre have experienced virtually no exploration and development activities. The fiscal year 2013 budget request also includes proposals designed to incentivize the development of leases or the earlier release of non-producing leases, making them available to other companies who may be more willing or able to pursue development. The terms of onshore leases, which currently are issued for standard 10-year terms, are constrained by a nearly century-old statute.

The Department is taking a new approach to lease-extensions that reward diligence by tying extensions more directly to lessee investment in exploration and development. For offshore leases, the Department has already begun to implement this new approach by requiring the spudding of a well before a lease extension is granted for example. The Department plans to build on recent reforms for both offshore and onshore leasing, so that when companies approach lease deadlines or apply for extensions, their record of demonstrating diligent exploration and development will help determine whether they should be able to continue using their leases, or whether those leases would be better utilized by others.

These actions will contribute to fulfilling the Administration's *Blueprint for a Secure Energy Future*, which aims to promote domestic energy security and reduce oil imports by a third by 2025 through a comprehensive national energy policy.

Simpson Q4: While the President and you have stated you are committed to increasing the production of conventional energy, there isn't anything in this budget that would actually help to increase production or reduce excess process and red tape. What is the Administration's plan to increase conventional energy production?

Answer: The fiscal year 2013 budget request includes the funding necessary to fulfill the President's vision for a secure energy future for America. A key part of President Obama's all-of-the-above energy strategy is expanding production of American energy resources. Since the President took office, energy from renewable sources like wind and solar has nearly doubled. Domestic oil and natural gas production has increased every year President Obama has been in office. In 2011, American oil production reached the highest level in nearly a decade and natural gas production reached an all-time high.

The Department oversees development of publicly-owned energy and mineral resources and continues to advance the safe and environmentally responsible development of these resources. Since 2008, oil production from the Federal Outer Continental Shelf (OCS) has increased by 30 percent, from 450 million barrels to more than 589 million barrels in 2010. Balancing the need for safety and environmental enforcement, the Department currently manages over 35 million acres of the OCS under active lease. A recently proposed five-year oil and gas leasing program would make more than 75 percent of undiscovered technically recoverable oil and gas estimated on the OCS available for development. In addition, in response to the *Deepwater Horizon* incident in the Gulf of Mexico, the Department launched the most aggressive and comprehensive reforms to offshore oil and gas regulation and oversight in U.S. history to ensure that our Nation can safely and responsibly expand development of offshore energy resources.

Onshore, the Bureau of Land Management (BLM) held 32 onshore oil and gas lease sales in 2011. The BLM offered 1,755 parcels of land covering nearly 4.4 million acres. Nearly three-quarters those parcels offered were leased, generating about \$256 million in revenue for American taxpayers. This was a 20 percent increase in lease sale revenue over 2010, following a strong year in which leasing reform helped to reduce protests and increase revenue from onshore oil and gas lease sales on public lands. The BLM recently has seen a 50 percent jump in industry proposals to lease public lands for oil and gas exploration. Oil and gas companies nominated nearly 4.5 million acres of public lands for leasing in 2011, up from just under 3 million acres the year before. Industry nominations are the first step in the BLM leasing process. After evaluating the parcels, BLM may offer them at auction. Successful bidders can then apply to drill for oil and gas.

The Department is also taking steps to ensure we can safely develop our vast supplies of domestic natural gas. This abundant domestic resource holds unique promise to fuel our energy sector as well as fuel job growth – all while reducing harmful emissions. To ensure that we can successfully tap this critical resource for decades to come, the budget request for the Department invests in research and development to promote energy development that proactively addresses concerns about the potential impacts of hydraulic

fracturing on air, water, ecosystems, and earthquakes. The 2013 budget supports a \$45 million interagency research and development initiative aimed at understanding and minimizing potential environmental, health, and safety impacts of shale gas development and production through hydraulic fracturing.

Overall, the budget request for the Department is needed to deploy American assets and support innovation and technology development so that we can safely and responsibly produce more energy here at home and be a leader in the global energy economy.

DOI Wildland Fire

The budget reflects a decrease of \$38 million—roughly 20 percent—for hazardous fuels reduction. As you know, this line item reduces the threat of catastrophic wildfires and saves us money in the long run by avoiding high suppression costs. I realize difficult decisions must be made, but study after study shows that it's much cheaper to prevent fires than to put them out.

Simpson Q5: Why reduce hazardous fuels funding in light of the urgent need to reduce fire threat on Interior lands?

Answer: Interior's 2013 budget decisions were made in the context of a challenging fiscal environment. The DOI budget formulation process involved making difficult decisions about reducing funding or ending programs that are laudable, but that in this fiscal environment cannot be funded at desired levels. The Department's commitment to fully fund the 10-year suppression average, which required a \$195.6 million increase over the 2012 enacted level, and other priority investments, impacted the funding available for other important programs.

The Wildland Fire Management program's primary objective is to protect life and property, and this is achieved by fully funding the suppression 10-year average and maintaining our initial and extended attack firefighting capability at current levels. The 2013 request does this by funding Preparedness at the 2012 enacted level, as adjusted for fixed costs.

The planned Hazardous Fuels Reduction program for FY 2013 represents the most effective use of available funds. High priority projects will be completed in high priority areas with the goal of mitigating wildfire risks to communities.

Simpson Q6: As I mentioned in my opening statement, the FY12 Omnibus bill report specifically directed the Department to abandon its requirement that 90% of hazardous fuels funds be spent in the wildland urban interface and instead be spent in the highest priority areas on the highest priority projects as determined by land managers in the field. Why is the Department still insistent on this rigid requirement? [I'd like to remind the Department that if this continues, we're happy to consider bill language on this issue rather than report language]

Answer: The Department is complying with the Committee's direction and will be allocating resources to the highest priority projects in the highest priority areas using a rigorous, criteria-based approach. Interior's HFR projects will be designed with the objective of mitigating wildfire risks to and its potential effects on communities. Fuels treatments that have been identified as key components of Community Wildfire Protection Plans and are cost-effective will be prioritized. The 90% requirement from previous allocations will no longer be used.

Office of Wildland Fire

Mr. Secretary, I met with your staff regarding the Office of Wildland Fire last year. I've been concerned that this office continues to grow, while the National Interagency Fire Center (NIFC) is shrinking—I didn't get a satisfactory answer. In FY11 the office increased its FTEs by 9 for a total of 19 FTE's. This year, the office proposes 27 FTE's. The FY12 Omnibus bill report requires the Department to explain to the Committee how and why this office exists and how it will be more efficient, but in light of the FY13 budget request, I now have additional concerns about the expansion of this office.

Simpson Q7: Why is this office growing and how can you ensure that duplicative fire positions in the agencies are being eliminated?

Answer: The Office's growth is primarily due to the transfer of the decision support (i.e., Information Technology) staff and funding to the centralized office in the Department. The decision support staff focuses on developing tools that 1.) provide clear, systematic processes for allocating available funds to high priority fuels projects in high priority areas, 2.) identify the most effective firefighting resource investments and location, and 3.) assist managers in taking the best action in response and management of wildfire.

The decision support staff addresses the key elements of the Cohesive Wildfire Management Strategy as required by the FLAME Act 2009. The elements include the:

- identification of the most cost-effective means for allocating fire management budget resources;
- reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;
- employing the appropriate management response to wildfires;
- assessing the level of risk to communities;
- allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;
- assessing the impacts of climate change on the frequency and severity of wildfire; and
- studying the effects of invasive species on wildfire risk.

The staff of the Office of Wildland Fire also increased slightly to accommodate the growth in OWF's workload emanating from its assumption of budget execution functions

when the Wildland Fire management account was moved to the Department and the added responsibilities and workload associated with developing and implementing the Cohesive Strategy, as required by the FLAME Act.

With respect to duplicative positions, the Department is currently engaged in an outside, third party review of potential duplication. This is in response to the language in House Report 112-331 that accompanied Public Law 112-74 the Consolidated Appropriations Act, 2012. A vendor has been selected and formal contract award is expected to occur in the spring. The results of the study are expected to be delivered in the fall. Once the recommendations from the study are received, the program will identify duplicative positions and take corrective actions as warranted.

Simpson Q8: Why is a centralized office necessary for wildland fire management?— what were the problems the past structure?

Answer: A departmental policy office is necessary to ensure the consistent development, implementation, and application of business practices and policies across all Interior fire bureaus. The function was established in 1992 following the creation of the single fire appropriation to ensure consistency within the Interior fire program. In 2001, the Office of Wildland Fire Coordination was created to manage the additional complexity and scope of the program due to the requirements of the National Fire Plan. The Office of Wildland Fire continues to oversee and integrate the wildland fire management programs of the Department's bureaus and provide Department-wide leadership, direction, and coordination. In addition to these intra-Departmental functions, the Office of Wildland Fire also coordinates the Department's wildland fire program with the Forest Service and other Federal agencies, and with tribal, State and local partners.

Simpson Q9: How will this affect National Interagency Fire Center (NIFC) and its funding?

Answer: Funding for the OWF is a total program cost and does not have a direct effect on NIFC or its funding. The Fire Center houses national and regional fire operations, including smokejumpers, equipment supply cache, training, and equipment development. These are primarily Bureau of Land Management (BLM) operational activities and are funded by BLM's share of the fire budget.

The Fire Center also provides common and shared office space for the national staffs of the Interior fire organizations and part of the Forest Service national staff. As the host agency, BLM provides basic services. Individual tenant programs and staffs pay a share of the costs for the space they use.

Grazing

Mr. Secretary, grazing is a large component of what the BLM does and the land it manages. For years, if not decades, this program has been underfunded given all that it must administer. In FY12 we worked very hard to increase this budget, yet your FY13

request would reduce the budget by \$15 million (17%) at a time when BLM offices are being bombarded by FOIA requests and litigation in addition to their every-day jobs.

Simpson Q10: How will this reduction help the BLM catch up on permit backlogs, resource management plan revisions, NEPA, trailing and all the other work necessary to operate the range management program?

Answer: The FY 2013 budget requests a program decrease of \$15.8 million from 2012. The BLM is using the increase over FY 2011 in FY 2012 to address numerous challenges, including completion of grazing permit renewals; monitoring of grazing allotments; and strengthening the BLM's environmental documents. The decrease will be partially offset by the proposed pilot project for an administrative processing fee of \$1 per animal unit month that is estimated to generate \$6.5 million in 2013, which will be returned to the BLM to use for the same purposes.

Simpson Q11: To offset some of this reduction, you've recommended a fee of \$1 per animal unit month that would generate roughly \$6.5 million. The BLM already has the authority to increase the fee on AUM's through a rule making process—why doesn't the BLM start this process rather than proposing a fee in an appropriations bill?

Answer: The goal of the Administrative Fee is to recover some of the cost of processing grazing permits/leases for the parties (permittees) who are economically benefitting from use of the public lands. This fee mirrors the concept used in the Oil and Gas program and Rights-of-Way program, where the users of the public lands pay a fee for the processing of their permits and related work. The budget includes appropriations language for a three-year pilot program, beginning in 2013, which would allow BLM to recover some of the costs of issuing grazing permits/leases on BLM lands. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing administrative fee as a cost recovery fee after the pilot expires.

Simpson Q12: In the FY12 bill, we included language requiring litigants to exhaust administrative review of grazing activities before litigating—are there similar ideas that you have to maximize the dollars appropriated for range management?

Answer: Another general provision in the FY 2012 Appropriations Act assists BLM in meeting several challenges with grazing activities. Sec. 415 specifies that the transfer of a grazing permit, during the term of the permit, is not subject to additional NEPA if there is no change in the mandatory terms and conditions required. This provision will significantly streamline the work process on approximately 10 to 15 percent of BLM's annual permit workload, and allow BLM to process permits originally scheduled to expire. It allows the BLM more opportunity to focus on analysis of environmentally-significant permits. Focusing on the most environmentally sensitive allotments will increase attention on land health assessments and quantitative data collection; improve the usefulness of both the RMP/EIS and site-specific NEPA analyses; and result in grazing management decisions guiding land health solutions for the future. This strategy will assist in ensuring that unprocessed permits consist of the least environmentally-

sensitive allotments that are more custodial in nature and/or are already meeting land health standards. Sec. 415 also extends, through 2013, the BLM's ability to renew expiring grazing permits without additional NEPA analysis. This provision will allow the BLM to focus on the grazing permit renewals in high-priority areas.

NOAA to DOI/Reorganization Plan

President Obama recently announced a reorganization plan for the Commerce Department that would place the National Oceanic and Atmospheric Administration (NOAA) and its \$5 billion budget within the Department of the Interior. Our Committee has requested details of this proposal from the Administration but, thus far, has received nothing.

Simpson Q13: What can you tell us about the plan to move NOAA to the Department? Is there a timeline for implementation of this proposal? How would NOAA's functions be integrated within the Department?

ANSWER: The potential transfer of NOAA to the Department of the Interior is a preliminary proposal that has been discussed in concept. We won't begin detailed planning to implement this proposal until Congressional authority is provided to allow the President to reorganize Executive Branch agencies.

Washington Monument Repair/National Mall Restoration Efforts

Mr. Secretary, there's a great deal of restoration work underway on the National Mall. Our Committee was pleased it could be helpful in providing construction funds for repairs of the Washington Monument which was damaged by last year's earthquake. These funds were matched by a local philanthropist. I know that other work is being done on the Jefferson Memorial, the Tidal Basin, and parcels of land on the Mall itself are now fenced off and bull dozers are working feverishly.

Simpson Q14: What is the timeline for completing the repairs to the Washington Monument?

ANSWER: Currently, repair design documents are being prepared and a construction contract for Washington Monument repairs is scheduled for bid advertisement in late May 2012, with possible award in August 2012. The project is expected to begin in September 2012 and last for approximately 12 to 18 months.

The elevator, which was damaged by the earthquake, has been partially repaired, however, permanent repairs are required in order for the elevator to be recertified for public use. A contract for elevator repairs was awarded on January 20, 2012 and the elevator is expected to be fully repaired and operational by late May 2012.

NPS is committed to reopening the Monument to the public, but the timing will depend largely on visitor safety considerations.

Simpson Q15: Can you give us a brief summary of other work now underway on the National Mall and a description of funds requested for this ongoing work in your budget request?

Answer: Currently, the NPS is performing or is involved in the performance of the following work on the National Mall:

- The Lincoln Reflecting Pool is being rebuilt with a new concrete basin. The existing basin leaks severely and uses 40 to 50 million gallons of potable water each year. The reconstructed Reflecting Pool will draw water from the Tidal Basin and use approximately 10 million gallons of reclaimed water per year. Additionally, the project includes a filtration system to provide improved water quality; efforts to improve accessibility; and completion of the final section of permanent security barrier on the east side of the Lincoln Memorial. The project was funded through the Recovery Act. The total cost of the project is currently estimated at \$36.7 million. The project is approximately 70 percent complete and is scheduled to be complete in June 2012.
- The National Mall is undergoing restoration between 3rd and 7th Streets. These efforts will ameliorate the aging and damaged infrastructure, poor soil condition, and resource damage from extremely high levels of public use of the Mall. Restoration includes replacing the irrigation system with one designed to be more resilient to large events and support the care of turf; providing soil irrigation, pumps, and a cistern to support drainage, storage, and reuse of storm water; rebuilding the ground sub-base to withstand heavy use, similar to professional sports fields; and establishing turf proven at other high-use public venues such as New York City's Central Park. This first phase of National Mall restoration was funded in FY 2011 at \$16.14 million and is currently in progress; the contract completion date is December 11, 2012. Future phases of National Mall restoration west of 7th to 14th Streets, are included in the NPS Five Year Line Item Construction Plan for FY 2013 - FY 2017.
- A levee closure structure is under construction at 17th Street just south of Constitution Ave. to meet more stringent flood control standards recently mandated. The project will improve the reliability of river flood protection to a portion of the monumental core and downtown Washington, D.C. provided by the Potomac Park levee system. The project consists of a pair of partial walls flanking 17th Street and a foundation across 17th Street for a removable "post and panel system" dam. This work is being completed by the U.S. Army Corps of Engineers under a construction permit issued by the NPS. The project is currently scheduled to be completed in the fall of 2012.

The project to improve the long term integrity of the Jefferson Memorial plaza seawall was completed in winter of 2011. The project was one of the first large projects using Recovery Act funding and cost \$13.6 million. Public safety concerns due to settlement and movement of areas surrounding the Jefferson Memorial prompted NPS to close a portion of the Memorial plaza in 2006. The project included demolition and reconstruction of the plaza seawall and was designed to resist future vertical and lateral movement.

The rehabilitation of Constitution Avenue from 15th Street to 23rd Street was substantially completed in December 2011. This project included repair and resurfacing of Constitution Avenue; as well as new curbs and curb cuts, sidewalks, street lights, a new storm water drainage system, and connection of bus drop-offs to sidewalks. The project was funded through the Federal Highway Administration and cost \$10.3 million.

There are several non-NPS construction and repair projects currently ongoing in the vicinity of the National Mall. Examples of this work include the construction of the Smithsonian Institution's National Museum of African American History and Culture between 14th and 15th Streets on Constitution Ave.; work occurring relative to the Smithsonian Arts and Industries Building and the Gallery of Art; and Pepco work for a new underground conduit by East Basin Drive near the Jefferson Memorial.

LWCF/Federal Land Acquisition

Mr. Secretary, the President's budget request for land acquisition under the Land and Water Conservation Fund (LWCF) is funded at \$450 million at the expense of other critical priorities including the need to manage and maintain land and facilities that we already own. The GAO has cited as a major management challenge the Department's inability to adequately maintain its facilities and infrastructure which can impair public health and safety, reduce employee's morale, and increase the need for costly major repairs or replacement of structures and equipment.

Construction accounts within the Department's budget request for next year are reduced by \$49 million (-16 percent). And, the FY12 budget for Interior Wildland Fire cuts hazardous fuels by \$39 million. Anyone looking at your LWCF budget request could reasonably conclude that you're increasing land acquisition too quickly and at the expense of other very important and deserving programs.

Simpson Q16: How do you justify historic increases for land acquisition while failing to address systemic funding issues like maintaining facilities and infrastructure?

ANSWER: The Department of the Interior takes seriously our responsibilities to maintain facilities and infrastructure. The FY 2013 Budget proposes focusing funding on the most critical health and safety issues through line-item construction accounts and facility maintenance subactivities within operation accounts. Construction of new facilities has been restricted to replacement of facilities in poor condition for the fiscal year 2013. This will focus our resources on correcting the most critical repairs on our highest priority assets.

Through the America's Great Outdoors listening sessions and public input process, we learned that there is a powerful consensus across America that outdoor spaces—public and private, large and small, urban and rural—remain essential to our quality of life, our economy, and our national identity. Americans communicated clearly that they care deeply about our outdoor heritage, want to enjoy and protect it, and are willing to take collective responsibility to protect it for their children and grandchildren.

Americans support concrete investments in conservation. In November of 2010, voters across the country overwhelmingly approved a variety of measures for land conservation, generating a total of \$2 billion in new land protection funds according to the Trust for Public Land. Of 36 proposals on State and local ballots for conservation funding, 30 passed – an approval rate of 83 percent. This is the highest rate during the past decade and the third highest since 1988.

Consistent with these results at the State and local levels, the feedback received during the AGO listening sessions indicated that full funding of the LWCF program is a high priority for the American people. Respondents also suggested that LWCF funding could be more effectively used if it was strategically focused on specific project types and/or locations. With this in mind, an investment in the Crown of the Continent ecosystem was developed in the Rocky Mountain Front where Interior proposes to invest \$28.6 million to protect threatened and endangered plants, fish, and wildlife; ensure terrestrial ecosystem and watershed health; ensure resiliency, connectivity, and climate change adaptation; support working farms, ranches and forests; enhance recreational access; and protect rivers and waterways. This land comes with minimal operations and maintenance costs. This proposal includes the outstanding landscapes of Glacier National Park; four units of the National Wildlife Refuge System; famous western rivers and lakes; and vast high deserts and high mountain valleys administered by the three DOI bureaus. The lands proposed for acquisition, both conservation easements and fee, will protect crucial wildlife migration corridors, endangered biological and geological systems, and special status species. Conserving these properties enhances cultural and natural landscapes while allowing for traditional working ranches and forests in many cases. Outdoor recreational opportunities will be enhanced by increasing access, maintaining the integrity of the scenic vistas and the primitive qualities of the Crown of the Continent Ecosystem. Once these lands are developed, there is no going back to how they currently exist.

Interior's 2013 request, together with the Forest Service's request, funds the LWCF at \$450 million, half of the legal limit that could be appropriated for this fund. Interior's Federal land acquisition request of \$212 million includes \$84 million for line-item projects resulting from a collaborative effort. The collaborative effort between the Departments of the Interior and Agriculture was in response to directives from Congress in House Report 111-180 and Conference Report 111-316. The remaining \$58 million in Interior's line-item projects support bureau specific, mission related priorities. Smart investments in strategic conservation through both the interagency collaborative process and the bureau specific, mission related process will prevent further ecosystem decline or collapse, which is expected to preclude the need for future investments in restoration.

Activities funded under LWCF ensure public access to the outdoors for hunting, fishing and recreation; preserve watersheds, viewsheds, natural resources and landscapes; provide corridors for wildlife to migrate within; and protect irreplaceable cultural and historic sites for current and future generations. LWCF funds are also used to protect historical uses of working lands, such as grazing and farming.

Interior's acquisition programs work in cooperation with local communities, rely on willing sellers, and maximize opportunities for easement acquisitions. Proposed acquisition projects are developed with the support of local landowners, elected officials, and community groups. LWCF funds for Federal acquisition will support simpler, more efficient land management; create access for hunters and anglers; create long-term cost savings; address urgent threats to some of America's most special places; and support conservation priorities that are established at the State and local levels.

Land and Water Conservation Fund

The Land and Water Conservation Fund budget includes a new set-aside of \$84 million for "Collaborative Landscapes", with the focus being on three ecosystems: the Northern Rockies, the Greater Yellowstone, and the Florida-Georgia Longleaf Pine.

Simpson Q17: How did the selection of these three ecosystems come about?

ANSWER: Seven teams of interagency staff from the field submitted proposals requesting collaborative funding for acquisitions in their landscapes. These proposals were reviewed first by a Technical Advisory Committee (TAC) comprising bureau staff with expertise in real estate, recreation, and conservation programs. The TAC scored each proposal against the set of criteria agreed upon by the interagency working group that designed the new collaborative program. There were four categories of evaluation criteria:

- **Process:** ensure proposals are built through Federal agency and local stakeholder collaboration and make efficient use of Federal funding (*e.g. which stakeholders are involved, what other resources will be leveraged*)
- **Outcomes:** ensure Federal resources are targeted to achieve important biological, recreational, cultural and socio-economic outcomes (*e.g. anticipated impact on recreation opportunities, species and habitats, working lands, rivers and waterways, cultural and historical resources*)
- **Urgency:** ensure funding is focused on outcomes that may be lost today if no action is taken or that are particularly achievable today (*e.g. nature and timeliness of threats to the landscape*).
- **Contribution to national priorities:** ensure local proposals are important contributors to national outcomes at the regional and national scales (*e.g. does proposal contribute to goals related to priority regions or topics*).

Then, a National Selection Committee (NSC) comprising all four agency Directors/Chiefs, plus senior representatives from both DOI and USFS, reviewed the results of the TAC scoring and discussed and weighed the merits of the proposals. In addition to the scores from the TAC, the NSC members considered where their agencies were making complementary investments in the same landscapes through other programs, and whether communities had made a case for locally-driven conservation plans over the course of the AGO listening sessions and in other contexts.

The recommendations of the NSC were approved by the Secretaries prior to inclusion in the budget.

Simpson Q18: What are your goals and measurable objectives? I understand your strategy is acquiring land, but where and how far are you asking us to go with this?

ANSWER: The collaborative process was developed in response to congressional directives and to achieve greater conservation impacts. The new process was piloted in 2013 in a small number of ecosystems where the groundwork for collaboration was already in place and where significant acquisition opportunities of strategic importance were known to be available. DOI and USDA focused on these ecosystems for the pilot year to test the new process and evaluate whether it would successfully yield high quality collaborative proposals. The results of the pilot were promising and could be used to broaden the effort in successive years.

The broader goals of this new collaborative approach to land acquisition using LWCF funds are:

- To be more strategic with our LWCF investments;
- To make LWCF investments based on the best science and analysis that are collectively available to all agencies;
- To incentivize collaboration among bureaus, other federal agencies, and other stakeholders;
- To achieve efficiencies and improved results through complementary efforts and leverage joint resources;
- To support locally-driven conservation efforts; and
- To support an “All Lands” approach to conservation.

Interior and USDA defined measurable goals and objectives for each landscape’s proposed acquisition strategy. Staffs in the field were challenged to work together to define common conservation and community (e.g. recreation, economic development) goals at the landscape scale, then determine whether land acquisition was an appropriate tool to help reach those goals. Goals and metrics for measuring progress to goal were articulated by the interagency teams preparing each collaborative funding proposal. For example, some of the goals and measurable objectives for landscapes selected for funding were:

- Protect 96percent of the threatened flatwoods salamander Critical Habitat between the St. Marks and Auculla Rivers (metric = % of Critical Habitat).
- Protect 29,000 acres of future habitat to allow the expansion of endangered red-cockaded woodpecker recovery populations identified in the Red-cockaded Woodpecker Recovery Plan by at least 135 breeding pairs (metric = acres pineland acquired; metric = number of breeding pairs).

- Protect a 6-mile corridor inland from Apalachee Bay (between St Marks and Pinhook Rivers) to protect habitats for wildlife movement inland as a result of sea level rise and connectivity to other public lands (metric = miles of corridor).
- Protect crucial wildlife migration corridors, endangered biological and geological systems, and special status species.
- Enhance cultural and natural landscapes while allowing for traditional working ranches and forests in many cases.
- Enhance outdoor recreational opportunities by increasing access, maintaining the integrity of scenic vistas and the primitive qualities of the Crown of the Continent Ecosystem.

The proposals were scored in part on how well project goals were articulated, expected outcomes were quantified, and how well the plan contributed to the goals set.

Simpson Q19: Why is acquiring land the only strategy for this initiative, particularly when one considers that the Interior budget is filled with conservation and restoration programs that could be at least partially targeted toward these priority ecosystems?

ANSWER: The Department is striving to achieve greater collaboration across all of its conservation and restoration programs per congressional directives. The future goal is to better align a broad range of Department of the Interior and Agriculture programs to achieve even greater efficiencies and improved outcomes through leveraging diverse strategies and funding. Other programs that complement the LWCF program include the Cooperative Endangered Species Conservation Fund grants, North American Wetlands Conservation Act grants, and the Partners for Fish and Wildlife program. These programs contribute significantly to a broad range of conservation goals, but LWCF remains unmatched in its importance as a conservation tool.

To help explore how to do this, the FY 2013 budget request pilots a collaborative planning and decision-making process for Federal land acquisition under LWCF. A major reason for starting with LWCF was to be responsive to Congress' directives in House Report No. 111-180 and Conference Report No. 111-316 which accompanied the FY 2012 appropriations bill, to collaborate extensively with other government and local community partners.

Another reason it made sense to develop a collaborative approach among the four LWCF Federal land acquisition programs is that each agency implements land acquisition programs that are substantially similar in mission but often operate independently from one another. That is, they all acquire land in fee or easement to be managed (or monitored, in the case of easements) by the agency, to further the specific agency mission without always considering how other agencies' missions and priorities overlap. Yet each agency makes decisions about which parcels to prioritize for acquisition according to an agency-specific set of criteria, all of which are stringent and merit-based, but do not consistently incorporate considerations about mutually beneficial opportunities for interagency collaboration. It made sense to first align these four bureaus around a common and robust decision-making process and determine related land acquisition

opportunities on a small scale before implementing an interagency collaborative land acquisition program on a larger scale.

The Department thinks that the successful collaboration of this program will help to identify opportunities to align programs and funds to achieve greater efficiencies and meet mutual goals.

Simpson Q20: The Land and Water Conservation Fund Act of 1965 states, up front, that its purposes are to “assist in preserving, developing, and *assuring accessibility to all...*”

Why do you now propose carving out \$2.5 million for hunting and fishing access out of a \$33.5 million BLM land acquisition program?

Answer: We are proposing to devote \$2.5 million from this program to acquire lands or interest in lands in areas with complicated, “checker-board” land ownership patterns that impede access to public lands for hunting and fishing. Acquiring lands or interest in lands, in support of hunting and fishing access, can alleviate some of the challenges that recreationists face when trying to use land-locked Federal lands that do not have public access. This goal complements one of the key purposes of the LWCF Act, which is “to assist in preserving, developing and assuring accessibility to outdoor recreation resources.”

Simpson Q21: Are we to infer that the other \$31 million is off limits to hunting and fishing?

Answer: No, such an inference would be incorrect. While \$2.5 million has been identified primarily for acquiring lands or interest in lands that provide access to landlocked public lands for hunting and fishing, the remainder of BLM’s line item land acquisition projects will be used for high-priority efforts in BLM’s core and collaborative land acquisition program components, which include lands valuable in part because of their hunting and fishing opportunities.

Simpson Q22: As far as I’m concerned, hunting and fishing access should be integrated into every acquisition wherever and whenever it is feasible and safe to do so. Why is there not a similar carve-out in the Fish and Wildlife Service program?

Answer: The access of hunters and anglers to the public lands is often frustrated by complicated “checkerboard” land ownership patterns. This is most often seen with the Bureau of Land Management, whose mission is multiple use of our public lands. The request for BLM includes \$2.5 million to purchase hunting and fishing access easements to alleviate some of the challenges and provide better access to valuable public recreation opportunities.

The 1997 National Wildlife Refuge System Improvement Act created a hierarchy of uses for refuges. In implementing that Federal law, the Service must consider wildlife-dependent recreation as lower-priority use than conservation to be consistent with the

conservation mission of the Improvement Act. Within the 556 unit National Wildlife Refuge System, there are 327 refuges open to hunting, 272 refuges open to fishing, and 243 refuges open to both hunting and fishing. The FWS also supports hunting and fishing through program dollars, especially through the Pittman-Robertson Wildlife Restoration Program and the Dingell-Johnson Sport Fish Restoration program.

Simpson Q23: The Park Service proposes \$20 million in the Stateside LWCF program for competitive funding awards for “urban parks and green spaces, blueways, and landscape-level conservation in communities.”

What does “landscape-level conservation in communities” mean?

ANSWER: Landscape-level conservation considers conservation needs across public, private, and tribal lands, and involves the consideration of large, interconnected ecosystems and recreational areas. This approach recognizes that watersheds, wildlife, and ecosystems do not recognize property lines. Therefore, conserving large landscapes requires coordination among landowners; tribal, local, State, and Federal governments; conservation groups; agriculture and forestry groups; and other stakeholders. Such locally grown landscape partnerships are vital to 21st century conservation.

This concept is a significant Secretarial priority, and the Department and its Federal partners are working to engage tribal, local and State governments; non-profit organizations; and landowners in regions where these stakeholders and Federal agencies are conserving and restoring large landscapes through grants and planning activities. The 2013 budget request builds on the collaborative Federal land acquisition process and provides a tool to foster more effective coordination with government and local community partners to achieve shared conservation goals. With regard to the LWCF State Assistance competitive grant component, eligible projects could include grants to States to acquire lands to establish new State wildlife areas, State recreation areas, State parks, or land to fill in gaps among publicly and privately-owned conserved areas to create corridors or contiguous protected landscapes that also facilitate recreation.

Simpson Q24: Does the competitive funding need new authorization from Congress?

ANSWER: New authorization is not needed. The Land and Water Conservation Fund Act outlines a methodology for distributing appropriated funds which provides the Secretary with discretion for how to distribute a portion of the funding. The relevant portions of the Act are as follows:

16 U.S.C. § 460l–8 Financial assistance to States

(b)Sums appropriated and available for State purposes for each fiscal year shall be apportioned

among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

- (1) Forty per centum of the first \$225,000,000; thirty per centum of the next \$275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and*
- (2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this part. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.*

Consistent with the Act, the budget proposes that 40 percent, or \$22.6 million, of the total grant funding (\$56.5 million) be equally allocated among the 51 "States". Each of the 50 States receive an equal apportionment and the District of Columbia and all of the Territories share one apportionment equal to that of each of the 50 States.

Of the remaining 60 percent portion (\$33.9 million) that can be allocated to the States by the Secretary on the basis of need, \$13.9 million would be allocated according to the formula that NPS has used in recent years that that takes into account total and urban population by State. In total, \$36.5 million will be allocated to States in the same manner as in prior years.

The remaining amount of the 60 percent portion, \$20.0 million, is proposed for a competitive grant component, consistent with 16 U.S.C. § 4601-8 (b)(2).

Simpson Q25: Aren't the activities proposed under the new competitive program already funded under the formula program?

Answer: The types of projects envisioned for the competition can be and to some extent are funded by the formula grants. However, the competitive grant component would more strategically focus a portion of the funding on projects that achieve America's Great Outdoors goals of expanding urban parks, community green spaces and blueways, and conserving large-scale landscapes in communities that need them the most. These priorities were the outgrowth of public input, identified during the 51 public listening sessions that the Administration conducted across the Nation; as well as in many of the over 105,000 written comments that called for more focused investment of LWCF State Assistance competitive grant funds.

Applications would be evaluated based on general criteria as well as criteria specific to the target investment areas (urban, blueways, and landscape conservation). Common criteria would include factors such as the ability to demonstrate the degree and urgency of the need for the project; ability to articulate the expected benefits to be realized by funding the project; alignment with goals of Statewide Comprehensive Outdoor Recreation Plans and other strategic plans that guide investment in recreation and conservation; identification of partnerships and community support; demonstrated need

for safe and accessible routes; multiple identified benefits, such as flood control, tourism, habitat protection and connectivity, and outdoor recreation; ability to leverage Federal funding, including commitments of matching funds or other complementary non-federal investments that support the goals of the project; and other criteria enumerated in law. Objective-specific criteria would be used, based on project type (e.g. urban, blueways, or landscape conservation) to provide additional evaluative factors, such as the project's ability to increase or improve access, or the use of science and mapping to identify important conservation lands.

Urban parks and community green spaces support outdoor access for the nearly 80 percent of the Nation's population that lives in urban areas. However, projects in urban areas are typically more expensive, as land is often limited and thus more costly, even though populations are substantial and demand for new recreation opportunities is great. In a fall 2011 survey, States estimated a total need for State and local public outdoor recreation facilities and parkland acquisition at more than \$18.6 billion. Land costs in general similarly means that acquisition projects are far less common; more than 75 percent of LWCF State grants fund recreational facility development projects, such as playgrounds, picnic shelters, and walking paths, which are relatively more affordable. A competitive component of the appropriated funds outside of the State apportionments would enable States to apply for larger grants than they typically can through the State-based competitions, which are limited by each State's standard apportionment.

Rivers connect people and communities to America's great outdoors and are vital migration corridors for fish and wildlife. During the AGO listening sessions, participants expressed a passion for waterways, knowledge of their economic and ecological importance, and enthusiasm for their conservation. A competitive grant component will help address the recommendations that the Administration received to expand Federal assistance to communities to enhance recreational opportunities on local waterways and adjacent green spaces; to help increase community access to rivers and lakes for recreation, such as boat ramps and swimming access points; and to support community-based protection and enhancement of the nation's waters.

Landscape-level conservation considers conservation needs across public, private, and tribal lands, and involves the consideration of large, interconnected ecosystems and recreational areas. The new competitive process will enable the highest return on investment for Federal funds used for conservation and recreation projects implemented by States and localities, in the context of a broader strategy to fund projects that meet high-priority needs and satisfy the shared vision of a wide range of stakeholders working in collaboration. For example, eligible projects to facilitate recreation could include grants to States to acquire lands to establish new recreation areas, parks, or lands to fill in gaps among publicly and privately-owned conserved areas to create corridors or contiguous protected landscapes that also provide recreational opportunities.

America's Great Outdoors (AGO)

The Fish and Wildlife Service's Fisheries Program just released a report estimating that the program's activities generate a total economic impact of \$3.6 billion annually, which translates into a 28:1 return on investment and 68,000 jobs. A major message of your America's Great Outdoors initiative is about the economic benefits of outdoor recreation. It seems to me that fishing is a major component, and therefore that the Fisheries Program should be an important piece of your AGO crosscut.

Simpson Q26: Not only is it not, but the program is cut by a combined \$11.8 million, or 9 percent in FY13. Why?

ANSWER: The Fisheries Program contributes to the America's Great Outdoors (AGO) initiative by restoring aquatic species and their habitats, as well as monitoring and controlling aquatic invasive species such as the Asian carp. Collectively, these efforts enhance myriad outdoor recreation activities and provide economic benefits to local economies as outlined in the Service report, *Net Worth: The Economic Value of Fisheries Conservation*.

The FY 2013 President's Budget proposes \$131.6 million for fisheries and aquatic resources, a decrease of \$3.7 million from the 2012 enacted level. Reductions in the Fisheries Program total \$11.8 million. The Service is proposing to partially offset these reduction with the proposed \$7.1 million in increases for high priority programs that will enhance the AGO initiative, such as \$1.5 million for the National Fish Passage Program for barrier removal/bypass projects and \$2.9 million for Asian Carp control. Included in the program reduction is \$3.2 million for the production of fish for mitigation of Federal water projects for which the Service is seeking reimbursement. Many partners, the Office of Management and Budget, Congress and DOI have asked the Service to amplify efforts to obtain full reimbursement from the Corps of Engineers, the Bureau of Reclamation and Tennessee Valley Authority.

The Service and the Fisheries Program is committed to advancing the key goals of the AGO initiative. Overall, the Service increased funding for the initiative by \$20.9 million. The Service remains committed to this Secretarial initiative and the FY 2013 President's Budget request, including the funding requested for the Fisheries Program, works toward that goal.

The Fish and Wildlife Service proposes for a second year in a row to zero out discretionary payments through the National Wildlife Refuge Fund, which for all intents and purposes is the only part of the PILT program that wasn't made mandatory a few years ago. The Administration's budget proposes to fully fund PILT for another year, which is inconsistent with zeroing out the National Wildlife Refuge Fund.

Simpson Q27: Please explain this apparent inconsistency.

ANSWER: Though they often function similarly, the PILT program and the National Wildlife Refuge Revenue Fund (NWRFF) program are two entirely separate programs. The Department makes Payments in Lieu of Taxes (PILT) (31 U.S.C. 6901-6907) on all public domain lands, including Service-reserved land. Unlike the NWRFF, PILT payments are based on the population of the county where the public land is located; those counties with a higher population receive higher PILT payments. NWRFF payments are made from revenue from sales such as grazing or timber harvest. Local governments share in these revenues. The National Wildlife Refuge Fund (NWRFF) is solely a function of the FWS, while PILT payments are made through the Department of the Interior on behalf of several public lands management entities.

The Service proposes the elimination of the entire appropriated portion of the NWRFF. The mandatory receipts collected and allocated under the program would continue to be shared with local governments.

The Service is proposing this action because refuges have been found to generate tax revenue for communities far in excess of the amounts lost with Federal acquisition of the land. Refuge lands provide many public services and place few demands on local infrastructure such as schools, fire, and police services when compared to development that is more intensive. National Wildlife Refuges bring a multitude of visitors to nearby communities and so provide substantial economic benefits to these communities.

The Refuge System welcomed more than 45 million visitors in FY 2011. Hunters, birdwatchers, beachgoers and others who recreate on refuges also bring money into local economies when they stay in local hotels, dine at local restaurants, and make purchases from local stores. Recreational spending on refuges generates millions of dollars in tax revenue at the local, county, state and Federal level. According to a report titled Department of the Interior Economic Contributions, dated June 21, 2011, (<http://www.doi.gov/news/pressreleases/upload/DOI-Econ-Report-6-21-2011.pdf>) in 2010 national wildlife refuges generated more than \$3.98 billion in economic activity and created more than 32,000 private sector jobs nationwide.

It is because of these significant economic benefits that national wildlife refuges provide their surrounding communities that FWS is no longer requesting discretionary funding for the program. The Service feels that these funds would be better directed toward higher priority mission-focused programs.

New Energy Frontier

This year's budget request includes a \$45M interagency R&D initiative for hydraulic fracturing, spread among EPA, the Department of Energy, and the USGS. The initiative aims to "understand and minimize potential environmental, health, and safety impacts of shale development and production."

Simpson Q28: What, specifically, will the \$13 million for USGS be spent on?

Answer: The 2013 USGS budget includes \$18.6 million to support the hydraulic fracturing interagency effort, which represents a \$13.0 million increase from the 2012 level. These funds will be used to enhance existing research and undertake new policy-relevant research that focuses on potential impacts of hydraulic fracturing and related activities on water quality and availability, monitoring and characterization of stray gas (gas that migrates upwards from one or more subsurface sources to near-surface aquifers and streams, rivers, and lakes), characterizing the gas resource and related geologic framework, impacts on landscapes, habitats, and living resources, induced seismicity, socioeconomic and community changes, and comprehensive data integration.

Specifically, the research will include the following activities. The USGS will develop methodologies for the quantitative determination of water requirements for hydraulic fracturing of major unconventional oil and gas plays. Development and extraction of shale gas and other unconventional hydrocarbon resources requires huge quantities of water for hydraulic fracturing and produces large volumes of fluids during flowback and production of oil and gas. New techniques will be applied to undiscovered resources, which will be beneficial for predicting water requirements in advance of drilling for a given play. The study will involve water budget assessments to determine where the water used in hydraulic fracturing is obtained and the fate of the water once it is injected. More specifically, the research will determine how much of hydraulic fracturing water flows back from development of the wells, how much water is utilized by and discharged from oil and gas production, and the manner by which flowback waters and produced waters are disposed.

In most geologic basins, brackish to saline water occurs below drinking water aquifers. Brackish water can potentially be used in hydraulic fracturing, but is often not viable for human consumption or agricultural use. This brackish water-bearing zone is poorly known and not well characterized in most basins. The USGS proposes to use geophysical methods and water quality data to estimate the volumes and spatial distributions of brackish water resources. In addition, waters of marginal quality from sources such as coal mine pools could serve as potential sources for hydrofracturing, thereby reducing the need for clean fresh water. The location and potential issues associated with using these fluids will be assessed.

Flowback fluids and brines produced from hydraulically fractured wells have been poorly characterized thus far, and may be difficult to distinguish from other potential sources of contamination in shallow aquifers. The USGS will use specially designed techniques and equipment to collect and geochemically fingerprint time-series fluid samples from major unconventional oil and gas plays. This is important for understanding potential contamination as well as for providing baseline information which has not yet been developed for any of these producing reservoirs. In addition, detailed analyses of the geochemistry of produced waters will be conducted, especially the naturally occurring radioactive materials (NORMs) and trace elements. This "fingerprinting" of produced

waters will help determine where some of the flowback water comes from and will assist in understanding the fate and transport of potential contamination.

The USGS is currently studying the occurrence of natural gas in private water wells in northern Pennsylvania, using chemical and isotopic techniques to determine the nature and source of the gas. This activity will be expanded to other gas plays across the country. This so-called "stray gas" can emanate from one or more of a variety of anthropogenic sources including abandoned oil and gas wells, subsurface fluid injection wells, and water wells. Considering the tens of thousands of abandoned wells in Pennsylvania alone, the USGS regards the potential occurrence of abandoned well leakage as a serious issue. Stray gas can also be released naturally by various organic-rich rock formations, abandoned coal mines, landfills, and decaying vegetative matter in alluvial fill (biogenic gas).

The USGS plans to develop a regional groundwater flow model for specific areas of the Marcellus Shale gas play. Little is known about the fate of injected hydrofracture waters that do not return up the wellbore to the surface as "flowback waters" (only about 15 percent of the water in Marcellus wells currently returns to the surface). Industry has stated that there is only a remote chance that these waters, which may contain toxic chemicals, salt, and radioactive elements, can migrate upward into aquifers, streams, or springs. But because no one has actually tested or modeled groundwater flow through these rocks, the fate of the injected waters is unknown.

Geologic mapping and subsurface geological and geophysical surveys will be conducted to improve the understanding of the geometry and structure of the rock formations that contain unconventional oil and gas resources. These studies are critically important, both to detect potential flow paths that conduct contaminated groundwater (as described above), and also to better understand the geochemistry of oil and gas accumulations including the salinity, radioactive elements, and other physical attributes that characterize them. Mapping and analyses of the resource base and underlying geologic framework will help resource management agencies, States, and others predict the location and magnitude of future oil and gas development.

Over the last two years, earthquakes have occurred in areas of significant shale gas production and hydrofracturing. Studies suggest that at least some of these events may have been triggered by the injection of hydrofracture waste fluids (e.g. Arkansas, Texas, Colorado, and Ohio). The USGS will conduct studies to understand the complex interaction of fluid pressures and subsurface stress to determine: 1) what distribution of earthquakes is likely to result from a specified injection operation; 2) what the probability is that ground shaking from an induced earthquake could reach a damaging level at a particular site; 3) to what extent the occurrence of earthquakes induced by deep injection and production operations can be reduced by altering procedures in ways that do not compromise a project's activities; and 4) whether small triggered earthquakes can cascade into larger, more damaging earthquakes.

Research will be conducted on potential impacts to ecosystems, terrestrial and aquatic species, and landscapes. Studies will be conducted to provide an improved understanding of the sensitivity of aquatic organisms to the chemical components of hydraulic fracturing fluids and flowback water to help design effective wastewater treatments and greener hydraulic fracturing compounds. Other studies will evaluate best management practices (BMPs) used in shale gas development for adequacy in protecting sensitive aquatic and terrestrial species and the application of that information to design and test economically viable alternatives to ineffective BMPs. Funding would also be used to determine cumulative impacts of shale gas development on the landscape so as to develop strategies to prevent, minimize, or mitigate ecosystem-level disturbances over time. Additional studies include evaluating the socioeconomic effects of shale gas development on communities and how these effects might be measured over time, and developing a framework for assessing the impact of hydrofracturing on ecosystem services.

The broad availability of information and data related to the multi-disciplinary components of hydraulic fracturing studies is of vital importance to the implementation of collaborative research associated with unconventional oil and gas exploration and production. The USGS Powell Center serves as a catalyst for innovative thinking in Earth system science research focused on multi-faceted issues. The Center will develop an atlas of U.S. unconventional hydrocarbon production areas, resources, and environmental impacts and will develop a spatially explicit approach for assessing the full life cycle of shale gas production and produced waters.

The research activities that the USGS will conduct will be carefully coordinated with the Department of Energy (DOE), the Environmental Protection Agency (EPA), other Federal agencies (including Interior's Bureau of Land Management, Fish and Wildlife Service, and National Park Service), tribal and State entities, academia, and non-governmental organizations. The DOE, EPA, and Interior will soon release a joint Memorandum of Agreement that will guide this interagency effort. This agreement will emphasize the fundamental core competencies of each agency in synergistic ways that lead to complementary and non-duplicative work. Working collaboratively, the agencies will develop a comprehensive Federal research plan to address the highest-priority challenges to safe and prudent development of unconventional natural gas resources through hydrofracturing. The agencies have already begun to work cooperatively on studies of environmental impacts through EPA case studies at prospective drill sites, in areas of potential induced seismicity, in technology enhancements, and in the development of a comprehensive plan to assess the potential effects of Marcellus Shale gas production on the environment.

USGS research results will provide stakeholders with the scientific and technical data and information required to make sound policy, planning, regulatory, technical, and resource management decisions while minimizing the potential environmental, health, and safety risks of natural gas development and bolster public confidence that unconventional natural gas development can proceed safely and responsibly.

Simpson Q29: Why do you need all \$13 million in the first year? Can you spend it all?

Answer: Proposed USGS research on hydraulic fracturing is complex and interdisciplinary in nature, and \$13.0 million is required and can be spent in the first year. The research involves multiple USGS science programs with the overall goal of understanding and minimizing potential environmental, hazard, and safety impacts of shale gas development and production. Because extensive planning has already been conducted to enhance current studies and to develop and design new research, the USGS is well positioned to start these efforts in a timely manner.

Included among these efforts is the development of networks to collect baseline data on water quality, water availability, earthquakes, stray gas, and sensitive terrestrial and aquatic species. In many instances, these networks will necessitate the acquisition and installation of a significant amount of equipment and supplies that will require continuous monitoring and maintenance.

Funding in the first year is also needed to produce deliverables that can be readily used for making sound policy, planning, technical, and resource management decisions. For instance, the USGS will develop regional and local scale groundwater models to trace fluids injected during hydraulic fracturing to determine whether the effects of the fracturing can be predicted and what the possible effects may be on groundwater. Aerial images will be required to evaluate the effects of hydraulic fracturing-related activities on disturbance of landscapes. Additional staff will be needed during the first year to conduct some of the work.

USGS science for hydraulic fracturing will be conducted in collaboration with partners at the Federal, State, tribal, and local levels. As part of this effort, the USGS will provide part of this funding to States through the National Cooperative Geologic Mapping Program.

Simpson Q30: As you know, BLM draft regulations for hydro fracking were leaked early this year. When can we expect the final draft to be released?

Answer: The BLM released its proposed regulations on hydraulic fracturing on May 4, 2012.

Simpson Q31: The USGS budget contains a \$6.8 million increase for a new coastal and ocean science initiative related to energy development.

How much is in the base for coastal and ocean science?

Answer: The 2012 enacted level includes \$2.0 million in base funding for activities supporting this initiative. These funds provide access to data, interpretive maps, and assessments of seabed and coastal conditions and vulnerability. These science products are derived from existing data and from increased understanding resulting from USGS

research projects. Products will respond to regional needs to inform coastal management and planning.

Simpson Q32: How is this new initiative different from what USGS has already been doing?

Answer: Most of the funding requested for this initiative will support development of new data, maps, and assessments of coastal and ecosystem vulnerability along the Arctic Alaskan Coast and in the Pacific Island territories to support sustainable management of resources. These regions are particularly sensitive to changing coastal conditions and development, contain substantial living and non-living resources under Interior's stewardship, and support native and indigenous populations that depend on coastal resources. This initiative will provide these regions with access to science-based products to support planning and management similar to those developed by the USGS for mainland coastal regions.

Simpson Q33: Compare and contrast the USGS role with that of the Bureau of Ocean Energy Management or the Bureau of Safety and Environmental Enforcement.

Answer: The USGS is the Nation's science and information agency, and is responsible for providing science to characterize and understand the processes that define hazard vulnerability, resource availability, and ecosystem health and function. The USGS, unlike the Bureau of Ocean Energy Management (BOEM) or the Bureau of Safety and Environmental Enforcement (BSEE), has no regulatory or enforcement role. The USGS provides science-based products to understand the regional character, dynamics, and vulnerability of coastal and marine systems. USGS research informs decision-making by other agencies, including BOEM and BSEE, providing broad understanding and characterization that informs more site- and resource-specific assessments by regulatory and management agencies.

Simpson Q34: Why not put the \$6.8 million increase into BOEM or BSEE instead of USGS?

Answer: USGS research programs, including this initiative, provide integrated understanding of coastal, marine and Great Lakes conditions and processes to inform decision-making. This is achieved through multi-disciplinary studies, drawing on the breadth of USGS expertise and capabilities, which comprehensively address the multiple uses and impacts within these systems. In support of Interior's broad responsibilities this initiative will address the potential for and consequences of natural hazards, environmental change, and energy and other development activities to ensure sustainable coastal ecosystems and communities. Energy development potential and consequences are only a few of the factors that can be informed by the comprehensive understanding developed through this research effort. The USGS is the only Federal research bureau with the broad science mission and the diversity of research expertise required to meet these objectives. In addition, as a science agency with no regulatory, management, or

enforcement roles, the USGS is an unbiased provider of credible scientific information to inform decision-making.

White Nose Syndrome in Bats

The USGS budget includes \$1.8 million for research on white-nose syndrome which is decimating bat populations across the country. USGS has found that bats contribute \$3.7 billion to the agricultural economy by eating pests that are harmful to agricultural and forest commodities. Given the ramifications, I would like to presume that the Department of Agriculture is taking significant action in collaboration with Interior.

Simpson Q35: Is that the case, and if so can you talk a little bit about this collaborative partnership?

Answer: The proposed increase of \$1.0 million in the Wildlife Program would be used to enhance surveillance and diagnostic capacity to detect the continued spread of WNS; bolster research on environmental factors controlling persistence of the fungus in the environment, develop management tools, particularly development of a vaccine; and conduct research on mechanisms by which WNS causes mortality in bats. The ultimate goal is to provide management solutions to reduce the impacts of this devastating disease.

The USGS is working collaboratively with USDA/Forest Service on several projects related to bat mortality and the development of molecular detection methods for screening cave soils for the presence of the pathogen that causes the syndrome. The information collected and research conducted by the USGS, FWS, and other Interior bureaus will be useful to the USDA in evaluating the impacts of the syndrome to pest-control services provided by bats. A recent article in the journal *Science*, entitled "Economic Importance of Bats in Agriculture," was co-authored by a USGS scientist and has helped to highlight those impacts.

Cooperative Landscape Conservation

The USGS budget includes a \$16.2 million increase for "science in support of ecosystem management for priority ecosystems." I thought that was basically the mission of Interior's Landscape Conservation Cooperatives, which are funded through the Fish and Wildlife Service.

Simpson Q36: Why the need for both? Please explain.

Answer: The 2013 budget request for the USGS includes a \$16.2 million increase for interdisciplinary research activities in priority landscapes and across the breadth of USGS science mission areas. The increase is intended to fund fundamental science questions related to the restoration of priority ecosystems, including control of invasive species of greatest concern such as pythons in the Everglades; Asian carp in the Great Lakes and Upper Mississippi; flow conditions and water quality in the San Francisco Bay-Delta; and water availability and quality and fish habitats in the Klamath Basin. This information is

available for application by resource managers, including the LCCs, in conservation planning and landscape level resource management.

The mission of LCCs includes the coordination of conservation planning and management activities at a landscape level, the application of science to high priority conservation needs, and identification of key science needs. In general, the LCCs are designed to focus on application of science rather than generating fundamental science.

USGS research is necessary to enable resource managers, such as those involved with LCCs, to make informed decisions, to help resolve and prevent resource management conflicts, and to support Interior's public trust stewardship responsibilities for the Nation's lands and waters. USGS studies are designed to serve local ecosystem management needs and provide knowledge and approaches transferable to similar ecosystems across the Nation. These efforts have a much broader geographic scope than any individual LCC.

Simpson Q37: The LCC's appear to be more partnership-based than the USGS research program. Is that the case, and, if so, shouldn't we be investing in the LCC's primarily?

Answer: No, on both counts. USGS's broad suite of ecosystem-related research activities are extensively partnership-based to ensure that science activities are well-coordinated with the management needs of partners and that scarce funds are utilized and leveraged to the greatest extent possible. The priority ecosystems proposed for additional scientific research under the \$16.2 million increase are a prime example. USGS science within these areas is focused on the restoration of economically and socially important ecosystems across the United States, and informed by extensive communication with Federal, State, local, tribal, NGO, and academic partners. For example, USGS science is being applied in the Chesapeake Bay as part of a broad coalition of Federal, State, and local partners supporting implementation of the Chesapeake Bay Executive Order. In the Great Lakes region, USGS Asian carp research on early detection and control technologies is being conducted in support of the Asian Carp Regional Coordinating Committee which consists of Federal, State and local agencies and other private stakeholders. The \$16.2 million increase will support fundamental science on which targeted restoration efforts in these specific ecosystems depend.

DOI's Landscape Conservation Cooperatives (LCCs) on the other hand, have been established to create a national framework to support regional partnerships across broad ecological landscapes to establish and maintain lasting links between science and management. The role of the LCCs is to work with local partners to define science needs and apply and translate scientific results into resource management tools. This role and structure is complementary to, rather than duplicative of, the fundamental science undertaken and provided by USGS in support of the specific ecosystem restoration efforts described above.

Simpson Q38: A closer look at the Fish and Wildlife Service's budget reveals \$13.5 million for ecosystem restoration activities that appear to be separate from the budget for LCC's. Of this amount, an increase of \$2.5M is for Great Lakes restoration.

Why is the Administration asking separately for Great Lakes restoration funding increases in the Fish and Wildlife Service budget, when the Service already receives a significant portion of funding through EPA's Great Lakes Restoration Initiative?

Answer: The Service's 2013 budget request includes additional funding of \$2.9 million for nation-wide activities to control the spread of Asian Carp. The U.S. Fish and Wildlife Service (Service) currently implements two different strategies to address the threat of Asian Carp in the United States. The first is The *Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States* (Plan), which is national in scope. Implementation would be done through the Service, in cooperation with partners. Its goal is eradication of all but "triploid" grass carp in the wild. The second, the more recent *Asian Carp Control Strategy Framework* (Framework) created in 2010, focuses on Great Lakes waters only. This approach is being implemented through the Asian Carp Regional Coordinating Committee (ACRCC), a partnership of Federal, Great Lakes states, and local agencies led by the White House Council on Environmental Quality. The latest version of the 2012 Framework was released in February 2012.

The Service continues to provide technical assistance to Midwest Region States to prevent the spread of these fish and to share information learned from Asian Carp control efforts in other areas. The Service will soon establish an environmental DNA (eDNA) facility that will be attached to the La Crosse Fish Health Center in Wisconsin. The new facility will increase the Service's capacity to test water samples for traces of Asian Carp DNA.

The Service's 2013 requested increase will be used for early detection and surveillance of the leading edge of Asian Carp distributions. If funded, work could include collecting and analyzing water samples for eDNA testing from state and Fish and Wildlife Conservation Offices in areas potentially susceptible to Asian carp invasions. Work plans would need to be developed and prioritized, but Asian Carp intrusion into the upper Mississippi River could be considered a high priority area. Other high risk-ecosystems include the San Francisco Bay Delta and Columbia River Basin. Early detection and surveillance of the leading edge of Asian Carp distributions is part of a broader national containment strategy outlined under the National Asian Carp Management and Control Plan.

Simpson Q39: Why is the Service's ecosystem restoration funding separate and apart from LCC's? Shouldn't the funding go to the LCC's to ensure that the programs are aligned and focused on the highest priorities?

Answer: The Service's funding for ecosystem restoration goes to collaborative efforts in which many partners work together to implement management actions to restore coastal areas and habitats, improve natural resource management and protect endangered species

in areas such as the Everglades, Gulf Coast, Chesapeake Bay and Bay Delta. Many of these large-scale projects are being done in collaboration with Landscape Conservation Cooperatives (LCCs).

By locating ecosystem restoration funding in programs such as refuges and fisheries, the Service is providing resources to the project managers and biologists who execute the specific actions called for in restoration plans such as the California Bay Delta Conservation Plan.

The LCCs are landscape-scale conservation partnerships that produce and disseminate applied science products for resource management decisions; they do not implement direct conservation actions. LCCs promote efficient and effective targeting of Federal dollars, as well as use fiscal resources, personnel and real property assets of their partners to obtain and analyze the science necessary for the Service and its partners to protect fish, wildlife, plants and their habitats. Each LCC is guided by a steering committee comprised of its key partners who identify a shared vision of the sustainability of natural and cultural resources in that landscape. The partners identify the highest priority science needs; it is not directed by the Service or the DOI. While LCC science may benefit the restoration of a particular ecosystem, each LCC determines what the highest priority needs are in that landscape.

The LCCs advance the goals of ecosystem restoration by supporting efforts such as those of the Gulf Coast Ecosystem Restoration Task force that, in cooperation with the Gulf States, is seeking to address the long-term impacts of recent disasters (e.g., the Deepwater Horizon oil spill and hurricane Katrina). The Gulf LCCs (South Atlantic, Peninsular Florida, Gulf Coastal Plans and Ozarks, and Gulf Coast Prairie LCCs) provide conservation planning, decision support tools, prioritized and coordinated research, and help design inventory and monitoring programs to meet the regional restoration goals of the Gulf Coast Restoration Strategy. In addition, the Service in conjunction with NOAA, has established a Gulf Coast liaison position to work with the Gulf LCCs and the States in the Gulf Coast region to help identify best practices, connect conservation efforts, identify data gaps and avoid duplication of effort as they strive to restore this area.

The North Atlantic LCC also is very active in Chesapeake Bay restoration. For example, the LCC is working on science projects to support conservation of at-risk species such as the Red Knot and the Horseshoe Crab. The LCCs are a mechanism to bring together the resources of all partners to answer fundamental questions about habitat management and species conservation.

Simpson Q40: The 2012 House report expressed concern about the high unobligated balances in the Natural Resource Damage Assessment and Restoration program. The report encouraged the Department to consider better utilizing existing bureau personnel from other restoration programs to assist in project identification, design, and implementation as a means to speed up the obligation of these funds. I understand that the program is undergoing an internal review.

When do you anticipate completing the review and reporting back to us?

Answer: The Department's Office of Restoration and Damage Assessment expects to complete the report by June 2012.

Simpson Q41: Have you considered the program's role in relation to other bureau programs?

Answer: Since its inception in 1992 as a Departmental Program, the Natural Resource Damage Assessment and Restoration program has led and coordinated the efforts of six bureaus and three offices within the Department to accomplish its mission. The Restoration Program is an integrated Departmental program, drawing upon the interdisciplinary strengths of its various bureaus and offices.

For example, considerable restoration is implemented on DOI-managed lands in cooperation with land managers in the Fish and Wildlife Service (FWS) National Wildlife Refuge System, the National Park Service, and the Bureau of Land Management (BLM) National Landscape Conservation System to determine if there are components of existing management plans that have a nexus to the natural resource injury that triggered the damage assessment. Similarly, the Program consults with staff from the FWS Migratory Birds Joint Ventures Program to identify potential projects with a nexus to the underlying injury, sometimes resulting in matching funds from damage assessment settlements with funds from non-governmental organizations to seek and receive competitive grants under the North American Wetlands Conservation Act or the Coastal Wetlands Grant Program. In addition, the Restoration Program can point to numerous examples of cooperation with a variety of programs throughout the Department (e.g. Partners for Fish and Wildlife; FWS Coastal Program; FWS Endangered Species; Invasive Species; Bureau of Indian Affairs and Tribal Natural Resource Management, and the BLM California Coastal National Monument) to expedite restoration planning, design, and implementation.

Strengthening Tribal Nations

The BIA budget claims \$19.7 million in savings from consolidation that the agency hasn't implemented, planned, or even consulted on with Tribes.

Simpson Q42: Are you not putting the cart before the horse, by claiming savings that you haven't even realized yet?

Answer: The FY 2013 budget request identifies \$19.7 million in organizational streamlining and \$13.4 million to significantly reduce the administrative costs associated with the wide range of services Indian Affairs delivers through its programs. Indian Affairs will engage in extensive consultation to identify strategies to ensure that tribal needs and priorities are addressed throughout the process.

Indian Affairs is in the process of scheduling extensive consultation meetings with Tribes and believes the targeted savings can be realized by strategic position management, shared resources and potential program and office consolidation.

Simpson Q43: Reorganizations have to be approved by this Committee, so when do you plan on submitting a reorganization proposal?

Answer: Once the consultations have occurred, Indian Affairs will incorporate the results and recommendations into a plan for a streamlined and cost effective organization. If the plan requires reorganization within the bureau, Indian Affairs will submit a proposal to the Committee for approval.

Simpson Q44: What assurances can you give us that this consolidation, and the associated loss of 192 FTE, will not negatively impact services for Indian Country?

Answer: The goal of any proposed consolidation within the BIA would be to improve the efficiency of service delivery to the Tribes with little, if any, negative impact. Any potential consolidation that could affect the delivery of services to Tribes, will require the support and participation of the Tribes. The results and recommendations from the consultations will be included in implementing a plan for a streamlined and cost effective organization.

Simpson Q45: Please tell us about Interior's efforts over the past several years to reduce crime in Indian Country.

What goals did you set, what strategies did you put into action, and were you able to achieve your goals?

Answer: Since FY 2004, the Department of the Interior's budget request has prioritized significant increases for public safety and justice programs every year, with FY 2008 marking the first year of the Protecting Indian Country initiative. During this time, the BIA has focused on increasing the law enforcement presence in Indian communities while strengthening detention/corrections and tribal courts programs to foster comprehensive and effective justice systems for tribes.

With an overall goal of reducing violent crime in Indian country, Indian Affairs employed data gathering strategies to assemble and analyze crime statistics for all law enforcement programs to determine the areas of greatest need and highest priority to receive additional resources. In 2009, Indian Affairs focused its effort on a pilot project with the goal of reducing local violent crime by five percent over a 24 month period through development and implementation of a community assessment and police improvement effort in coordination with the Tribes and several Federal partners.

In FY 2010 – FY 2011, the High Priority Performance Goal (HPPG) pilot project was implemented in four communities with excessive crime problems and began with a full assessment in an effort to determine the root causes for the excessive crime. The four

communities were Mescalero Apache, Rocky Boy, Standing Rock, and Wind River. Using the information obtained in the assessment, an action plan was developed that was comprised of the best strategies and practices to implement sustained crime reduction in each community. The plan included customized community policing programs suitable to the community to ensure the best level of success; strategic operation practices tailored to the community for stronger patrol and enforcement within current staffing levels; and establishment and mediation of any necessary partnerships with various Federal, State and local programs such as the Drug Enforcement Administration (DEA) or drug task forces, social services, and rehabilitation programs. As a result of the efforts in FY 2010 and FY 2011 on the four sites, violent crime was reduced by 35 percent from the overall baseline total established from the baseline years FY 2007 – FY 2009.

Simpson Q46: I see that you're proposing additional investments in '13 to expand upon past efforts. Would you say then that you've been successful?

Answer: The final results of the 24 month (October 1, 2009-September 30, 2011) goal period are summarized in the FY 2013 President's Budget. A detailed report is currently in the review process within Indian Affairs. The anticipated completion and distribution of the report is July 2012. At the end of the goal period, the BIA Office of Justice Services (OJS) achieved an overall 36 percent decrease in violent crime across all four High Priority Performance Goal (HPPG)sites.

- 68 percent reduction in violent crime at Mescalero
- 40 percent reduction in violent crime at Rocky Boy
- 27 percent reduction in violent crime at Standing Rock
- 7 percent increase in violent crime at Wind River.

Wind River was the only HPPG location showing an increase in violent crime over the 24 month period. We believe the seven percent increase is attributable to multiple factors:

The increase of sworn police officers hired by Wind River contributed to a huge improvement in public trust and thereby increased reporting. The violent crimes reported to law enforcement showed a 53 percent increase the first year. Reviewing the violent crime statistics, the rise of violent crime being reported was noticed at the time of the influx of sworn law enforcement staff.

Based upon the current violent crime statistics, Wind River law enforcement personnel have shown success reducing violent crime in the second year by implementing sound crime reduction strategies. The statistics show the program is trending in the right direction as a 30 percent decrease, or 43 fewer incidents than in 2010, in violent crime were observed from 2010 to 2011 alone.

Based upon the current trend, OJS believes the crime reduction strategies and staffing levels are sufficient to achieve and maintain the reduction in violent crime as outlined in the HPPG initiative. In fact, the Wind River violent crime statistics for the three months following the end of the initiative (October, November, and December 2011), have

shown an additional decrease of 17 violent crimes (68 percent) from the same three months of the previous year, and an 11 percent reduction since the beginning of the initiative.

Based on the success of the pilot project's first four locations, two additional reservations were identified for implementation in FY 2012 – FY 2013. The two include reservations are San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota.

Simpson Q47: What improvements can be made?

Answer: One area where continued improvement can be made is in crime data verification. To ensure the High Priority Performance Goals (HPPG) crime statistics were accurate and the processes for Uniform Crime Reporting (UCR) classification and scoring were standardized at these locations, OJS put together a multidisciplinary team comprised of Indian Affairs (IA), Federal Bureau of Investigation (FBI) and Department of Justice (DOJ) Bureau of Justice Statistics (BJS) personnel to verify all crime data for FY 2009, FY 2010, and FY 2011.

Eight IA and three BJS personnel completed UCR training conducted by the FBI UCR program, and the multi-disciplinary teams were sent out to complete the verification initiative. Over the course of the crime data verification initiative, the FBI provided more than 20 UCR personnel from Clarksburg, West Virginia, that included four of the most senior UCR auditors in the FBI. Each of the four teams was provided a single tool to ensure the consistency of documented offenses across the HPPG sites, and the teams communicated regularly to share information, challenges, and best practices.

This team will continue to verify all crime data for the HPPG sites throughout the duration of the HPPG initiative. The lessons learned continue to shape the BIA's approach to crime reporting and implementation of the necessary changes to improve the accuracy and consistency of crime reporting in Indian Country.

Simpson Q48: How did you come to choose the San Carlos Apache Tribe in Arizona and the Rosebud Tribe in South Dakota as the two places to expand your efforts in '13?

Answer: The San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota were selected from the 10 reservations ranked highest in terms of crime rate and officer staffing need in FY 2011. Also key to their selection was the level of commitment of the Tribal leadership from the two targeted reservations, gained during discussions with BIA Office of Justice Services (OJS) management in late September 2011. Both Tribes accepted the corresponding responsibilities and welcomed the HPPG initiative on their reservations beginning in October 2011.

Simpson Q49: Will you continue to detail officers from other Department bureaus?

Answer: Indian Affairs will continue to leverage outside resources by continuing to partner with other bureaus within the Department, as well as other Federal agencies to address near term critical officer shortages at the HPPG Indian communities.

Simpson Q50: Please explain the \$2.6 million decrease in BIA for law enforcement special initiatives.

Answer: The FY 2013 budget includes a number of reductions to ensure the most effective prioritization of available Indian Affairs (IA) resources to address core responsibilities to American Indians and Alaska Natives. In the area of public safety and justice, decreases totaling \$2.6 million are proposed.

This amount includes a decrease in funding of \$1.0 million in assistance to tribal law enforcement programs with jurisdictions that border on or near Mexico and represents a shift in emphasis from a geographic driven distribution of resources under this initiative to an allocation based on criteria. The primary methodology allocates additional public safety and justice resources based on objective criteria such as crime statistics, land base, and resident population. In response to tightening federal budgets the BIA proposes to discontinue the one million dollar program that currently benefits just two Tribes, with the main qualification for receiving these funds being their proximity to national borders. Though it is valid criteria for consideration in determining the overall public safety needs of a Tribe, as currently implemented this program could be viewed as preferential treatment for these select Tribes at a time when many others are experiencing comparable, or even higher violent crime rates. Given the fiscal constraints of FY 2013, this reduction is proposed in concert with an increase to Criminal Investigations and Police Services that will employ the BIA's primary methodology to distribute the additional PS&J resources. This represents a reprioritization by the BIA to level the playing field for tribal PS&J programs nationwide, and set the BIA on a path to more objective, data driven resource distribution.

Also included in the request is a reduction of \$550,000 that will eliminate one Intelligence Analyst position located at the El-Paso Criminal Intelligence Center (EPIC) and two positions at drug enforcement field locations in Muskogee, OK and Phoenix, AZ. Through the remaining three intelligence Analyst positions, the BIA will continue to maintain real-time access to intelligence related to criminal enterprise and narcotics trafficking and distribution.

The final component is a reduction of \$1.0 million that supports the Incident Management Analysis and Reporting System (IMARS). The system is a Departmental sponsored project that was developed to ultimately provide all bureau justice service agencies with the ability to accurately report incidents and transmit those reports for inclusion in various state and Federal databases.

Simpson Q51: For the second year in a row you have proposed to zero out replacement school construction. There are 183 BIE schools and dormitories. Simply replacing one a year is ridiculous. Two a year should be, I believe, an absolute minimum.

Is the federal government not responsible for building, maintaining, and eventually replacing those buildings?

ANSWER: Yes, the Federal government is responsible for the maintenance, repair, and eventual replacement of the education buildings. The current Replacement School Construction priority list was published in 2004, and BIA is currently working on the next iteration of the priority list. It will take at least 12 months to develop a revised final published list. There was a substantial investment of \$285.0 million as a result of the American Recovery and Reinvestment Act; many of these projects are still under construction. In light of this investment, the FY 2013 request is maximizing funding available for other vital Indian Affairs programs. As noted in the Bureau of Indian Affairs FY 2013 Congressional Justification, the Bureau's priority for FY 2013 is the maintenance and repair of existing education facilities.

Simpson Q52: When is the Department going to complete a new school construction priority list?

ANSWER: The current Replacement School Construction priority list was published in 2004. Of the fourteen school projects on the list, all but three have been completed or are under construction.

As required by the No Child Left Behind legislation, the Secretary of the Interior appointed a Negotiated Rule Making Committee to recommend the process prioritizing the school construction priority list. That Committee has completed their report which will be delivered to Congress and the Secretary in March or April of 2012.

Immediately after receipt of the report from the Committee, the Secretary of the Interior will begin the process of developing the next priority list in consideration of the recommendations of the Committee. Through a process of collaboration among schools, Tribes and the Assistant Secretary for Indian Affairs, a worst school first priority list of construction will be published. It is anticipated that the list will be approved and published prior to January 1, 2013.

I see a lot of what I would call "nice-to-do" projects in the Fish and Wildlife Service's budget and I question why we aren't putting some of this funding into schools instead. For example, here are just a few projects:

- Upgrade Visitor Center
- Repair Boardwalk and Observation Platform
- Demolish Flood-Damaged Buildings
- (Another) Repair Boardwalk, Phase Two
- Replace Fishing Pier, Ramp, and Slab

Simpson Q53: The Indian Guaranteed Loan Program is facing a \$2.1 million cut, "while the program undergoes an independent evaluation."

Is that not a guilty-until-proven-innocent approach?

Answer: Indian Energy & Economic Development plans to conduct a strategic review of the Indian Affairs Loan Guarantee Program that focuses on the effectiveness of the program and its results. The evaluation will help strengthen the program's goal to improve access to capital opportunities for Native American businesses. Indian Affairs is reviewing the bid for proposals and will keep the Committee apprised of major milestones in the program evaluation process. The review will be initiated this year with a target completion date of early next calendar year.

Simpson Q54: What prompted the evaluation, and who is conducting it?

Answer: Indian Affairs is reviewing the bid for proposals and will keep the Committee apprised of major milestones in the program evaluation process.

As the only Federal loan guarantee program solely dedicated to Native American economic development, the program and its implementation is an important priority for Indian Affairs. As such, the Office of Indian Energy and Economic Development is planning to conduct a review to establish a strategic direction for the program and to be able to effectively demonstrate its success in creating jobs and building business capacity of Native businesses.

IEED is participating in the White House Administrative Flexibility Group on Loans/Credit. Through this workgroup, IEED is exploring ways in which the program can collaborate with other Federal loan and credit programs to better serve Indian Country. This includes looking at improving efficiencies and not duplicating services. Indian Affairs does not believe the Indian Loan Guarantee Program duplicates service because of its role solely dedicated to Native American economic development loans and the only program that uses leasehold interests on trust lands as security and the program issued guarantees can be enforced in tribal courts.

Simpson Q55: When will it be completed?

Answer: The review will be initiated this year with a target completion date of early next calendar year.

Simpson Q56: Road Maintenance is down slightly from FY12. I've had the discomfort of riding on some of these roads and I'm skeptical that the decrease reflects a declining need.

Why the decrease?

Answer: In FY 2012, the BIA Division of Transportation and Road Maintenance program will expend approximately \$25 million to maintain, repair, and rehabilitate Indian Affairs' 29,000 miles of road and 940 bridges. The Division and Indian Tribes

work to keep BIA-owned streets, roads, highways, and bridges in a state of good repair through regular maintenance – activities such as sealing cracks, repairing pavement, cleaning and repairing drains, fixing signals, and sweeping streets. The proposed reduction will have a minimal impact on the current condition road maintenance activities. In FY 2013, Indian Affairs will continue to coordinate efforts with Tribes in order to meet the needs of tribal communities.

Simpson Q57: I'm concerned that the combined \$6 million in cuts and the reduction of 14 FTE from the Office of the Special Trustee will further strain an office that is still dealing with 78 pending cases involving 108 Tribes.

How will these cuts impact the Office's ability to resolve these cases?

Answer: The Office is fully committed to resolving the current cases and is confident that it can accomplish its mission with the requested level of funding. Overall, OST's budget request is \$6.1 million below FY 2012, primarily due to improvements in operational efficiencies, office consolidations, and other cost savings. The reduction in FTE is expected to be achieved through attrition. The budget for the Office of Historical Trust Accounting (OHTA), the office primarily responsible for addressing pending litigation with the Tribes, has a program change reduction of \$3.3 million below FY 2012. However, no reductions in FTEs are planned for OHTA. This reduction will be absorbed through decreases in costs associated with contractor assistance. Reductions in the FY 2013 budget are not expected to adversely impact OST settlement efforts.

Simpson Q58: I see here that \$500,000 is included in the USGS budget to "understand the impacts of climate change on tribal lands." This is a sore spot with tribes and one that we continue to hear about. Interior has invested millions on predicting the impacts of climate change on fish and wildlife and the greater biological systems, in part to determine where to conserve land so that plants and animals can move and adapt to the changing environment. But what about the people who are tied to their land both culturally and economically? Let's face it: This country has established reservations on some of the harshest lands in the West. And USGS rain models show that the West is only going to continue to get drier. The relatively small amount of money that Interior has spent studying climate change on tribal lands, both through the Fish and Wildlife Service's LCC's and now this \$500,000 in USGS misses the point, which boils down to simply this:

How is Interior going to meet its trust responsibilities to American Indians and Alaska Natives in the face of a changing climate?

Answer: Adaptive management is a technique being used to ensure trust responsibilities are being met. Land management is strengthened through Integrated Resource Management Planning and other more specific land management plans such as forestry. This allows resource management decisions to address climate related issues as they appear.

The Interior's approach to meeting its trust responsibilities in the face of a changing climate has a dual focus: capacity building and adaptive resource management. Meeting these responsibilities head-on requires better interaction between the researchers and scientists gathering data on climate change and the land stewards (both federal and tribal) making decisions on how best to manage natural resources. As a whole, this must be a joint effort amongst not only DOI agencies, but all aspects of federal government, with marked improvement in inter-agency communication and cooperation on addressing climate change issues. Strides are already being made in this direction. An excellent example of which is the National Fish, Wildlife, and Plant Climate Adaptation Strategy. This document, drafted with input from various federal, tribal, and state agencies, provides an overview of impacts and suggestions for strategies and actions that all levels of government can adapt for their specific uses.

Increasing our understanding of the impacts of climate change on the vulnerability of tribal lands and communities is critical to meeting this challenge. Climate and adaptation research being conducted by other DOI bureaus and federal agencies is applicable across broad landscapes and ecosystems. Much of this work can be adapted to meet tribal resources and land management needs. The most efficient approach is to incorporate tribal concerns and issues into existing research networks and activities: specifically the LCCs and CSCs. The BIA has only had a climate change program for two years, with minimal funding available. In FY 2013, the program plans to shift focus to supporting BIA and tribal collaboration with the LCCs and CSCs, providing tribal input and perspectives to climate issues. Tribal involvement not only benefits the tribes themselves, it also has positive impacts on the research being conducted. Tribes have been stewards of their natural resources since time immemorial and, as such, have a unique relationship and understanding of their environment. This information is commonly referred to as traditional ecological knowledge (TEK). Combining TEK with mainstream climate research is essential for developing a comprehensive response to climate change impacts on tribal resources and practices. A budget increase of \$800,000 is requested to support this task, ultimately contributing to increases in performance in the DOI High Priority Performance Goal to identify vulnerable areas and species and implement adaptation strategies.

Climate change is not something that tribes will face ten, or even five, years down the road. It's something being dealt with today. The capacity building discussed above is critical, but the second approach of the DOI plan, adaptive resource management, is just as critical to dealing with current issues. Adaptive management is an iterative decision process that promotes flexible decision making that can be adjusted in the face of uncertainties as outcomes from management actions and other events become better understood. This approach allows climate-related issues to be incorporated into issues as they appear. Thus, the climate-related data and knowledge being accumulated both by the tribes and other partners in LCC/CSC activities can be used to better inform managers and properly adjust adaptive management approaches as it is developed. Resource management is also strengthened through integrated resource management planning and other, more specific, management plans (e.g., forestry and water resources). Climate change is not a phenomena occurring independently from other environmental processes.

As such, climate adaptation planning should not be an independent activity, but rather incorporated into the types of existing management planning previously described. The BIA continues to offer technical assistance to tribes in creating these management plans and enhancing existing plans to include climate components.

Water Challenges

In October 2011, the Interior Department released a report entitled “Strengthening the Scientific Understanding of Climate Change Impacts on Freshwater Resources of the United States.” The report underscores the importance of adequate water measuring and monitoring systems to track water availability and quality to assist water managers in decision making about water allocations and infrastructure. Almost as if in spite of this report, the USGS budget includes the following cuts in its water program: -\$2 million from groundwater resources availability studies; -\$6 million from national water quality assessments; -\$2.8 million from the national streamflow information program; -\$3.3 million from hydrologic networks and analysis; -\$5 million from the cooperative water program; and, for the second year in a row, a termination of the Water Resources Research Act Program. All in all, we’re looking at over \$25 million in reductions to USGS water programs.

Simpson Q59: Is that being WaterSMART?

Answer: The 2013 budget request reflects the Administration’s commitment and strong support for USGS science as a foundation for resource management decisions. Recognizing constrained fiscal resources, this budget reflects careful and difficult decisions that balance USGS research, assessment, and monitoring activities to ensure USGS’s continued ability to address a broad array of natural resource and natural science issues facing the Nation. The 2013 budget request supports a continued legacy of world-class science to support this decisionmaking.

As competition for water resources grows, so does the need for better information about water quality and quantity. WaterSMART, through the combined efforts of the USGS and the Bureau of Reclamation, is intended to provide information to address the Nation’s water challenges. The 2013 request includes a \$13.0 million increase for WaterSMART that will provide information and tools for State, local, and tribal entities to manage their resources. WaterSMART supports the Department of the Interior’s Water Challenges initiative and includes the establishment of the National Groundwater Monitoring Network as authorized in the 2009 SECURE Water Act (P.L. 111-11). Groundwater is one of the Nation’s most important natural resources as it is the primary source of drinking water for half of the nation, provides about 40 percent of the irrigation water used for agriculture, sustains the flow of most streams and rivers, and helps maintain a variety of aquatic ecosystems. In 2013, the USGS will transition from a pilot-scale National Ground Water Monitoring Network data portal to a production scale portal. Additionally, the proposed budget for WaterSMART supports the development of a plan to study brackish groundwater, which could be an important water supply for the future. The WaterSMART increase also supports analyses of the influence of water

quality on water availability and continues water availability assessments in the Colorado River Basin, the Delaware River Basin, and the Apalachicola-Chattahoochee-Flint Basin.

The 2013 budget also supports the USGS Rapid Disaster Response effort with a \$5.5 million increase to the National Streamflow Program for Federally-supported streamgages. An increase of \$5.4 million to USGS Water programs for hydraulic fracturing research will support efforts to better understand and minimize potential environmental, health, and safety impacts to water resources. These activities will help ensure protection of the Nation's water supply while helping achieve energy independence. Increases of \$2.1 million to the Water programs for priority ecosystems will lead to improved understanding of water issues in the California Bay-Delta, the Chesapeake Bay, the Columbia River, the Puget Sound, and the upper Mississippi River.

These investments in water science research and development reflect the Administration's commitment to advancing the well-being of the American people, economy, and environment through strategic investments in innovative science that address some of our Nation's most pressing water management needs. In a climate of limited economic resources, the 2013 budget request balances the need to maintain the long-term data gathering capabilities stakeholders across the country depend on, with the need to translate scientific discoveries into tools that water managers need to address growing national water management challenges.

Questions for the Record from Mr. Calvert

Fees on Domestic Energy Production

As I'm sure you are aware, recently, oil reached a 6 month high and many industry analysts are predicting that this summer will see record setting gas prices. American consumers are already feeling the hit at the pump.

This year's budget resurrects many proposals from the President's FY12 budget that sought to raise fees on, and increase the operational costs of, domestic oil and gas production – proposals that were rejected by this subcommittee in FY12. You and I both know that fees don't just disappear after they are paid by the producer; they are passed along to the consumer. Both the industry and CRS agree that these increased fees could increase energy prices, decrease American energy production and decrease federal energy production revenues, increase dependence on foreign oil in the long run and send American energy sector jobs overseas.

Calvert Q1: Has Interior studied the impacts of its proposed fees to determine what the economic costs of these proposals will be in terms of energy costs, domestic production and jobs? If so, what were the findings? If not, given potential impacts on jobs and prices, do you feel it is appropriate to make these fee proposals without fully understanding their impacts?

Answer: There have been no formal studies of the impacts of the fees for inspecting oil and gas operations and the non-producing oil and gas lease fees. However, it is worth noting that the non-producing lease fee is intended to encourage development of oil and gas leases. To the extent it is successful in doing so, the overall near-term economic impacts would be positive, resulting in higher domestic production and increased royalty revenues which are shared with the States and which contribute significantly to Federal government revenue collections. The proposed inspection fees would replace appropriations with an alternative funding stream to support the onshore oil and gas lease inspection program, ensuring high levels of environmental and production verification inspections. Collection of these fees is consistent with the principle that users of the public lands, rather than taxpayers, should pay for the cost of both authorizing and oversight activities. These fees are similar to fees now charged for offshore inspections, and to cost-recovery fees charged for other uses of Federal lands and resources. The fees are very small compared to the value of oil and gas produced on Federal lands, so the effect of the fees on the incentive for companies to produce these resources is expected to be negligible.

Santa Ana Sucker

Secretary Salazar, as I'm sure you are aware, the Fish and Wildlife Service has designated expanded critical habitat on the Santa Ana River for the ESA-listed Santa Ana sucker fish. While this action was locally viewed as having the potential to be overly

restrictive of future water supply development projects in the region and with little scientific underpinnings to support the designation, I was encouraged to hear that the Service was also reaching out to and participating with local water agencies in a collaborative effort to find common ground on protecting locally developed water supplies and endangered fish in the process.

I encourage you and the Service to continue to work with our local water agencies in identifying actions that can protect both wildlife and our region's important water resources for future generations.

Calvert Q2: Can you please provide the Subcommittee with an update on the progress of this collaborative effort?

ANSWER: The U.S. Fish and Wildlife Service appreciates your comments. The Service continues to regularly meet and provide technical assistance with all members of the collaborative group. To assist in their project planning efforts, the Service will soon be providing the collaborative group with an interim conservation strategy that will help identify short-term and long-term conservation needs of the fish.

Ocean Water Desalination Projects

Mr. Secretary, there is interest growing in our coastal communities in California to study the feasibility of Ocean Water Desalination Projects. Such projects would provide new and reoccurring water sources to a region of our country which have very high water demands and those demands only increase year after year.

Calvert Q3: Has the Department looked at ways in which it could support Ocean Water Desalination efforts as a way to relieve pressure on the Colorado River, and other federally managed water sources, by supporting the development of other alternate water resources?

ANSWER: Yes. The Bureau of Reclamation currently supports ocean water desalination efforts as a way to relieve pressure on the Colorado River and other federally managed water sources mainly through funding in basic, laboratory, pilot, and demonstration scale research. Reclamation has also provided funding for a Congressionally authorized seawater desalination demonstration as well as for feasibility studies for potential new desalination projects. The support is available through several Reclamation programs which address different aspects of technology innovation through demonstration and implementation of commercially available solutions. The programs that have or are providing funding include the Reclamation Science and Technology research program, the Desalination and Water Purification Research (DWPR) and development program, WaterSMART Advanced Water Treatment (AWT) Pilot and Demonstration Grants, and the Title XVI Water Reclamation and Reuse program.

A number of projects have received Reclamation funding since 1998 at different points in the development of the technology. Our goal is to lower the costs and reduce the

environmental impacts as these technologies are applied to increase water supplies. A list of all external research projects including brackish and seawater desalting by State can be found at <http://www.usbr.gov/research/AWT/DWPR/cost-share.html>. Some of the best examples of internal and external seawater desalination projects funded by the Reclamation programs include development of: the next generation chlorine resistant reverse osmosis membranes; a new desalting technology using clathrates; wind-powered reverse osmosis desalination for Pacific islands and remote coastal communities by the University of Hawaii; the VARI-RO high efficiency high pressure pump by Science Applications International Corp., San Diego, CA (the technology was recently acquired by General Electric); an industry consortium to develop large diameter reverse osmosis and nanofiltration elements (currently being installed in the world's largest seawater desalination facility located in Israel); new seawater intakes including a subfloor water intake system structure and the slant wells being piloted and demonstrated by the Municipal Water District of Orange County in Fountain Valley, CA through the DWPR and WaterSMART AWT programs; pilot and demonstration-scale testing of microfiltration/ultrafiltration pretreatment for seawater reverse osmosis and innovative intakes and post-treatment by West Basin Municipal Water District, Carson, CA through the DWPR and WaterSMART AWT programs; and the development of the Long Beach, CA pilot/demonstration studying a patented two-phase nanofiltration process for seawater desalination, through the Title XVI program.

Colorado River Quantification Settlement

Calvert Q4: When I was Chairman of Water and Power Subcommittee I helped create the Colorado River Quantification Settlement agreement. There have been subsequent legal challenges to this agreement. What is the status of these legal challenges?

ANSWER: Legal challenges to the Quantification Settlement Agreement (QSA) can be categorized by State litigation and by Federal litigation as follows:

State QSA Litigation: In *Imperial Irrigation District v. All Persons*, Imperial Irrigation District (IID) sought to validate its actions when it entered into multiple State and Federal agreements in 2003. The California Superior Court ruled in January 2010, that 13 of the agreements were invalid, including the Federal Colorado River Water Delivery Agreement (CRWDA), the Federal Allocation Agreement, and the Federal Conservation Agreement. The QSA parties appealed and received a stay of the decision. On December 7, 2011, the Court of Appeals reversed the Superior Court's decision and remanded the case back to the California Supreme Court for further proceedings, including coordination of California Environmental Quality Act issues. The California Supreme Court issued a decision on March 15, 2012, refusing requests for further review of the Appellate Court decision.

Federal QSA Litigation: In late 2009, Imperial County and the Imperial County Air Pollution Control District filed a complaint in U.S. District Court challenging the Secretary's 2003 execution of the CRWDA, alleging that the Environmental Impact Statement failed to comply with the National Environmental Protection Act and that it

also violated the Clean Air Act. The United States filed an answer to the complaint on March 29, 2010. In March 2011, the case was transferred to a different Federal judge within the Southern District of California and an updated briefing schedule was developed. In January 2012, briefs were filed for motions for summary judgment regarding NEPA and Clean Air Act compliance. The case is now fully briefed and the parties are waiting for a decision by the U.S. District Court.

Reclamation is working with the U.S. Department of Justice and the California parties to defend the Federal lawsuit.

Bay Delta Conservation Plan

Calvert Q5: What is the status of the Bay Delta Conservation Plan? How involved had the Department been in the BDCP Process? Do Interior personnel involved with the creation of the BDCP have access to all the resources they need for a speedy completion of this plan?

ANSWER: The Department of the Interior (Department), through the Bureau of Reclamation and the Fish and Wildlife Service, has been fully engaged on the development of the Bay Delta Conservation Plan (BDCP).

The preliminary administrative drafts of all BDCP planning documents released by the California Natural Resources Agency on February 29, 2012, are currently being reviewed by participating Federal agencies. The release of these draft documents provides an opportunity for Federal agency and stakeholder review and engagement in a scientific and transparent discussion concerning how best to protect and restore fish, wildlife, and the Delta's ecosystem while ensuring water supply reliability.

The Department is providing support that will help develop a long-term path for reliable water supply, habitat restoration, and response to the Delta's non-water-supply stressors. The Department has dedicated resources to develop the documents needed to move the plan forward, including the associated Environmental Impact Statement (EIS), and permits under the Federal Endangered Species Act (ESA) that comply with the provisions of these Federal laws.

WaterSMART Grants

I note that the Bureau of Reclamation has again budgeted funds for the Water SMART Program. I believe competitive grant programs are an excellent way for local communities to compete for federal funds on a national basis based upon the merits of their own project.

Calvert Q5: Do you have a sense of how many entities have applied for WaterSMART grants in previous fiscal years? If so, can you share this with the Subcommittee.

ANSWER: In FY 2010, Reclamation received 243 proposals for WaterSMART Grant funding across four grant categories. Together, those proposals requested \$96.1 million in Federal funding. In FY 2011, Reclamation received 257 proposals for WaterSMART Grant funding, together requesting \$94.8 million in Federal funding.

Calvert Q6: Is the funding budgeted for this program sufficient to meet the demand placed by applicants that meet the grant requirements? What percentage of qualified applicants are unable to receive a WaterSMART Grant?

ANSWER: Demand for funding among eligible WaterSMART Grant applicants continues to outpace available funding. As a result, only the highest ranking proposals can be awarded funding each year. In FY 2010, for example, 52 of 243 WaterSMART Grants applicants – or about 21 percent – were awarded funding. In FY 2011, when \$33 million was available for the program, approximately 31 percent of proposals (80 of 257) were awarded funding. Accordingly, over the past two years about 70-80 percent of the eligible applicants were not awarded funding. With that in mind, funding proposed for FY 2013 represents an increase of \$9.3 million over the FY 2012 enacted level of \$12.2 million. The funding requested in FY 2013 is intended to address the continuing interest among eligible applicants for WaterSMART Grant funding to the extent possible given the economic conditions facing the Nation and competing budget priorities.

Biological Opinions

Mr. Secretary, last year the Federal Court invalidated the Fish and Wildlife Biological Opinion for Delta Smelt and directed that the Opinion be redone. This Biological Opinion dictates how the state and federal water projects operate that deliver water to 25 million Californians and millions of irrigated acres. As you know, the Department has committed to utilizing the most up to date science and a more inclusive process in developing the new Biological Opinion. In addition, the Department has indicated they will bring in new scientists and managers to insure the new rules are written in an unbiased manner and that all conclusions are submitted to independent science review.

Calvert Q7: Has sufficient funding been included in the budget to fully support the FWS' participation in this process and can you provide to me some detail about how you see the new Biological Opinion being developed?

ANSWER: The President's budget includes adequate funding and other resources for the Fish and Wildlife Service to carry out its mission in the Delta. The Service is currently working with the Bureau of Reclamation, National Marine Fisheries Service, California Department of Water Resources, and other partners in the development of new information that will be used in the next long-term operations consultation. The Bureau of Reclamation is preparing to launch a NEPA process that will be used to transparently analyze options for future operations. The Service expects the Bureau of Reclamation's process to produce new and useful information that will inform the development of an updated biological assessment. The process will facilitate exploration of new options to

efficiently deliver water without undue risk to imperiled delta smelt, salmon, steelhead, and sturgeon.

Calvert Q8: As you know, the Federal Courts have invalidated the National Marine Fishery Service's Biological Opinion for salmon and directed that it also be redone. How do you intend to ensure that the new Biological Opinions, which will be written by 2 separate agencies in 2 separate Departments, do not conflict with each other?

ANSWER: The Fish and Wildlife Service and National Marine Fisheries Service have a close working relationship that includes extensive collaboration on issues related to development and implementation of the Biological Opinions. There is already a clear mechanism in place for dealing with the unlikely, but possible conflict between fall outflow requirements under the Fish and Wildlife Service's BiOp and Shasta storage requirements in the National Marine Fisheries Service's BiOp. Inter-Service cooperation will continue in the future, and will allow both agencies to resolve any potential conflicts that arise in the future.

Questions for the Record from Mr. Cole

Cole Q1: Hydraulic Fracturing has been used for over half a century. Why do we need a national standard?

Answer: The use of hydraulic fracturing has steadily increased as the technology has advanced. The BLM now estimates that about 90 percent of wells currently drilled on Federal and Trust lands are stimulated by hydraulic fracturing techniques. The increased use of fracking has generated concern about its potential effects on water quality and availability, particularly with respect to the chemical composition of the fracturing fluids and methods used. The BLM has an important role to play in ensuring the safe and effective use of hydraulic fracturing techniques on Federal, tribal, and individual Indian Trust lands. The BLM alone is delegated the responsibility for managing Federal, tribal, and individual Indian Trust minerals. To this end, the BLM will continue to work closely with industry, other Federal agencies, State agencies, Tribes, and the public to develop a strong and effective regulatory framework that reflects the state of modern technology while protecting the important resource values on the lands the BLM manages. The proposed regulations focus on improving assurances on wellbore integrity, public disclosure of hydraulic fracturing fluids, and requiring operators to provide the BLM with information on how the operators plan to manage flowback waters from fracturing operations.

Cole Q2: What deficiency in state regulation makes you believe we need a national standard?

Answer: The proposed regulations for hydraulic fracturing fulfill the BLM's role in ensuring the safe and effective use of hydraulic fracturing techniques on Federal, tribal, and individual Indian Trust lands. The BLM's proposed regulations seek to create a consistent oversight and disclosure model that works in concert with other regulators' requirements while protecting Federal and tribal interests and resources. The BLM proposal employs best practices that are applicable regardless of geology or location. The proposed rule will not apply to regulation of State or privately-owned minerals where BLM does not have jurisdiction.

Cole Q3: When the Industry has supported the FracFocus reporting system—which is working well—why are you trying to create a new system?

Answer: The proposed hydraulic fracking rule requires that permit applicants disclose the chemicals used in the fracturing process to the BLM. The chemical information would be subsequently released to the public, most likely through posting on a public website. The BLM is working with the Ground Water Protection Council to determine whether the disclosure might be integrated into the existing website FracFocus.org.

It is my understanding that the Department recently conducted a tribal consult in Salt Lake City regarding the draft Hydraulic Fracturing regulations. I understand that the tribes were not given the draft until they arrived and there was little if any discussion.

Cole Q4: Do you plan to discuss this document in greater detail with the tribes? Did you notify the tribes to bring their technical experts on oil and gas drilling to ensure they were best prepared to provide feedback? What is the deadline for tribes to submit comments? Will their concerns be addressed prior to the rule being placed in the federal register?

Answer: The BLM conducted regional meetings as part of the hydraulic fracturing rulemaking outreach process. Tribes were given notification before the outreach meetings, with a list of available sites that may best meet their needs. It was not vital that the Tribes bring their technical experts to these initial outreach meetings. At the meetings, the BLM made clear that the agency is available for further dialogue, including with the Tribes' technical experts. The Tribes were encouraged to continue to engage with their partners in the field, the BLM Field Managers who work with them on oil and gas operations. The tribal attendees at the regional meetings were asked to provide initial comments by April 13, 2012. However, it is important to note that these meetings were just the start of the outreach process. Tribal concerns will be addressed as we receive them. In fact, a number of revisions in the proposed rule occurred based on comments received to date. There will be a formal 60-day public comment period once the proposed rulemaking is published in the Federal Register, and specific tribal consultation will also take place after the proposed rule is published and before any final rule is completed.

Cole Q5: As you know- many tribes rely on revenue from oil and gas for their livelihood. Do you believe Hydraulic Fracturing regulations would reduce revenue to the tribes due to permitting delays? Will there be a cost for the tribe to implement these regulations?

Answer: The BLM does not anticipate permitting delays from application of the proposed hydraulic fracturing regulations, nor is there expected to be a cost to the Tribes to implement the regulations.

Cole Q6: I appreciate the proposed rules on surface and renewable energy leasing on Tribal lands which will lead to more Tribal economic development. When will we see similar reforms for subsurface leasing on Tribal lands?

Answer: The referenced rules on surface and renewable energy leasing on tribal lands were proposed by the Bureau of Indian Affairs, which has jurisdiction over surface and subsurface leasing of tribal lands. Any reforms for subsurface leasing on tribal lands would also be the responsibility of the Bureau of Indian Affairs.

Cole Q7: I understand that Secretary has said the American people have a right to know that their "public lands" are being protected. Does the department consider Indian lands to be "public lands?"

Answer: The term "public lands" generally refers to government lands that are open to public sale or other disposition under general laws and that are not held back or reserved for a governmental or public purpose. The phrase "public lands" is synonymous with "public domain." Under the Federal Land Policy and Management Act, public land is land or an interest in land that the United States owns within a state and that the Secretary of the Interior administers through the Bureau of Land Management. As a rule, "Indian lands" are not included in the term "public lands."

Cole Q8: Has the department's Office of Indian Energy and Economic Development done an analysis of the long list of comparative disadvantages energy projects on Indian lands encounters such as application for permit to drill fees, other fees, leasing and permitting delays, NEPA and frivolous lawsuits, and other obstacles?

Answer: The Office of Indian Energy and Economic Development has not performed an analysis on potential disadvantages energy projects face on Indian lands. The Office routinely assists Tribes in the negotiations of productive energy leases and approximately 94 percent of Indian leases, over 4,000, are productive. In FY 2011, the Office assisted in the development of 48 leases for oil, gas, renewable energy, and aggregate material development on approximately 2.8 million acres of trust land.

Questions for the Record from Mr. Flake

Navajo Generation Station

The EPA's forthcoming determination of what constitutes Best Available Retrofit Technology for the Navajo Generation Station is a pressing issue, one that the Department has made a priority. This attention is warranted, given that the decision EPA stands to make will impact both the Navajo and Hopi tribes as well as the regional economy, the Central Arizona Project that provides water to 80 percent of the state's residents, and agricultural water users among others.

Flake Q1: As participants in what has now become an inter-agency process, can you shed some light on what you think is the likely timing of a decision will be?

ANSWER: Interior and its agencies have provided timely input into EPA's BART determination process through a variety of means, including responding directly to the EPA on specific questions and contracting with NREL to ensure that EPA and other stakeholders have additional data and input regarding technical and economic impacts of potential BART determinations. In July 2011, Interior requested that the EPA not issue a BART determination until the NREL report was completed. The EPA agreed to not issue a ruling in 2011, and is now considering the NREL information in conjunction with all stakeholder input received. The EPA has stated that it plans to issue its BART determination for NGS in the summer of 2012.

Flake Q2: If EPA requires the most costly controls under consideration, there could be significant adverse impacts to many of Arizona's Native American Tribes. What steps is the Department of Interior taking to ensure that the potential impacts to the Tribes are given appropriate consideration in EPA's rulemaking process?

ANSWER: Reclamation and Interior have worked extensively with all affected stakeholders and conducted tribal consultations with both individually affected tribes and broader Tribal entities such as the Inter Tribal Council of Arizona. The Department contracted with the National Renewable Energy Laboratory (NREL), to prepare a study that reviewed in detail all factors relevant to EPA's Best Available Retrofit Technology (BART) determination, including particularly the full range of economic impacts on the Navajo Nation and Hopi Tribe and all users of Central Arizona Project (CAP) water. CAP water users include urban users and agricultural users, both Indian and non-Indian. The Department submitted the completed NREL Study to EPA in January 2012. In addition, the Department has participated in EPA's formal consultation with Indian Tribes in connection with its BART proceeding.

Northern Arizona Uranium Withdrawal

In his testimony, the Secretary highlighted that the Department "launched significant efforts to protect America's enduring icons" and noted the recent "withdrawal of over

one million acres in the vicinity of the Grand Canyon from additional uranium and hardrock mining, to protect and preserve the natural beauty of the Grand Canyon.” Originally, it seemed the Department was taking steps to put a halt to new mining claims on federal lands on the Arizona strip because of the potential environmental impacts. Yet, during the impact statement process, many feel the Department was hard pressed to find any environmental downsides. Instead, the Secretary was recently as saying ““I do oppose efforts to overturn the decision on the Grand Canyon...Outdoor recreation and tourism are a huge part of our economies.”

Flake Q3: Has the Department now shifted to using the economic benefit of tourism, which we would all certainly concede are important to Arizona, as the basis for the controversial withdrawal?

Answer: Based on the analysis in the Northern Arizona Proposed Withdrawal EIS, the Department of the Interior decided that, in accordance with the preferred alternative, a withdrawal of 1,006,545 acres from location and entry under the Mining Law, subject to valid existing rights, was warranted. Several key factors were considered in making this decision. In particular, the USGS report (SIR 2010-5025) included in the EIS acknowledged uncertainty due to limited data, including the uncertainties of subsurface water movement, radionuclide migration, and biological toxicological pathways. The potential impacts estimated in the EIS have a low probability of occurrence, but pose great environmental risk should they occur. A 20-year withdrawal allows for additional data to be gathered and more thorough investigation of groundwater flow paths, travel times, and radionuclide contributions from mining as recommended by USGS.

Flake Q4: If this is purely an economic evaluation, were the billions of dollars and thousands of jobs related to new mining in the area fully taken into consideration?

Answer: As stated above, many different factors were considered in the Northern Arizona Proposed Withdrawal EIS. The EIS included a full economic analysis that showed direct employment resulting from no withdrawal (the “no action” alternative) could lead to an annual average of 295 mining related jobs. The EIS indicated that with a full withdrawal, there could be 79 jobs annually associated with mines that have valid existing rights and are not affected by the withdrawal.

Flake Q5: Further, how do rectify the fact that, given that between roughly 1980 through 1990, mining was in full swing in the area and visitation at the Grand Canyon and nearby Zion National Parks saw steep increases in visitation?

Answer: Again, many different factors were considered in the Northern Arizona Proposed Withdrawal EIS. Based on that analysis, the Department of the Interior decided that a withdrawal of 1,006,545 acres from location and entry under the Mining Law, subject to valid existing rights, was warranted.

Flake Q6: Lastly, if uranium mining even in the vicinity of the Grand Canyon is so anathema to tourism interests, why has the Department chosen to only go after new mining claims while allowing existing mining in the area to proceed?

Answer: The withdrawal respects valid existing rights by not prohibiting previously approved uranium mining, or new projects that could be approved, on claims with valid existing rights.

Domestic Minerals Development and Resolution Copper

The Department's proposed Fiscal Year 2013 budget includes \$86 million "to maintain capacity to review and permit new renewable energy projects on federal lands and waters, with the goal of permitting 11,000 megawatts of new solar, wind and geothermal electricity generation capacity on DOI-managed lands by the end of 2013." Yet, the budget does nothing to encourage the domestic production of minerals that are critical to renewable energy technologies. For example, it has been indicated that a single 3MW wind turbine needs nearly five tons of copper.

Flake Q7: How do you reconcile your significant investments in renewable energy on public lands with the failure to address barriers to domestic development of minerals that are the building blocks of wind, solar and other renewable technologies?

Answer: The Administration has an obligation to ensure that the potential impact to water, air, and other natural resources are analyzed and properly addressed before mineral resources on public lands are developed. Federal agencies have established systems that ensure adequate reviews of proposals to prospect, explore, discover, and develop valuable minerals on Federal mineral rights. Coordination between Federal land management agencies and regulatory and permitting agencies is encouraged to ensure efficient and timely review of any exploration or mining plans, including the analysis of the environmental impacts required by the National Environmental Policy Act and any similar laws.

Flake Q8: In proposing a new tax applicable to mining operations on private and public lands that goes beyond a tax on the amount of minerals removed from the ground to a tax on dirt, rock and other materials moved during the extraction process, did the Department consider the negative impacts domestic mineral production from such a disincentive?

Answer: The Administration proposes that the hardrock mining industry should be responsible for funding the cleanup of abandoned hardrock mines, just as the coal industry is responsible for funding the reclamation of abandoned coal mines. This modest fee is needed to ensure the Nation's most dangerous abandoned hardrock mine sites are addressed by the mining industry.

Flake Q9: Do you remain opposed to H.R. 1904, the *Southeast Arizona Land Exchange and Conservation Act* despite the fact that it would pave way forward for reportedly the third largest undeveloped copper resource in the world that could produce

the equivalent of more than a quarter of the annual U.S. copper demand for four decades, not to mention employing nearly 4,000, adding more than \$60 billion to Arizona's economy, and bringing in an estimated \$16 billion in federal revenue?

Answer: The Department's concerns with H.R. 1904 were presented to Congress in testimony before both the House Natural Resources Committee and the Senate Energy and Natural Resources Committee, and are documented in the statements for those hearings. As indicated at those hearings, the Administration has concerns with the Southeast Arizona Land Exchange and Conservation Act and cannot support H.R. 1904 as written. These concerns include: the requirement for the Forest Service to prepare an environmental review document under the National Environmental Policy Act (NEPA) after the land exchange is completed rather than in advance of the exchange as provided in S. 409, as reported. It is the Administration's policy that NEPA be fully complied with to address all Federal actions and decisions, including those necessary to implement congressional direction. In addition, concerns have been raised by Indian tribes that the legislation is contrary to laws and policies and Executive Orders that direct Federal land management agencies to engage in formal consultation with interested Indian tribes, and to protect and preserve sites sacred to Native Americans.

Increase in Grazing Fees

The BLM budget would enact a pilot program that would impose a 1 dollar per AUM fee on all permittees starting in 2013.

Flake Q10: Was this nearly 75 percent increase in grazing fees carefully contemplated prior to the Fiscal Year 2013 budget submission, or is it merely a spur-of-the-moment plan to backfill the cuts made to BLM's budget for this coming year?

Answer: The current grazing fee remains unchanged. The budget proposes an administrative processing fee by including appropriations language for a three-year pilot project to allow BLM to recover some of the costs of issuing grazing permits/leases on BLM lands. BLM would charge a fee of \$1 per Animal Unit Month, which would be collected along with current grazing fees. The goal of the administrative processing fee is to recover some of the cost of processing grazing permits/leases from the parties (permittees) who are economically benefitting from use of the public lands and resources. This fee mirrors the concept used in the Oil and Gas program and Rights-of-Way program, where the users of the public lands pay a fee for the processing of their permits and related work. BLM will use collections from the fee to assist in processing pending applications for grazing permit renewals. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing administrative fee as a cost recovery fee after the pilot expires.

Flake Q11: Please detail the authority by which the Department is raising grazing fees.

Answer: The BLM is not raising the current grazing fee. Rather, the BLM is requesting appropriations language that will allow the BLM, beginning in 2013, to collect an

administrative processing fee for a pilot program lasting for three years, during which time the BLM will develop regulations under its current authorities that will provide for the continuation of this administrative processing fee as a cost recovery. BLM will use collections of the administrative process fee to assist in processing pending applications for grazing permit renewals.

Shooting on Federal Lands

The issue of recreational shooting on federal lands, notably at national monuments managed by BLM is one that impacts many Arizonans. Last November, the Secretary issued a directive that made two things very clear: the Department will support recreational shooting as a safe and legitimate use of public land and that the BLM ought to ensure that it facilitates opportunities for that activity in management of public lands.

Flake Q12: Is this not inconsistent then with the fact that, at this very moment, BLM is taking steps to ban recreational shooting across 600,000 acre in two national monuments in the state of Arizona?

Answer: The Secretary's memorandum to the BLM Director provides guidance consistent with the BLM's multiple-use mission under the Federal Land Policy and Management Act (FLPMA) and the requirement to evaluate the environmental considerations associated with land uses under NEPA. Restrictions on recreational shooting are determined through BLM's land-use planning process, which is informed by public input and extensive analysis. In developing the Resource Management Plans for the Sonoran and Ironwood Forest National Monuments, the BLM closely examined nearby alternative areas that are more suitable for recreational shooting activities. These proposed alternatives were developed to address impacts to resources from increased recreational target shooting and concerns for visitor safety. While 600,000 acres of the BLM's 4.8 million acres of National Monument lands may be closed to this use, 88 percent of those lands remain open to recreational shooting. Currently, any determination to close public lands to recreational shooting activities is made by the BLM local or State Office following detailed analysis and extensive public involvement and notification, including contacting over 40 hunting and fishing interest non-government organizations, as specified in the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU).

Flake Q13: The justification for these bans according to land planning documents is that recreational shooting is a danger to every living or inanimate object within the boundaries of these desert monuments. How is one to come away from that with any other than the conclusion that, for some at least, recreational shooting is simply inconsistent with public lands management?

Answer: Restrictions on recreational shooting are determined through BLM's land-use planning process, which is informed by public input and extensive analysis. This is an open process through which BLM's proposals for managing particular resources are made known to the public before management action is taken, except in certain

emergency situations. When lands are closed to recreational shooting, those restrictions are often implemented to comply with state and local public safety laws and ordinances, or are implemented at the request of local communities or adjacent property owners. Currently, any determination to close public lands to recreational shooting activities is made by the BLM local or State Office following detailed analysis and extensive public involvement and notification, including contacting over 40 hunting and fishing interest non-government organizations, as specified in the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU). In extremely limited circumstances, the BLM must restrict recreational shooting to ensure public safety or protect fragile resources. In most cases, recreational shooting is consistent with multiple-use activities and management efforts. The BLM estimates that well over 95 percent of the approximately 245 million acres of BLM-managed public lands are open to recreational shooting. Of the BLM's 4.8 million acres of National Monument lands, currently 88 percent are open to recreational shooting.

Wildland Fire

I am pleased to see that Wildland Fire Suppression appears to be a budgetary priority for the Department. That said, hazardous fuels reduction is cut by nearly \$39 million from last year's enacted level.

Flake Q14: Is it to be assumed that the Department of Interior is placing a higher priority on putting fires out while simultaneously undervaluing doing what is necessary to prevent fires before they happen?

Answer: Interior's 2013 budget decisions were made in context of a challenging fiscal environment. The DOI budget formulation process involved making difficult decisions about reducing funding or ending programs that are laudable, but that in this fiscal environment cannot be funded at desired levels. The Department's commitment to fully fund the 10-year suppression average, which required a \$195.6 million increase over the 2012 enacted level, and other priority investments, impacted the funding available for other important programs.

The Wildland Fire Management program's primary objective is to protect life and property, and this is achieved by fully funding the suppression 10-year average and maintaining our initial and extended attack firefighting capability at current levels. The 2013 request does this by funding Preparedness at the 2012 enacted level, as adjusted for fixed costs.

The planned Hazardous Fuels Reduction program for FY 2013 represents the most effective use of available funds. High priority projects will be completed in high priority areas with the goal of mitigating wildfire risks to communities.

Questions for the Record from Mr. Hinchey

Utah R.S. 2477

The state of Utah has been largely unsuccessful to date in its quest for thousands of R.S. 2477 claims, yet it has recently filed a notice of intent to sue the department to gain title to over 18,000 rights of way, and this leads me to look with skepticism on their claims, thousands of which have never been constructed or maintained, just created by random travelers, off-road vehicle users, long-forgotten prospectors and infrequent livestock herders. I hope that you and the department vigorously defend against this attack on federal public lands in Utah.

Hinchey Q1: What will you do to ensure that federal public lands are fully protected from this threat?

Answer: The Department, through the Department of Justice, does plan a vigorous defense of United States' interests and, as the July 29, 2010, Secretarial Memorandum on R.S. 2477 makes clear, the Department must be able to make all appropriate arguments under the law to defend these interests. BLM itself does not adjudicate or specifically reserve R.S. 2477 rights. These legal determinations must ultimately be made by the courts. In this instance, we understand that plaintiffs believe themselves obligated to file so as to avoid a potential statute of limitations issue, and all parties recognize that adjudication of the lawsuits, if an alternative resolution cannot be found, will demand a significant amount of time and resources. BLM has also been working with the State of Utah in an attempt to build a constructive, inclusive solution to the issue of RS 2477 rights-of-way. BLM has joined with State and county officials and other stakeholders in a pilot negotiation project in Iron County, Utah, to try to resolve non-controversial claims through consensus building. This approach to addressing the issue, with openness on all sides, may help us establish a model for consensus-based problem solving that we can carry into the future.

Hinchey Q2: How will Interior determine how these R.S. 2477 claims would impact existing and proposed conservation designations? How would they affect your conservation goals and achievements?

Answer: The Department is still in the early stages of this matter, and we are beginning to gather the kind of information that will inform questions such as this. In general, once a suit to quiet title on an R.S. 2477 claim is filed BLM will, among other things, carry out an analysis of the resources that could potentially be impacted by designation of such a right-of-way. If an alternative resolution cannot be found, all parties agree that adjudication of these lawsuits will be time consuming and costly. Depending on the nature and scope of the right-of-way and the designation or resources at issue, if a county successfully proves R.S. 2477 claims in or near existing and proposed conservation designations, historic sites, or other areas managed by BLM to protect sensitive resources, BLM's ability to implement protective management could be impacted.

Hinchey Q3: How would the recognition of these claims affect DOI's ability to manage federal public lands? Would it affect the effectiveness of law enforcement and ORV monitoring? How about the effectiveness of archaeological site protection efforts?

Answer: The BLM will take any RS 2477 claims traversing the public lands that are recognized by a court into account when it manages the public lands. The BLM retains the power to reasonably regulate such rights-of-way. The BLM reviews travel impacts to archeological resources on a case-by-case basis. As appropriate, the BLM protects archeological resources from damage by exercising its statutory and legal authorities, and by entering into agreements with neighboring land managers.

Hinchey Q4: Some of the state's claims lie in BLM wilderness areas designated in the Cedar Mountains Wilderness Act and the Washington County Wilderness Act. Frankly, this casts doubt in my mind as to the state and counties' good faith and seriousness when it comes to enacting federal public lands designations.

How will you manage designated wilderness areas, places Congress itself has determined to be essentially roadless in the face of R.S. 2477 claims?

Answer: The BLM will comply with Wilderness Act and Congressional direction regarding the management of designated Wilderness Areas. The BLM's ability to manage areas to preserve wilderness character could be impacted if the county and state are successful in proving R.S. 2477 claims in wilderness. Validity of an R.S. 2477 claim is ultimately left to the determination of a court of competent jurisdiction. Holders of valid R.S. 2477 rights-of-way may complete some maintenance and improvement activities on recognized rights-of-ways after consultation with the BLM, but are not entitled to engage in new road construction without obtaining a Title V permit under the Federal Land Policy and Management Act from the BLM. The BLM will not issue such a permit in a Wilderness Area.

Questions for the Record from Mr. Serrano

Urban Waters Federal Partnership

Last October, Secretary Salazar, you came to the Bronx for the local announcement of the Bronx & Harlem River Watersheds' selection as one of seven pilot locations in the Urban Waters Federal Partnership—an effort by 11 federal agencies to stimulate regional and local economies, create local jobs, improve quality of life, and protect Americans' health by revitalizing urban waterways in underserved communities across the country.

Serrano Q1: Please elaborate on the successes and challenges of this program as it has gotten underway. What significant obstacles is the department facing? How could Congress help to facilitate the success of this very important program?

Answer: The Urban Waters Federal Partnership (UWFP) initiative is an interagency effort to revitalize urban waters in communities where waterway revitalization is needed most. The goals of the initiative are to improve coordination among Federal agencies and collaboration with community-led revitalization partners to improve our Nation's water systems and promote their economic, environmental, and social benefits. The initiative has already leveraged joint resources and partnerships with community-based organizations. The single greatest challenge has been to identify existing relevant programs and funding sources within the Federal partnership that align with priorities of the local communities within the Bronx and Harlem River Watersheds. The Department of the Interior has been working closely with community groups, city and State agencies, and Federal partners to identify existing funding and other opportunities to jointly leverage resources.

The Bronx and Harlem Rivers pilot stands uniquely apart from the six other UWFP pilots because it encompasses two disparate water bodies with two distinct constituencies. This adds to the complexity of implementing the initiative and to the challenges of responding to local needs and balancing resources between the two watersheds. Despite these challenges, the Department continues to work with our partners and has achieved some early successes.

Bronx River

The effort to revitalize the Bronx River has been underway for well over a decade, which has been supported through significant Federal investments such as NPS' RTCA technical assistance as well as other Federal, State and city agencies' assistance for greenway construction, fish passage, stream restoration, and park creation. The Bronx River Alliance has been the coordinating force behind the success and is a mature organization with the capacity to coordinate complex projects and partnerships. The Department has been working with staff to identify opportunities as potentially benefitting from a Federal partnership. The highest priority was dealing with an impasse between the New York State Department of Transportation (NYSDOT) and Amtrak regarding building a pedestrian overpass as part of the Bronx River Greenway segment

that NYSDOT had committed \$35 million to build. Through the UWFP, and at the request of Congressman Serrano, Secretary Salazar offered the resources of the Department to mediate. Deputy Secretary Hayes subsequently convened numerous meetings between Amtrak and NYSDOT. The two parties have worked to eliminate the obstacles and now work is underway to secure funding for the project.

In addition, the Department and the Federal partners have been working with Bronx River Alliance staff on a number of other projects:

- A proposal to include the Bronx River Water Trail as one of the first urban rivers to be included in the new National Water Trail System announced by Secretary Salazar.
- A proposal for the National Park Service's Challenge Cost Share program to fund water trail projects.
- Review of the Alliance's proposal to the EPA's Urban Waters Small Grants program. The NPS expects that, if funding is available, this grant will create a Stormwater Education and Outreach Program by partnering with NYC Department of Environmental Protection's Green Infrastructure Program.

Harlem River

The effort to revitalize the Harlem River is an emerging effort. The Harlem River Working Group (HRWG), formed in 2009, is staffed by effective volunteers, but does not have the same capacity to coordinate complex projects and partnerships as the Bronx River Alliance. The HRWG has identified its top three priorities as developing a continuous waterfront greenway, increasing public access to the waterfront and out onto the river, and improving water quality in the river. The UWFP has identified a paid coordinator as one of the greatest needs of the Harlem River Working Group. Having a local partner with greater capacity to coordinate their ambitious plans and goals would strengthen the UWFP. The Department, through the UWFP, has been working with the HRWG on a number of projects to address those priorities, including:

- Seven Federal agencies, city and State agencies, and local community groups boarded the EPA vessel "Clean Waters" to conduct the first Rapid Assessment of the Harlem River. Local experts were able to point out a multitude of issues and opportunities for ecological and habitat restoration, water quality enhancements, recreation, access and open space.
- Partnering with the Trust for Public Land and Pratt Institute on a series of community visioning sessions that will culminate in the development of a "Greenprint" for the Bronx side of the Harlem River waterfront.
- The Highbridge Community Life Center just received the maximum award of \$10,000 from the US Forest Service's Civil Rights Special Projects fund to hire a local Bronx student to do outreach in conjunction with the community visioning meetings.

Land and Water Conservation Fund

The Land and Water Conservation Fund has been a successful and popular program for nearly 50 years now. In New York alone, \$59 million dollars have been spent acquiring critical lands and habitat that protect drinking water supplies, provide recreational access,

connect important wildlife corridors, and ease management pressures on the agencies. In addition, \$230 million dollars have been spent in New York to support urban and state parks, close-to-home recreational opportunities and much needed open space which contributes to the health and well-being of our communities.

An example in my Bronx Congressional District is Crotona Park where my constituents enjoy not only a beautiful natural space with more than 25 species of trees and a three acre lake, but also the largest swimming pool in the Bronx, 20 hard courts, five baseball diamonds, and eleven playgrounds. Without improvements funded by the LWCF Program, this Park would not be the recreational gem it is to my constituents.

I appreciate and agree with your commitment in the budget to fully fund LWCF including \$20 million for the Stateside Competitive Grants Program. For parks (including urban parks like Crotona Park), forests, and other public lands across the country, this is an investment that simply cannot wait.

Serrano Q2: How do you plan to implement the goals of the urban section of the America's Great Outdoors (AGO) report in urban districts like mine on a nationwide basis? Are there areas of your budget that reflect this commitment? Please explain how the LWCF fits into that plan.

Answer: Urban parks and greenway spaces are one of the three place-based priorities of the proposed competitive grant component for 2013 that would be implemented through the LWCF State Assistance grant program. This priority would focus on creating and improving public parks and other recreational opportunities in metropolitan areas and other jurisdictions with significant population densities, especially signature parks that serve as community anchors; waterside parks and other open spaces that provide the public with access to waterways; green spaces and urban garden spaces that have suffered from urban blight; and other natural areas that help reconnect people with the outdoors, especially where they are needed most.

Urban parks and community green spaces support outdoor access for the nearly 80 percent of the Nation's population that lives in urban areas. However, projects in urban areas are typically more expensive, as land is often limited and thus more costly, even though populations are substantial and demand for new recreation opportunities is great. In a fall 2011 survey, States estimated a total need for State and local public outdoor recreation facilities and parkland acquisition at more than \$18.6 billion. However, projects in urban areas are typically more expensive, as land is often limited and thus more costly, even though populations are substantial and demand for new recreation opportunities is great. Land cost in general similarly means that acquisition projects are far less common; more than 75 percent of LWCF State grants fund recreational facility development projects, such as playgrounds, picnic shelters, and walking paths, which are relatively more affordable. A competitive component of the appropriated funds outside of the State apportionments, would enable project sponsors would be able to apply for larger grants than they typically can through the State-based competitions, which are limited by each State's standard apportionment.

Serrano Q3: If a community is interested in developing or conserving an urban park, there could be many federal agencies that could be involved (planning/HUD, acquisition of land/Interior, and stormwater/EPA). Will there be any efforts to work with other federal agencies to provide support for communities that are interested in restoring their urban parks and developing new urban conservation projects?

ANSWER: Promoting more efficient and effective use of Federal resources through better coordination and targeting of Federal investments is a high priority for this Administration and the America's Great Outdoors initiative. The Urban Waters Federal Partnership (UWFP) is an example of this type of coordination. Led by the U.S. Environmental Protection Agency, the Department of the Interior, the U.S. Department of Agriculture, and several other agencies, and coordinated by the White House Domestic Policy Council, the UWFP closely aligns with and advances the work of the other place-based efforts such as the Partnership for Sustainable Communities by revitalizing communities, creating jobs and improving the quality of life in cities and towns across the nation. Interior is the lead agency for the Harlem and Bronx Rivers urban waters pilot site and is working with roughly ten other Federal agencies; State and local officials; and local citizen and environmental groups to identify on-the-ground projects that are priorities for the local community that these entities can implement as a partnership. The NPS' Rivers, Trails, and Conservation Assistance program, for example, is engaged in the Harlem and Bronx Rivers urban waters pilot site. The RTCA helps partners successfully utilize the vast array of resources and tools available through Federal agencies and nongovernmental groups to strengthen community projects by leveraging significant State and local financial and in-kind resources.

The UWFP efforts also support the America's Great Outdoors initiative, particularly focused on making the Federal government a better partner with communities that are working to provide safe, healthy and accessible outdoor spaces and to promote conservation and outdoor recreation.

In addition, the Department has been working with States and individual cities to restore and improve urban parks. For example, on October 27, 2011, Secretary Salazar and New York Mayor Michael Bloomberg announced an agreement formally establishing a partnership between the NPS and the New York City Department of Parks and Recreation to coordinate park management and connect urban communities, and especially young people, with the natural beauty and history of the region. Under the agreement, the NPS and the city will collaborate in four areas: effective management of park lands; science and restoration of Jamaica Bay; access and transportation to park lands around Jamaica Bay; and engagement of New York City youth with hands-on science programs and fun public service projects to promote recreation, stewardship and "green" careers.

FRIDAY, FEBRUARY 17, 2012.

U.S. FOREST SERVICE 2013 BUDGET

WITNESSES

TOM TIDWELL, CHIEF, U.S. FOREST SERVICE

SUSAN SPEAR, ACTING DIRECTOR, STRATEGIC PLANNING, BUDGET AND ACCOUNTABILITY

Mr. SIMPSON. Good morning, Chief Tidwell, Ms. Spear, members of the subcommittee and those in the audience.

We kicked off our busy hearing schedule yesterday with Secretary Salazar. Today is the first hearing in the subcommittee room this year, and I cannot help but take this opportunity to point out the new decorations on the wall behind us. The pictures are all in the Sawtooths in Idaho, and they were taken by one of the great Forest Service employees, Ed Canady, who is in charge of the recreation program in the Sawtooth National Recreation Area. He takes us hiking every August and wears us out. They are some great photos of Idaho and I thought I would take advantage of advertising my State. I thought it would be appropriate to debut them today in the hearing with the Forest Service. Ed is one of the truly great Forest Service employees that represents both Idaho and the Forest Service very well, so we appreciate that.

INCREASING THE PACE OF RESTORATION

I would like to start by commending the Chief and the Department for the recent announcement to increase the pace of restoration and job creation in our national forests. This leadership is much needed and long overdue. While this announcement is a step in the right direction, the Forest Service must ensure all its national forests are on board and working hard to achieve the goals in this strategy. In the 2012 Omnibus Appropriations Act, we gave the Forest Service numerous new tools and dedicated funding to increase efficiency and more quickly implement projects on the ground. Chief, now it is up to you to ensure that the message is heard loud and clear, that Forest Service officials are implementing your direction and that forests are accountable for the targets and goals set for them. This committee is your partner in this endeavor and we look forward to working with you.

Last year we authorized a pilot for the Integrated Resource Restoration line item. I noticed this proposal is again in the budget. Before we can allow the IRR to be employed nationwide, we need proof of concept and robust performance measures to know that it works. The fiscal year 2012 bill was just completed, so I realize you have not had sufficient time to implement that pilot. Nonetheless, we look forward to seeing real, tangible accomplishments in the

near future and look forward to working with you on the Integrated Resource Restoration projects.

GRAZING MANAGEMENT

I know difficult choices are made in this budget, but do have some serious concerns. Last year we worked very hard to increase funding for grazing management for both the Forest Service and the Department of the Interior. I am dismayed that after all of that work, the budget proposes to reduce funding for grazing well below even 2004 enacted levels. How will the Forest Service catch up on permit backlogs, NEPA, responding to appeals and litigation, and other much-needed work, and how will the Forest Service grazing staff complete work needed on sage grouse conservation?

MINERALS AND GEOLOGY

Also concerning is the decreases in minerals and geology. The dollars appropriated to this line item have the biggest financial return to the taxpayers of any in the Forest Service budget. In 2009, the latest details that we have, the production value of minerals administered by the Forest Service was \$6.1 billion. Royalties, bonuses and bids, which offset the national debt, was \$1 billion.

Last year, this committee had to make very difficult choices and we will face the same challenges this year. We will do our best to be thoughtful with the funding allocation we have, but we must focus on how to make the Forest Service more efficient. Our budgets will continue to shrink. How do we accomplish more with less? I would like to work with the Forest Service on this to make sure we can accomplish those goals.

FIRE

Fire is a very real concern for this subcommittee. The Forest Service recently released its long-awaited Heavy Air Tanker Modernization Strategy, but I am still concerned about the near future. I know we need to replace the current aging air-tanker fleet sooner rather than later. We expect you to keep us updated and move forward quickly to solve this problem and ensure that we have sufficient and safe firefighting aircraft.

PLANNING RULE

Finally, I must mention the planning rule. Chief, we talked about this the other day. I know you have been working hard on this, but I am hearing a lot of concern about the new rule. It was my hope that this rule would be practical and shorten the time and resources needed to complete a forest plan. If the rule ends up in court, which seems to be the pattern with every planning rule, we are back to the drawing board and have wasted a great deal of time and money. If this happens, we will need to work together to move forward on a new planning rule.

Mr. SIMPSON. So I appreciate you being here today and I would be happy to turn over the time and yield to Mr. Moran of Virginia.

Mr. MORAN. Thank you, Mr. Chairman, and Chief Tidwell. I appreciated the opportunity to sit down with you and your staff the other day to discuss some of the challenges and opportunities fac-

ing the Forest Service. It does seem that whenever there is a discussion on Forest Service issues, timber and fire dominate the conversation. But as we know, the Forest Service is about so much more than timber and fire.

RECREATION

For instance, our national forests provide recreational opportunities to millions of Americans each year, and the Forest Service oversees an extensive collection of trails and campgrounds and wilderness areas. In addition, many of our national forests were established in the first place to protect watersheds, and today, especially with the climatic changes that are occurring, that mission is even more important.

WEEKS ACT

Last year, we celebrated the 100th anniversary of the Weeks Act. This was a visionary piece of legislation that provided for the acquisition of deforested areas and formed a land base for many of our national forests, especially in the East. They had been clear-cut and denuded and sediment runoff was clogging up our waterways. It is likely that the famous forester and ecologist, Aldo Leopold, had those scarred lands in mind when he wrote in the classic, *A Sand County Almanac*, "We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with more love and respect."

Forest restoration is a popular phrase today but there is no question that there is still much work to be done to restore our forests to vibrant, functioning ecosystems. As we look over your budget, Chief Tidwell, we see that the Forest Service does indeed have its work cut out for it in trying to meet its restoration goals in an era of very limited financial resources. I look forward to your testimony and how the agency is going to meet this challenge, and we do thank you for being with us today.

Thank you, Mr. Chairman.

Mr. SIMPSON. Chief Tidwell, we look forward to your testimony.

FY 2013 BUDGET REQUEST

Mr. TIDWELL. Mr. Chairman and members of the subcommittee, once again, it is a privilege to be here to talk about the President's request for the 2013 budget for the Forest Service. I want to thank you again for the strong support that we receive from this subcommittee, and I look forward to working with you again this year to justify why our budget request is a good investment for America, and a good investment for our communities.

As you already noted, our budget does reflect fiscal restraint. There are some very difficult choices that we had to make, some significant reductions in some key programs that we feel we had to be responsive to the need to reduce spending, but at the same time, to have an overall balance that does, I believe, meet the overall needs of the American public.

This budget supports our priorities in three key ways. The first one is of course to continue to restore and to sustain 2.6 million

acres of forest and grasslands. That is how much we will get done in 2013 by increasing our collaborative efforts to build support for these restoration activities that create thousands of jobs. We will do that by continuing to request full funding for the Collaborative Forest Landscape Restoration Fund; to once again request permanent authorization for stewardship contracting; to continue to apply the science as developed by our Forest Service researchers to address the increasing frequency of disturbances—from the longer fire seasons, from record insect and disease outbreaks, invasives, floods and droughts. Once again, we are proposing our Integrated Resource Restoration budget line. I want to thank you for giving us the pilot authority, and we look forward to being able to sit down with you and show how we will be held accountable through that pilot effort.

Our second key objective is to provide funding for wildland fire suppression. This budget will provide for a level of preparedness that will continue our success of suppressing close to 98 percent of wildland fires during initial attack. It does request our 10-year average for suppression, and it reduces the threat of wildfire to homes and communities by reducing hazardous fuels on another million acres in the wildland-urban interfaces. It also requests an additional \$24 million for us to begin to modernize our large air-tanker fleet.

The third key objective is America's Great Outdoors initiative, we will continue our support for community-based conservation to help Americans reconnect with the outdoors and continue to provide opportunities for economic expansion and activity to help retain and create jobs. We will do this through our support of recreational opportunities that not only add to the quality of lives, the quality of our communities, but that help maintain over 223,000 jobs and adds over \$13 billion in annual spending from these recreational activities. We want to continue to help America reconnect to the outdoors by increasing our conservation education, volunteer opportunities and increasing our youth employment opportunities. We also request a slight increase in our Land and Water Conservation Funds and our Forest Legacy program. We use conservation easement and focused land acquisition to protect critical forests, and also to acquire public access while reducing our administration costs of managing these lands. We will continue to work with states to ensure we are doing everything we can to promote conservation and keep our private forestlands forested.

We want to continue our work to encourage biomass utilization and other renewable energy, while at the same time doing what we can to process oil and gas permit applications and energy transmission facilities more efficiently. We also include a proposal for a framework for reauthorization of Secure Rural Schools Act. We look forward to working with Congress this year to be able to get that done.

In addition to these objectives, we are going to continue our focus on the ongoing efforts to reduce our administrative costs, build more efficiencies and reduce management and overhead costs by \$100 million between fiscal year 2013 and fiscal year 2014.

So with that, Mr. Chairman, I want to thank you again for the opportunity to be here, and I look forward to your questions.

[The statement of Tom Tidwell follows:]

**Statement of
Tom Tidwell, Chief, U.S. Forest Service**

**Before the
House Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies**

Concerning

The President's Budget Request for the U.S. Forest Service in Fiscal Year 2013

February 17, 2012

Mr. Chairman and members of the subcommittee, it is a privilege to be here today to discuss the President's Budget request for the Forest Service for fiscal year (FY) 2013. I appreciate the support this subcommittee has shown for the Forest Service in the past, and I look forward to working together with Members of the Committee in the future to ensure that stewardship of our Nation's forests and grasslands continues to meet the desires and expectations of the American people. I am confident that this budget will allow the Forest Service to meet this goal while demonstrating both fiscal restraint and efficient, cost-effective spending.

Our Nation can and should take steps to reduce the deficit and make government leaner and more efficient in the 21st century. The FY 2013 budget that the President is proposing reflects the difficult choices we need to make to help reduce the deficit while investing in long-term economic growth and job creation. To make the strategic investments to grow the economy and tackle the deficit, this budget makes difficult cuts to programs. It also reflects efficiency and improvements to reduce our administrative costs. It is designed to appropriately fund programs that matter to Americans.

Budget Context

The Forest Service manages 193 million acres of public lands on 155 national forests and 20 national grasslands in 44 States and Puerto Rico. We also work effectively with States, Tribes, local governments, communities and private forest landowners to support the sustainable stewardship of the 423 million acres of private forest, 68 million acres of state forests and 18 million acres of forestlands on Indian reservations in the United States. Forest Service management is based on peer-reviewed science; we lead the way for the Nation and, indeed, the world in cutting-edge research on a full range of conservation issues, including bioenergy, ecological restoration, wildland fire management, forest pests and diseases, and sustainable outdoor recreation.

Our mission is to work with the American people on all lands to sustain all the benefits needed and wanted from their forests and grasslands. For example, approximately 80 percent of the Nation's freshwater resources originate on forests, and Americans get more than half of their water supplies from sources that originate in the Nation's forests. Forest Service management, combined with assistance to private landowners, helps to protect the single greatest source of drinking water in the Nation.

Jobs are maintained and created through the work of the Forest Service. Millions of Americans have forest-related jobs, from forest restoration work to recreation use, wood products, grazing, and energy and mineral development. In 2010, the National Forests attracted over 170 million annual visitors, and recreation use, which alone sustained nearly 223,000 jobs while contributing \$14.5 billion annually to the U.S. economy.

Water and jobs are only some of the benefits Americans get from their forests and grasslands. These lands provide a whole range of ecosystem services— clean air, clean water, fertile soil that provides timber, forage, energy, food and fiber, fish and wildlife habitat, carbon storage, and opportunities for outdoor recreation just to name a few. These critical services to people are now at risk due to declining forest health, such as bark beetle infestation in the West. Regional drought, invasive species, loss of open space, catastrophic wildfires, devastating outbreaks of insects and disease, and the overarching challenge of a changing climate are degrading our Nation’s natural infrastructure—the forests and grasslands that Americans depend on for so many services, values, and benefits.

By making targeted investments in the landscapes most at risk, we can restore healthy, resilient forests and grasslands, provide recreational and hunting access, and provide forest products for the benefit of all Americans. Our FY 2013 budget request is designed to do just that by working with partners across borders and boundaries at a landscape level. Our focus on landscape-scale conservation dovetails with broader Administration priorities, including the President’s America’s Great Outdoors initiative, the Secretary’s “All-Lands” vision, and the Department’s high-priority goal for enhancing water resources. Landscape-scale conservation is designed to maintain and enhance the resilience and productivity of the Nation’s forests and grasslands through targeted investments in natural infrastructure. Our investments will put Americans back to work, maintaining and creating jobs and economic opportunities for both rural and urban Americans.

FY 2013 Budget Request and Priorities

The FY 2013 President’s Budget requests \$4.86 billion for the Forest Service, an increase of \$15.5 million over the 2012 appropriated level. This budget responds to the public’s desire for the conservation and stewardship of the Nation’s forests and grasslands. Through strategic partnerships, we accomplish more work that yields benefits for all Americans, while sustaining forest and grassland ecosystems for future generations. In these tough economic times, this budget balances spending on priorities against reductions. It establishes spending on conservation principles and natural resource development needed by the Public and for the Nation’s economy. Forest Service managers will continue to scrutinize spending and programs to ensure the public’s investment is used wisely toward safely achieving key outcomes and shared priorities.

The Forest Service’s FY 2013 President’s Budget prioritizes Forest Service funding in three themes: restoration, communities, and fire. Our priorities are designed to respond to the needs of the American public. The President’s Budget aligns with the Secretary’s “All Lands” vision to meet the challenges of ecological **restoration** through collaborative approaches to address forest mortality and live tree density, invasive species and watershed degradation. The budget request will engage **communities** and help Americans reconnect to the outdoors, expand on recreation benefits and create a wide range of opportunities for economic expansion to retain and create

jobs. The budget request also fosters partnering with communities and cooperating agencies to reduce the threat of wildland **fires** to people, property and watersheds.

Restoration Theme

With the current threats from insects and disease, wildfire, urban development, and impacts of a changing climate, active restoration is a key component of our FY 2013 budget strategy. To achieve our restoration goals, we engage a broad set of partners in active forest management at large, landscape scales and apply peer-reviewed science related to forest disturbances, fire management, and the effects of a changing climate. Our restoration efforts are guided by a continuous cycle of assessing, implementing and adapting based on information from inventory and monitoring efforts. This strategy will yield a variety of forest products and restore the structure, function, composition, and processes of healthy, resilient ecosystems across the Nation.

Restoration means jobs and economic opportunities. In order to maintain forest-related jobs we are requesting permanent authority for stewardship contracting. This authority allows the agency to accomplish collaborative restoration work at a landscape scale. Current authority for stewardship contracting expires in September 2013.

Landscape-Scale Restoration Priorities

Through active forest management, the Forest Service is restoring ecosystem structure, functions and processes in order to improve the health and resilience of ecosystems across large landscapes. Through the proposed **Integrated Resource Restoration** program, we expect to continue to collaborate using an inclusive process to find common ground across the many stakeholders and to leverage our investments for broader conservation impacts. Integrated Resource Restoration blends a cross-section of forest management activities,¹ such as forest thinning to reduce hazardous fuels, decommissioning roads, and removal of fish passage barriers—all of which lead to improved forest and grassland health and watershed function. The Watershed Condition Framework, released in 2011, will help managers prioritize Integrated Resource Restoration activities. This framework provides a nationally-consistent approach for classifying watershed conditions and allows us to track the number of watersheds that move to an improved condition in the long term.

In FY 2011, we restored or enhanced over 4.9 million acres of both public and private lands. We will continue to invest in and accomplish restoration on the ground. In FY 2013, through Integrated Resource Restoration we propose to restore or sustain 2.6 million acres on National Forest System lands; provide 2.8 billion board feet of timber; decommission over 2,000 miles of road; and restore or enhance 2,750 miles of stream habitat. By focusing on restoration outcomes, the Integrated Resource Restoration program empowers Forest Service managers and local communities to find the best, most-efficient way to meet their ecological, economic and social objectives. For example, a landscape thinning project may be accomplished under a combination of timber sales and stewardship contracts which reduces the threat of catastrophic wildfire,

¹ Integrated Resource Restoration includes activities accomplished through the following previous budget line items: Wildlife & Fisheries Habitat Management, Vegetation & Watershed Management, Forest Products, Legacy Roads & Trails, Roads Decommissioning, Hazardous Fuels in non-wildland urban interface areas, and Rehabilitation & Restoration.

improves forest and watershed health and resilience, and removes unneeded erosion prone roads. These outcomes help reduce risk from threats like fire, insects, and diseases; provide clean, low-cost drinking water to communities; and maintain local infrastructure and jobs by creating economic opportunities such as uses for biomass and other forest products.

Our **Forest Health Management** program provides insect, disease, and invasive plant survey and monitoring information on forest health conditions on Federal and non-Federal (Cooperative) lands and provides technical and financial assistance to prevent, suppress, and control outbreaks threatening forest resources and watershed conditions. Forest Health Management helps to implement the States' Forest Action Plans and focuses on the highest priority areas and on high-priority pests, as identified by mapping and surveys. In FY 2013, Forest Health Management will continue to utilize science, active land management, and technology transfer expertise to restore and sustain forest landscapes, across urban, private, State, Tribal, and Federal forests, and create private sector jobs because of the expertise required to carry out this work.

The **Collaborative Forest Landscape Restoration Program** is a high-priority program that embodies our integrative, collaborative, landscape-scale restoration focus. In FY 2011, Collaborative Forest Landscape Restoration projects implemented treatments to restore ecosystem resilience and adaptive capacity while generating forest products to help support local infrastructure and economies. Forest vegetation was improved or established on over 26,000 acres; 121 million board feet of timber was sold; and approximately 268,000 green tons of woody biomass was made available for biomass or bioenergy-related production. Cooperators played a substantial role in FY 2011 by providing over \$8 million in additional funding. The FY 2013 request supports the community-based Collaborative Forest Landscape Restoration projects chosen in FY 2010 and FY 2012. The Collaborative Forest Landscape Restoration Program is creating job stability by supplying a reliable wood and biomass supply for forest products and bioenergy production; improving forest health and wildlife habitat; and reducing fire suppression costs in overgrown forests.

Research Priorities

The Forest Service houses the world's largest forestry research organization. We conduct research that develops new technologies and brings cutting edge science to bear on the sustainable management of the Nation's forests and rangelands. Long-term research from our experimental forests and rangelands contributes to an understanding of the impacts of forest disturbance on the natural and cultural resources of U.S. landscapes. This knowledge assists public and private land managers in identifying strategies to mitigate and adapt to forest stressors. Rigorous, applied research is also key to supporting new and emerging markets with innovations that enhance and diversify the forest products industry. Private investment in the forestry sector relies on Forest Service research. Finally, our social science research is critical to appropriately aligning agency activities with society's values and priorities for the Nation's natural resources and public lands.

The proposed funding will maintain essential levels of research in our high-priority and strategic program areas to ensure that we develop, apply, and deliver new knowledge and technologies that support sustainable management objectives. One high-priority program is **Forest Inventory and Analysis**, which provides the resource data, analysis, and tools needed to assess current status and trends of forests; management options and impacts; and threats such as fire, insects,

and disease. In FY 2011, the Forest Service's Research and Development deputy area implemented the Forest Inventory and Analysis annual forest sampling in all 50 States (though we have not been able to sample interior Alaska), providing accessible data for 96 percent of the Nation. The data provides important information for private forest landowners to use in developing management objectives for sustainable management of private forests. In FY 2013, Forest Inventory and Analysis will continue in all 50 States and seven reports will be published.

Planning, Monitoring, and Analysis Priorities

Restoration efforts are guided by a continuous cycle of assessment, project planning and implementation, and adaptation based on information from inventory and monitoring. Consistent with the Forest Service's priority of landscape-scale conservation, our proposed Planning Rule emphasizes a collaborative, science-based approach with broad-scale monitoring strategies at the regional and national level for the National Forest System. Forest Service managers collaborate with a wide variety of stakeholders to consider all interests affected or influenced by land management planning and project level implementation decisions. We are integrating and improving monitoring databases to enhance efficiency and transparency. These monitoring data provide baseline information from which managers plan the mix of goods and services for individual national forests and frame objectives for planning and subsequent restoration activities. The data helps managers set conservation objectives to sustain the health, diversity, and productivity of the National Forest System.

This budget proposes consolidation of the Land Management Planning and Inventory and Monitoring programs to form the single, integrated program of **Land Management Planning Assessments and Monitoring**. This new budget structure highlights the connectedness of these activities under the proposed Planning Rule. High-priority resource issues include watershed and ecological conditions; habitat needs for a number of species; visitor use and recreation objectives; forest disturbances; and other local, regional and national objectives. Forest Service units completed 58 plan assessments in FY 2011—an initial step for determining the need to revise or amend land management plans in response to changing ecological, social, and economic conditions.

Communities Theme

Communities continue to be a priority for the Forest Service in FY 2013. We are committed to engaging communities across the Nation to reconnect with the outdoors, expand recreation benefits, and harness the many economic opportunities our land management activities create in a way that supports diverse employment in forest-dependent communities. As part of the President's FY 2013 budget, we request reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 for five years. The FY 2013 proposal supports rural communities through assuming enactment of the FY 2012 President's proposed reauthorization through mandatory funding.

We continue to develop successful collaboration with municipalities, non-governmental organizations, and private companies at many levels. Through approximately 7,800 grants and agreements in FY 2011, we engaged a wide circle of partners in land management projects and activities, leveraging agency investment for an additional \$616 million in partner contributions. In FY 2013, this collaboration will continue to expand recreation opportunities, reconnect people with the outdoors, and use land management activities to create employment and sustain

communities. Our budget request includes proposed language that would authorize the Secretary to enter into agreements with interpretive associations (including scientific, historical, educational, and other societies, organizations, and associations) to enhance visitor awareness and knowledge of the Nation's natural resources and cultural heritage, and to enhance and leverage our collective interpretative efforts. Based on our current efforts, we know that increasing collaboration with local communities can move conservation efforts from a scale of thousands of acres to hundreds of thousands of acres. The President's FY 2013 Budget strategically allocates resources to support exemplary local stewardship and collaboration models and to catalyze new partnerships and innovations.

Landscape-Scale Conservation Priorities

Restoration projects across broad Federal landscapes, such as the Collaborative Forest Landscape Restoration Program, are not sufficient alone to address the restoration needs and challenges of today. The Forest Service's approach to land management focuses on landscape-scale outcomes through cross-boundary landscape conservation. We consider current and desired resource conditions across all ownerships—putting national forests and grasslands in the broader social, economic, and ecological context of the entire landscapes. Considering the well-being of communities adjacent to national forests, as well as urban populations that depend on forest-derived ecosystem services such as water filtration, is a top priority

In FY 2011, our State and Private Forestry programs competitively allocated \$19.8 million to State Foresters, supporting 72 projects in 47 states.² These allocations enable the Forest Service to leverage over \$21 million in partners dollars and in-kind contributions. In FY 2013, we propose to build on the success of our recent redesign of State and Private Forestry by combining funds into a **Landscape Scale Restoration program** to continue our work with the State Foresters and engage multiple landowners across boundaries. This program helps address challenges like forest fragmentation and the conversion of forestland due to urbanization and other land uses. Through competitive grants, it will implement innovative projects that address the greatest threats to forest sustainability, as identified by States in their Forest Action Plans.

The **Forest Legacy Program** is an incentive-based approach that uses easements to permanently protect non-Federal forest lands vital for wildlife habitat and rural jobs. The focus is on forest lands at risk of conversion to other (non-forest) land uses. To date, more than two million forested acres have been protected from conversion, ensuring a robust natural infrastructure to support rural jobs in the forest sector.

Through **Land Acquisition**, we work to consolidate non-Forest Service properties within or adjacent to national forest boundaries. These acquisitions protect critical ecosystem connectivity, enhance visitor access, and reduce expenditures associated with boundary management and fire suppression. This request includes up to \$25 million for support of the Federal Interagency Collaborative Land and Water Conservation Fund initiative. This interagency partnership with the Department of the Interior will guide acquisitions in support of objectives set by the *America's Great Outdoors* initiative, achieving targeted, coordinated Federal acquisitions that are locally-driven and supported by local governments. The request also includes up to \$5 million to acquire land to open up additional access for recreational purposes, specifically to increase priority recreation access to National Forests System lands. The Forest Service will use

² The \$19.8 million includes Wildland Fire Management allocations.

the funds to acquire parcels that provide access to National Forest System lands whereby access is not currently available or is impeded.

Just as we recognize the importance of conserving working forest lands in rural areas, we also support the creation of community forests that connect urban populations to nearby outdoor areas. Through the **Community Forest and Open Space Program**, we fund cost-share (matching) grants for the acquisition of community forests that provide public recreation and watershed benefits. Such benefits include enhanced drinking water quality, wildlife habitat, forest management jobs, and opportunities for wildlife viewing, hunting, fishing, and other outdoor experiences readily accessible to urban populations. In October 2011, the Forest Service issued regulations to ensure a consistent and transparent program. We are in the process of soliciting applications to award the first projects.

Recreation and Trails Priorities

Forest Service lands are a public treasure providing unparalleled outdoor recreation opportunities. Population growth and loss of open spaces contribute to ever-greater demand for high-quality recreation opportunities. Annually, more than 170 million visitors enjoy activities such as camping, picnicking, skiing, fishing, and hunting. The **Recreation, Heritage and Wilderness** program provides the interpretive, outreach and infrastructure needs vital to connecting Americans to the great outdoors.

In response to the *America's Great Outdoors* initiative, we are improving recreational access and expanding opportunities for youth and diverse populations. The Youth Conservation Corps creates jobs, as do expanded opportunities for private sector outfitters, guides, ski areas, and resorts. Through the Federal Interagency Council on Outdoor Recreation, we are implementing actions to eliminate redundancy and create seamless programs between the Federal agencies to increase recreation opportunities.

Our **Trails** program ensures public safety and backcountry access through the operation, maintenance, rehabilitation, and improvement of National Forest System trails, serving a wide constituency of visitors at a relatively low cost. In FY 2013, we are prioritizing the designation of trails for motorized use, consistent with the Travel Management Rule. Our trail system also accommodates non-motorized uses such as cross-country skiing, hiking, hunting, fishing, wildlife viewing, horseback riding, and mountain biking. In FY 2011, partners contributed approximately \$7 million and maintained almost 5,500 miles of national and scenic trails. Through strengthened partnerships in FY 2013, we will emphasize trail stewardship activities and youth programs.

Our proposed legislative language to make permanent our authority on Administration of Rights-of-Way and Land Uses would ensure timely customer service, reduce the potential liability to the United States associated with uses on National Forest System lands under an expired authorization, and enable us to accept new applications to expand our support for local and regional economies. Special Uses enable a wide range of public services that support thousands of jobs, from large-scale energy and communication transmission to small-scale outfitters and guides. Processing these permit applications is time intensive and expensive. Recovered funds will remain at the local office of collection to enable more-timely service to permit holders and applicants. The existing authority expires on September 30, 2012.

The Forest Service assists in developing and sustaining urban forest infrastructure within cities, as well as connecting urban residents—especially youth—to recreation experiences in national forests. With more than 83 percent of all Americans living in metropolitan areas, the Forest Service **Urban and Community Forestry** program supports the active management of forests and trees in over 7,000 communities, reaching 194 million people in FY 2011. This program seeks to optimize benefits from urban forests by planting trees for carbon sequestration and energy conservation objectives. Forest Service **Research and Development** helps to create more livable and desirable urban areas and improve urban ecosystem services, like cleaner city air and water, through leading science and new technology. In New York City, for example, the Forest Service’s iTree tool provided baseline information about trees that has been a critical foundation for the MillionTreesNYC campaign. The **Conservation Education** program—through initiatives like “Children’s Forests” and “More Kids in the Woods”—builds on both long-term and new partnerships. In FY 2011, over 5 million children and families participated in environmental education, recreation and related literacy programs on public lands and waters, increasing their understanding of the natural world and its benefits.

Facilities and Roads Maintenance Priorities

Maintenance of physical infrastructure—including the best and safe use of over 40,200 buildings for administrative, recreation-related, and other uses, approximately 373,000 miles of roads (102,000 miles are closed but provide options for future use) and 6,200 bridges—is an important priority in fulfilling the Forest Service mission. Maintaining our facilities saves money over time and provides for safe, pleasurable, and accessible sites for the public’s enjoyment while recreating. In FY 2013, strategic investments in facilities and infrastructure maintenance will reduce our agency’s environmental footprint and save money by lowering energy costs. This budget request proposes deferring new facilities construction when other cost-effective and reasonable options exist.

This budget request also prioritizes road maintenance to ensure we protect water quality, meet Highway Safety Act standards, and meet the need for motorized use, as identified on Forest Service motor vehicle use maps. We also emphasize replacing deficient bridges, upgrading stream crossings, and providing a transportation system to and from timber and stewardship project sites that support local jobs and our collaborative restoration priorities.

Fire Theme

Our final priority for the FY 2013 budget request reflects the President’s commitment to a responsible budget for wildland fire management. We will continue to partner with States, communities, and other Federal agencies to maximize our suppression capabilities and support community efforts to reduce direct threats from wild fires.

Wildland fire is a natural and necessary component of restoring ecosystem resilience in fire-adapted ecosystems. In many places, drier conditions and longer fire seasons, along with invasive species like cheatgrass, have further altered the timing and pattern of fire, making fires bigger and harder to suppress. Addressing these challenges will reduce fire risk to communities and maintain and create jobs through activities that restore ecosystem resilience.

The cost and complexity of both fuels treatments to reduce fire risk and wildfire suppression have gone up due to growing numbers of housing developments adjacent to wildlands and other

factors. In this context of more costly fire management, we continue to refine our use of decision-support tools. These tools help us allocate resources more efficiently and to adopt appropriate risk management principles. Further, we responded to the Federal Land Assistance, Management and Enhancement (FLAME) Act of 2009 by collaborating broadly to develop the new National Cohesive Wildland Fire Strategy. The strategy is designed to:

- Restore and maintain resilient landscapes at a regional and sub-regional scale;
- Create fire-adapted communities; and
- Respond to wildfire effectively through partnerships among local, State, Tribal and Federal fire organizations.

The Nation depends on the Forest Service to take proactive measures to reduce the threat of wildfire. By working proactively to re-establish fire-adapted ecosystems, we can reduce the costs associated with catastrophic wildfire. The proposed budget for FY 2013 would direct fire management resources toward the highest priority areas while maximizing cost-effectiveness. We are ready to protect life, property and community, and public safety.

Fuels Reduction Priorities

The **Hazardous Fuels** budget line item for FY 2013 focuses on treatments in the wildland-urban interface and other high priority areas with a target of one million acres vital to protecting lives, property and public infrastructure. The priority for these funds is in wildland-urban interface communities that are working to achieve Firewise standards, have demonstrated local investment, and that have developed a Community Wildfire Protection Plan. The agency will continue to emphasize the importance of Community Wildfire Protection Plans by prioritizing hazardous fuels treatments in Wildland Urban Interface areas that are identified in these plans. This funding is also used for grants that encourage woody biomass utilization and to facilitate market development for the biomass removed from the landscape through fuels treatments.

Biomass for energy is an important byproduct of hazardous fuels reduction and restoration work. Currently one-quarter of all renewable energy consumption comes from wood. Biomass utilization is important because it helps diversify the forest products industry and creates new markets that ensure alternative uses for material that would otherwise be piled or burned at the treatment site. With active management, America's forests can sustainably supply woody biomass for fuels and high-value chemicals and help meet national energy, environmental, and employment goals.

In FY 2013, the Forest Service plans to reach out to municipal water providers and pursue additional investments to protect water supplies. For example, three of the five major Front Range water utilities (in Denver, Aurora, and Colorado Springs) have invested nearly \$34 million in forest thinning treatments to reduce wildfire risks. Our strategy is to attract investments from all Front Range cities and to substantially increase amounts invested by those cities and other partners through matching Forest Service funds.

The hazardous fuels management efforts compliment restoration activities conducted through **Integrated Resource Restoration** and the **Collaborative Forest Landscape Restoration Program** to reduce fuels, restore forest landscapes, and protect communities. These projects leverage partner investments through innovative collaboration to restore landscape resilience

across 50,000 acres or more. Contracted services for fuels reduction in core forest zones provide jobs, as do the forest products and woody biomass utilization activities that result from fuels removal and reduction.

Preparedness Priorities

The second way we are responsibly addressing wildland fire management with this budget request is through our Preparedness program, which ensures the capability to protect life, property, and natural resources while assuring an appropriate, risk informed and effective response to wildfires, consistent with land and resource management objectives.

The preparedness program pre-positions resources as needed to ensure an appropriate, risk-informed, and effective wildfire response. This budget also includes \$24 million to pay for the increased costs of modernizing the firefighting large airtanker fleet. We are soliciting bids for modern air tankers to complement the remaining 11 in our fleet.

Suppression Priorities

The suppression program combined with the FLAME Wildfire Suppression Reserve Fund, meets the funding level at the 10-year average cost of suppression for FY 2013. Wildland fires continue to be larger and more difficult to suppress due to many factors including longer fire seasons, fuel accumulation, and the increased size and complexity of housing developments adjacent to or in forested lands.

In FY 2011, the Forest Service contained over 97 percent of the fires we managed during initial attack. Wildfire response decision making is evolving based on risk-informed analysis that reduces exposure to wildland firefighters while ensuring that high-value resources are protected. The results of these decisions allow us to manage fires more cost-effectively while achieving agency land management objectives by enabling fire to play its natural role in restoring landscapes. For FY 2013, the Suppression, Preparedness and FLAME budget request continues to emphasize our efforts related to strategic risk assessment and programs to improve wildland fire operational decisions and meet overriding objectives of maintaining public and firefighter safety. These efforts are expected to result in significant increases in the effective and efficient use of agency resources.

For the few fires that escaped initial attack, the percentage that exceeded expected containment costs fell from 39.7 percent in FY 2010 to 20.8 percent in FY 2011, a notable achievement in responsibly budgeting for fire suppression. Implementing the agency's broader restoration goals will lead to further progress. Given the highly variable nature of fire seasons from year to year, the FLAME Wildfire Suppression Reserve Fund ensures our ability to cover the cost of large, complex fires that escape initial attack.

Gaining Efficiencies and Cost Control Measures

We must be efficient and effective in meeting our mission and delivering services to the American people. We have been gaining efficiencies, managing costs and our workforce to achieve our mission in the past and will continue to do so. We are making difficult choices to work better and leaner to live within constrained budgets. The Forest Service's FY 2012 target for cost savings is \$44 million. Reduced travel accounts for \$14 million of these savings. An

additional \$30 million is achieved through new acquisition management procedures including the use of strategic sourcing, competitive and/or performance-based contracts, and ongoing training of contracting staff to better manage contracts.

Our efforts to gain efficiency in FY 2012 and this FY 2013 budget request focus on implementing the President's Executive Order, Promoting Efficient Spending. We identified reduced spending levels in travel, information technology, printing, fleet and promotional items. We have planned a \$100 million reduction in cost pools over the course of FY 2013 and FY 2014. We are also implementing the USDA Administrative Solutions Project to reduce redundancies and take advantage of existing resources across USDA. We will also continue our strategic investments in safety and cultural transformation for our employees. These efforts will enable employees to spend less time on operational functions and more time on priority work in a safe, healthy and productive manner. We expect these efforts to result in costs savings in the future. We also estimate that our workforce will be reduced by nearly 1,500 full-time equivalents between FY 2011 and FY 2013. This level of reduction is within our average annual attrition rate. We will continue to manage our workforce and organizational changes to provide service at the local level.

Conclusion

The Forest Service's fiscal year 2013 President's Budget aligns with priorities set by the Administration and the Department of Agriculture while balancing the need for fiscal restraint. The magnitude and urgency of forest restoration work, along with the demand for safe, accessible outdoor recreation opportunities, are growing in a context of declining budgets. This means that the agency will face unprecedented fiscal challenges in the next few years. The Forest Service must act strategically and tackle fiscal challenges directly, focusing our resources on continuing to provide services and goods to the American public.

Through landscape-scale conservation, our three funding priorities of restoration, communities, and fire will pass on to future generations the water, wildlife habitat, renewable resources, scenic beauty, and other natural riches that Americans enjoy today from their forests and grasslands.

THOMAS L. TIDWELL

Tom Tidwell has spent 35 years with the Forest Service. He has served in a variety of positions at all levels of the agency, including as District Ranger, Forest Supervisor, and Legislative Affairs Specialist in the Washington Office. As Deputy Regional Forester for the Pacific Southwest Region, Tom facilitated collaborative approaches to wildland fire management, roadless area management, and other issues. As Regional Forester for the Northern Region, Tom strongly supported community-based collaboration in the region, finding solutions based on mutual goals and thereby reducing the number of appeals and lawsuits.

In 2009, after being named Chief, Tom set about implementing the Secretary's vision for America's forests. Under his leadership, the Forest Service is focusing on restoring healthy, resilient forest and grassland ecosystems—ecosystems that can sustain all the benefits that Americans get from their wildlands, including plentiful supplies of clean water, abundant habitat for wildlife and fish, renewable supplies of wood and energy, and more.

Such benefits are at risk from the effects of climate change, and Tom has led the way in forging a national response. Under Tom's leadership, the Forest Service has charted a national roadmap for addressing climate change through adaptation and mitigation. The Forest Service is taking steps to help ecosystems adapt to the effects of a changing climate while also taking action to mitigate climate change, partly by reducing greenhouse gas emissions.

Tom has facilitated an all-lands approach to addressing the challenges facing America's forests and grasslands, including the overarching challenge of climate change. Such challenges cross borders and boundaries; no single entity can meet them alone. Under Tom's leadership, the Forest Service is working with states, Tribes, private landowners, and other partners for landscape-scale conservation—to restore ecosystems on a landscape scale.

Tom is married to Kim, and they have one daughter, MacKenzie.

Susan Spear
Acting Director of Strategic Planning, Budget and Accountability (Budget)
USDA Forest Service

With 22 years with the Forest Service, I have worked in a variety of positions and locations around the country. In my current position as Assistant Director in SPBA, I oversee budget formulation and presentation, strategic planning and performance management for the agency. I was Forest Supervisor on the Ottawa National Forest in the Upper Peninsula of Michigan where I focused on timber management, travel planning and forest organization issues. I worked in Legislative Affairs Office on planning, NEPA and minerals issues. I was a District Ranger on the Paonia District of the Grand Mesa, Uncompahgre and Gunnison National Forests in western Colorado where I focused on management for three coal mines and various oil and gas wells in Inventoried Roadless Areas, public travel management and access issues. Also in Colorado, I worked on the South Platte Wild and Scenic River suitability study with a collaborative group to develop an alternative to Congressional designation to protect the values of the South Platte River. I began my professional Forest Service career as Recreation and Lands Staff Officer on the North Kaibab Ranger District of the Kaibab National Forest on the north rim of the Grand Canyon in Northern Arizona. My main activities were in managing resorts and campgrounds, scenery for timber sale activities and Wilderness. Prior to joining the Forest Service, I worked for several State of Arizona agencies and private consulting in Phoenix. My first job with the Forest Service was in the Youth Conservation Corps in Minnesota.

Education: BS, Wildland Recreation Management, University of Idaho, 1980; MS, Renewable Natural Resources, University of Arizona, 1983

Mr. SIMPSON. Thank you, Chief. We appreciate that.
Mr. Lewis.

BARK BEETLE AND FIRE

Mr. LEWIS. Thank you, Mr. Chairman.

Chief, welcome. I really have no questions, but I am curious about a project that seems to be going forward. As you know, the forests in the West did experience crisis after crisis during the first decade. The bark beetles' impact on the forest is very, very real. But indeed, as we look forward to meeting the challenges of what could have been real disaster, there went together what I think has become now a model that involves local firefighters, local police, highway patrol, garden reserve, a variety of mix of volunteers, et cetera, coming together to help meet the crisis when it is there, and at the same time, lay the foundation to continue to work together. Has that experience, that model replicated itself around the country?

Mr. TIDWELL. We are continuing to build on that model of working together, and not only the federal agencies but our state and local agencies to not only address where we have outbreaks of insects and disease, but then also our response to them, taking more of an all-lands approach. As you well know, when it comes to things like bark beetles, they do not stop at any boundary or any border. We have to really take more of an all-lands approach to address that, and it is the same with our response to fire. We are continuing to build on that. We are actually working through a cohesive strategy when it comes to fire in this country where we are ensuring that not only the states but local government are involved with that strategy beyond just the federal agencies. As we move forward with that, we are going to be more responsive and more efficient in our responses.

Mr. LEWIS. I thank you, Chief.

We are going to be on a very tight schedule here today. So Mr. Chairman, I will just give you the meeting back.

Mr. SIMPSON. Thank you.

Mr. Moran.

PLANNING RULE

Mr. MORAN. Thanks, Mr. Chairman.

The Forest Service recently released its preferred alternative for the forest planning rule. Why do you think this version of the rule will be successful when there have been so many other attempted rewrites over the last 20 years that have failed?

Mr. TIDWELL. We have learned from our past attempts—

URBAN AND COMMUNITY FORESTRY PROGRAM

Mr. MORAN. That is the answer. I will accept that. That is the best answer you could have.

I was disappointed to see the proposed \$3.3 million cut to the Urban and Community Forestry program. It is a small program, and the urban areas do not get much out of this Interior bill. I do think that the Forest Service is missing an important opportunity in our urban and suburban communities and the chance to broaden

a constituency for forest programs in general. How do you intend to deal with that and to focus on what need to be your highest national priorities?

Mr. TIDWELL. Congressman, once again, that is one of the difficult choices, especially as we look at America becoming more urban. Now over 80 percent of Americans live in urban areas. We also have close to 100 million acres of urban forest. So it is essential that we find ways to continue to provide that technical support and some financial assistance to help these cities understand the benefits, to promote green infrastructure. We are going to continue to do that by working through our partners.

Mr. MORAN. Yes, I know, those are all great words. I could not agree with you more. But the question is, why did you cut the money out to perform those responsibilities? It just seems, \$3.3 million is not a whole lot of money, and there is not much going into urban areas. I mean, you gave me an answer that is absolutely true, that most people are living in urban and suburban areas, but very little is being done by the Forest Service. The Forest Service focus is not on urban or suburban communities, it is almost exclusively in the large forested areas in the West. I can understand that, but in terms of broadening constituency, you know, for 3 million bucks, I question the cut.

INTERNATIONAL FORESTRY PROGRAM

I discussed the International Forestry program with you and noted that you are making a cut there. Again, a very small program, but you want to save \$4 million from it. What I would like for you to put on the record, briefly, obviously, but what are the benefits that this program provides, not just to foreign countries but to American producers? I understand that the International Forestry program actually has some major domestic benefits. Do you want to explain those?

Mr. TIDWELL. Our focus with our international programs with the appropriations that you provide is focused on addressing illegal logging that has direct benefits to our industry here in this country and dealing with the introduction of invasives. Every invasive that we can stop at our ports is one less issue we have to deal with, saving hundreds of millions to billions of dollars. We work together to ensure that we are providing the habitat and the coordination with our migratory species. That is the key focus of our international programs. For the money that we receive, are tremendous benefits domestically here to the United States.

The other work that we do in a lot of other countries is through support from U.S. Agency for International Development USAID and the State Department where they see that we provide the practitioners to really help other countries address their needs for sustainable forests, improving watersheds, and putting regulations into place that help their communities. But that funding really comes from USAID and it is not from these appropriations.

FOREST SERVICE APPEALS

Mr. MORAN. But again, what you explained is good justification for not cutting a very small amount of money but a large portion of the International Forestry program.

We want to move along, but at some point I suspect somebody else is going to ask about the change to the Forest Service appeals process to a less vigorous one but it is one that was in the Healthy Forest Restoration Act of 2003. Mr. Simpson and I have discussed it. We know that it is open for public review and comment, the rulemaking, and that you were taking steps to ensure that there would be a constructive public process under the new appeals rule, albeit a shortened more efficient one. If there is anything quickly you want to say, that would be fine, but it will probably come out in further testimony.

Mr. TIDWELL. Okay.

Mr. SIMPSON. Mr. Calvert.

AIR TANKERS

Mr. CALVERT. Thank you, Mr. Chairman.

As you move forward to take a look at how you are going to replace the old tanker fleet, I would hope you will take a hard look at how that fleet is utilized, the flexibility of local assets, and how you utilize those instead of your own. I know there have been some difficulties in the past in trying to use your own assets versus assets that are locally accessible and more quickly put to task on the fire itself. It makes more sense from a practical management point of view.

Also, new technology. You know, I have read about this new technology with these water bladders where they drop them from the back of Air Force or Army Reserve with C-130s, which can be utilized for other purposes. I would hope you look at that, because I know that the first reaction is to go to the bigger, more sophisticated air tankers that are extremely expensive, and in some respects are necessary, certainly for large wildfires. I think other technologies are available. I hope you look at those as you move forward.

LAND TRANSFERS

Another issue I wanted to bring forward is land transfers—the amount of time it takes to do a land transfer. I have heard from local communities that have inholdings, you want to acquire those inholdings. They want to swap land. It is a win-win deal for everybody, but it takes years to accommodate these type of things. I am wondering if there is any way you can speed up that process. It does not serve any purpose, to have what should be a simple transaction that everyone wants to enter into up take years because of red tape and in flexibility on the part of the Forest Service. Maybe you can comment on both of those issues.

Mr. TIDWELL. First I will start with our large air-tanker strategy that we sent up here a few weeks ago. It calls for looking at a mix of different resources with our large air tankers. The thing that we do know is that we currently have 11 that are available, and we know that we need more than that. The strategy looks at somewhere between 18 to 28 of our large air tankers, and we want to look at a variety of different aircraft. That is why we put out a request for proposals. We have received those and are considering evaluating those proposals. In addition to that, we are going to continue to look at all the new technology including using heli-

copters—the small, medium and large helicopters, using the more potential for more water scoopers than maybe we have used in the past, and then to continue at the peak of the fire season to rely on the C-130s that the Air National Guard provides. We made extensive use of those aircraft this past summer and it is an essential part of the overall mix. We are going to continue to rely on that. We want to find safe aircrafts that can do the job, and that is what we are going to continue to focus on. But we are always going to have a mix of resources and continue to look at the latest technology.

As far as land exchanges, I share your concern, your frustration with those. I have had to work with those throughout my 34-year career, and we continue to look for ways to improve that process. It is not just the environmental analysis that needs to be done, but also just a lot of the process to get clear titles. We continue to explore different ways to expedite that.

Mr. CALVERT. It is really incredibly simple.

Mr. TIDWELL. I agree.

Mr. CALVERT. It is 10 acres on one side, 10 acres on the other.

Mr. TIDWELL. You would think that two people could sit down and have it worked out in an afternoon, but those are some of the things we want to look at, especially for these small parcels, to see if there is more of an expedited process that we could follow instead of doing the same thing whether it is for 10 acres or 10,000 acres.

Mr. CALVERT. Thank you, Mr. Chairman.

Mr. SIMPSON. I will you tell that Representative Calvert brings up a really good point because it is one of the frustrations that the public feels when there is something that just makes common sense and it takes us 5, 6, 7, 10 years to do. I hear that all the time from people, so it is a very good point.

Mr. Dicks.

LEGACY ROADS AND TRAILS

Mr. DICKS. I wanted Mr. Flake to know that Washington Huskies beat Arizona State 77 to 69. Arizona made a big comeback but fell short.

I am deeply concerned about the proposal in the fiscal year 2013 budget request to eliminate the Legacy Roads and Trails Remediation Initiative as a separate program. Since the Legacy Roads and Trails program was initiated in fiscal year 2008 when I was chairman of this subcommittee, nearly \$270 million has been appropriated for numerous watershed protection activities. With that money, more than 4,200 miles of obsolete roads have been decommissioned. More than 10,000 miles of roads have been maintained or improved. Nearly 300 bridges have been constructed or reconstructed, and more than 1,200 culverts have been replaced or prepared for fish passage and more than 2,300 miles of trail have been maintained or improved, not to mention the number of jobs created due to this activity. In fact, I have a contractor on the Skokomish River in Washington State in my district who says that without the Legacy Road program, his business would have failed. And they have done good work. I have been out there myself taking a look at it. Now, I want to concur with the chairman. The subcommittee

put in place these three pilot programs, and we want to see how those pilot programs work before we get rid of these programs, so I would just mention that to you.

The other thing is, the chairman mentioned that you have had a new initiative to try to do more in terms of, as I understood it, to do more restoration work, more harvest work. Can you tell us about that?

Mr. DICKS. I think there is a great job potential here. One thing I will just say, we have resources that we provide to the Bonneville Power Administration where they can borrow money from the Treasury to do projects. Have you guys ever considered to do this so that we could do more thinning, create more jobs in the near term, to have that kind of a program for the Forest Service?

Mr. TIDWELL. First of all, I want to thank you for your support for the Legacy Roads Program. It has been a tremendous success. Not only is it going to accomplish a lot of good resource work, restoration work, but it builds a lot of support for the work that needs to be done on the forest. Our proposal to combine that with a series of other funds that all contribute to restoration and improving watershed health is just for efficiency. I would not be proposing that if I did not believe that it would allow us to actually get more work done. At the same time, we will be able to report out to you each year how many miles of road we decommissioned, how many miles of road we improved, how many culverts we replaced or took out, and so I look forward to being able to do that through our pilot effort.

RESTORATION

As far as our accelerated restoration, there is a report out on what we are getting done. It is based on the things that we put into place—going back to your assistance and support with Legacy Roads—to build support for these collaborative efforts. Regarding the restoration that needs to be done, what we are showing is that because of the things that we have put into place and the things that we are planning to rely on—things like the new planning rule that provide more efficiencies—the Collaborative Forest Landscape Restoration projects are proving to be very successful. They are highly supportive in producing jobs and a lot of good work. They underscore the need to have stewardship contract authorization and highlight the efficiencies that I hope to get out of the IRR. These things all together are what contribute to our confidence to continue to get more work done, even in a flat or declining budget era. It is by having all this come together and being able to work with folks so that they know that when we talk about restoration, it is not just the biomass removal. It is not just the timber sales. But it is also to address the erosion coming from the roads, to improve the fisheries, and to improve the recreation facilities. By doing projects like that, we build tremendous support, and by having one fund code that we can just use, it is easier for our folks to design these projects. It provides some efficiencies. At the same time we will show you exactly not only all the outputs that are produced, but in addition, the overall outcome.

WATERSHED RESTORATION

We put together a watershed condition framework that we have never had before, so we can track the watershed conditions across 15,000 watersheds in our national forests and grasslands now. Each year we will report out to you the difference that we are making not only in the production, the outputs, but the overall changes that are occurring.

INTEGRATED RESOURCE RESTORATION

Mr. DICKS. Why not wait until we see the outcome of these three pilot projects? Why is the Administration unwilling to follow the direction of the committee, do the pilot projects and prove the case? What we are worried about is, you are going to put this all in one pot and we are going to come up with less money for fixing roads and trails. We all have been around here a long time and that is our concern. We would like to see whether this actually works.

And by the way, Mr. Chairman, if I could, could I put my opening statement in the record? I will put it in the record. Thank you.

[The statement of Norm Dicks follows:]

Opening Remarks from Ranking Member Norm Dicks
FY 13 Budget Hearing, US Forest Service
February 17, 2012

I would like to join my colleagues in welcoming Tom Tidwell, chief of the Forest Service, to this hearing on the FY 13 budget request for the Forest Service.

This budget that has been proposed for FY 13 reflects a sincere effort on the part of the Forest Service to balance the need for effective delivery of important services while limiting funds to the budget ceilings that were agreed to last year. But I would prefer a higher funding level, both for strengthening the effectiveness of the Forest Service as well as the positive economic benefit of stimulative Federal spending at this time when the private sector is just beginning a real recovery.

I am very encouraged that this budget request gives priority to both forest restoration as well as providing increased community benefit from Forest Service activities. I look forward to working with the Service to help achieve these goals. I often have said that the Service must be much more aggressive in the active management of our forests, both for the health of the forests themselves as well as the jobs that such activities provide. The direction of this budget request is positive in terms of increasing forest health and productivity and I know that this Subcommittee will closely monitor these efforts.

However, I must repeat the concerns I expressed last year on the Forest Service's proposal to institute nation-wide the Integrated Resource Restoration plan. I know this is a concern shared by other Members of the Subcommittee. The basis of this caution is that consolidating so many activities currently having individual budget lines into a single program will make it much more difficult to track the Forest Service's progress. Of particular concern to the timber industry is the elimination of the "Forest Products" budget line for harvest levels. I understand that the Forest Service has proposed funding levels for the various activities to be included in the Integrated Resource Restoration program, but the concern is very real that there could be less transparency and less ability for this Subcommittee to apply oversight.

I also am greatly concerned that the proposed Integrated Resource Restoration initiative would eliminate the Legacy Roads and Trails Remediation program as a separate budget line item. As you may know, the program was started in FY 2008, when I chaired this Subcommittee. The program was designed to repair or decommission roads and trails that pose a great threat to watershed health due to erosion. The Olympic Peninsula, which I represent, is very rainy and illustrates the damage that can occur when roads and trails are allowed to deteriorate. I have been told the Legacy Roads and Trails Remediation program makes it easier for forest managers to plan for these watershed restoration activities rather than waiting and seeing if they have any general road funding left at the end of the fiscal year.

In the Forest Service's FY 12 appropriation, Congress rejected a nation-wide adoption of the Integrated Resource Restoration initiative. Instead, a three-year IRR pilot in three Forest

Service regions was authorized. Without knowing the results of those pilot projects, it is difficult to gauge the merits of the proposal.

Again, welcome to the Subcommittee and I look forward to working with you as we craft the FY 13 appropriations bill for the Forest Service.

Mr. TIDWELL. We do want to, of course, work with the committee and be able to show that this is a better way. The reason I am here still asking for it in addition to the pilot is just the pressing need to get more work done, the need to restore more of these areas, and the level of support that we have to do this work. I am looking for every way I can to create some additional efficiencies to get some more work done.

Mr. DICKS. The environmental groups out there, the people you are talking about who really support this program and really almost demanded that we do something because of the huge backlog we have in region 6 on these kind of projects, they are not going to be happy about this. So you have to sell this.

LOAN GUARANTEES

Now, let us go to the second point, loan guarantees. Have you ever considered loan guarantees? Because you would have a revenue stream if you did more of the thinning. You could pay back the loan guarantees. Have you ever thought about that?

Mr. TIDWELL. I have not, but I would be glad to have that discussion to look at some ways that we could.

Mr. DICKS. Because we desperately need to do this work. This work needs to be done. We need jobs now. I mean, loan guarantees, I think—we do this with the Bonneville Power Administration and they get billions of dollars in loan guarantees. They are able to do all kinds of work on the grid, everything else, and put people to work. I think we have got to try to think creatively about how we can do more on thinnings and work that needs to be done that would improve the forest.

Mr. TIDWELL. I agree with you, and our accelerated restoration report, we shared that we know there is at least 65 to 80 million acres that need to be restored. Out of that, on a relatively small portion of at least 12 million, we are going to have to use mechanic treatment. It is more expensive. That shows the need, and that is why we are looking at everything we can to get more work done, get more of these acres restored. So I am interested in looking at any opportunity that we have that would allow us to get more of these acres restored and more jobs created.

Mr. DICKS. And we would probably have to do a legislative program or something like that, Mr. Chairman, but I think it would add to the regular program, and you do have a way to pay it back, so I think it is something to consider. Thank you, Mr. Chairman.

Mr. TIDWELL. Thank you.

INTEGRATED RESOURCE RESTORATION

Mr. SIMPSON. Thank you, and I will say that I agree with Norm, and the reason we put the pilot projects in is to see how they are working, but what do we expect to see if we are going to give them a sum of money to do more than just projects, to manage forests, for example. We would need to determine what we need to see the Forest Service accomplish next year and then how to hold them accountable for achieving those goals. It would actually require more work on the part of the subcommittee to talk about goals and projections, which I look forward to and I think is the way we ought to move, but we have to have some of these pilot projects to see

exactly how it is working currently. Anyway, it is an interesting discussion and changing actually the way we appropriate and the way we manage.

Mr. TIDWELL. Yes.

Mr. SIMPSON. Mr. Cole.

AIR TANKERS

Mr. COLE. Thanks, Mr. Chairman. I thought this morning I would just confine myself to the number of questions to the number of trees in Oklahoma, so I will be pretty brief here. Seriously, you have three properties in our state. Two of them are grasslands. So it kind of tells you where we are looking.

Mr. Calvert brought up a subject and anticipated some of my questions because your national tanker fleet is an incredible national asset, and we do use that extensively. You guys have done tremendous work when we have had wildfire outbreaks and having that available to move around the country I think it is important to all of us. So I want to be exceptionally helpful where I can in your plans to try and update.

I am worried about one thing that is both an opportunity and a danger, and maybe you have already anticipated. Maybe my concerns are overwrought, but I am going to ask you. A number of us here sit on the Defense Subcommittee. We are going to retire a lot of C-130s, a ton. I would argue way too many. I am actually in another capacity worried about airlift capacity, and a lot of that is going to be Guard units. And so I am curious, number one, is any of that, do you know, going to have a direct bearing on your use of those assets? That is question number one. And number two, obviously there is going to be a lot of available C-130s out there at the end of the year, and I do not know if that is something to consider in terms of modernizing or expanding your fleet—not modernizing. Those are pretty old airplanes but they are good airplanes. Is that a possible source of airplanes at a reasonable cost for you?

Mr. TIDWELL. The first question, we have not heard anything from the Department of Defense that the aircraft that we use with our Modular Airborne Fire Fighting System (MAFFS) units will not continue to be available.

Mr. COLE. I would check if I were you.

Mr. TIDWELL. I will do that for you because it is an essential resource when we hit the peak part of the fire season. We will continue to look at using aircraft through our contractors or potential leasing—the C-130 based on the results we saw, especially last year. We used the C-130s more last year than we ever have before, and we have actually created a different MAFFS unit that is more effective. It is pressurized, and it is a good aircraft. So we will continue to look at every option to do this in a way that relies a lot on our contractors. But we are open to any aircraft that is available.

Mr. COLE. And this is the only point I have to make and then I will yield back my time. I think it is worth sitting down—this happens a lot in government. It is a huge enterprise. But they are making some very serious changes over at Defense and this is a big part of it. So I think there is going to be aircraft on the market that might be serviceable, might be appropriate. Obviously if we

are moving it from one part of the government to the other, that ought to minimize your cost. I do worry that some of the assets may not be available, at least with the speed and quantity maybe that they have been in the past. So if we can be helpful in that in any way, again, a number of us sit on the Defense Subcommittee, please let us know.

Mr. TIDWELL. Well, thank you, and thanks for the heads-up. We will check into that because it is essential that we have those aircraft available.

Mr. COLE. Again, thank you for the great job you guys do. You really do a terrific job.

Mr. SIMPSON. Ms. McCollum.

Ms. MCCOLLUM. Well, thank you, Mr. Chair. To the C-130s, I hope that—not that there is anything wrong with being my age—but a lot of the C-130s in my reserve unit in the National Guard, we are looking at 60 more than 50 now in years. So there might be a chance to freshen that up a little bit.

INTERNATIONAL PROGRAMS

The international programs were mentioned, and you know how this committee feels about them. I was pleased to see they were not zeroed out this year. I will not get into great detail about some of the things that were highlighted as far as how important they are to our international trade agreements, especially when it comes to logging. Knowing that we could certify wood products was a critical reason why I felt comfortable voting for the Peru trade agreement. And I look at these things very carefully as we move forward on the technical expertise. What you do working with other countries and providing, through USAID, some of the having becomes very important in having people understand what they need to do on their end so the invasive species are not coming here, to reduce and minimize conflict over water, and proper land use and forest restoration in other countries to promote food security. This reduces stress on our military by having countries have better security at home.

So there are many components to that. But one of the components is you, in the Department of Agriculture. So what kind of conversations are you having with the Department of Agriculture? We have a couple of programs where we have these hybrid funding agreements. The last time I spoke to the Secretary of Agriculture, he was not really excited about this program. Is that why it was cut?

Mr. TIDWELL. No, the reason our request is less is just the need to make some difficult choices to basically have a flat budget and to be able to prioritize certain things. We had to reduce some very key programs. You do not need to convince me of the importance of international programs, and for the amount of funding that is appropriated there, it produces some tremendous benefit. We need to probably do a better job displaying those so that folks actually understand those benefits. But it just comes down to making some tough choices. These are not things that I like but it is just the reality of being able to address the need to reduce our overall spending and at the same time move forward with some of the key priorities. And so I am pleased that we are able to at least continue in

the budget request to have the line item and have the funding available.

Ms. MCCOLLUM. So my question was, where is the Department of Agriculture on this? Were they supportive of what you wanted to do, or is there some resistance there?

Mr. TIDWELL. No, they are supportive of this budget request and the Secretary understands the importance of these programs and what we are able to accomplish.

Ms. MCCOLLUM. Okay. By the way, Mr. Chair, I love what you have done with the room.

Mr. SIMPSON. Thank you.

EMERALD ASH BORER

Ms. MCCOLLUM. I was hoping for a second with the big rocks that maybe that was Lake Superior. But I know we are too far east. But I especially have to say, I am very fortunate to sit where I do. When I turn to look at you, I see the strong faces of Native American women, so thank you so much for what you did with the room.

Now, let us talk about emerald ash borer (in urban forestry) what we discussed a little bit yesterday was—how we hone in and address invasive species in a smart, efficient manner—because it is kind of piecemealed all over. One of the things in the Twin Cities, is that we are just minutes away from forests. Whenever you drive in St. Paul and Minneapolis, in 20 minutes you can be at a state forest. In an hour or two, you can be at a national forest. Urban forestry and controlling and working towards eliminating invasive species and being smart with our urban forestry programs, so that we do not create feeding frenzies for these invasive insects, is important.

So can you tell me where we are with emerald ash borer and ways in which the urban forestry program, especially in states like mine, can play a vital role in either slowing down, doing research or maybe, if we are successful, really helping to keep this from spreading any farther. There is a synergy when these programs come together, especially in states like mine.

Mr. TIDWELL. Yes, and it is so important that we focus on the urban forests. So many of these invasives come in through ports into the urban areas and then follow up the rivers, and then up onto the national forests and across of course all the private lands. The emerald ash borer is one of the areas we are asking for a slight increase to continue not only the research but also the technical assistance, and a key part of that is to continue to work with our cities on the detection so we just know where the spread is occurring. Our research has continued to be focused on some parasitic wasps that we feel have potential for biological control, and at the same time, looking for more resistant species of ash. This is a big problem in the East, and I do not know if folks realize that. I think we have lost over 50 million ash trees in the United States since emerald ash borer has come here, and during its initial spread there was not a lot of awareness of it. So it really got established before we were dealing with it. But this is just a good example of why it is important for us to be working with our communities and our cities with the urban forest program so that we can

keep things overall connected. There is just no longer a separation from our urban forests to our national forests. Everything is connected. The more that we can do in the urban forestry, especially addressing basics, is going to really pay a lot of dividends. We want to continue that effort. I want to remain optimistic that our research on this parasitic wasp will prove to be very beneficial. But it will be just one of the things that we are going to have to do. Detection is another key part of it that we are continuing to work on. This is where our technical expertise that we can provide is so essential to be able to work with our urban foresters.

Ms. MCCOLLUM. And as it comes, it is in Minnesota now, the Dakotas will slow it down, because like Oklahoma, they do not have as many trees. But eventually it will start hitting tree belts again, as you move farther west. What kind of conversations are taking place with the Canadian government? This is something that is happening along the border, and north of North Dakota in Canada, there is, I believe is actually more foliage. It could go up there and then kind of loop around down around to the chair's state.

Mr. TIDWELL. This is one of the things that we work on with our international programs is our discussions with forest issues with Canada. In fact, I have a meeting here in the next few weeks or a month where I will be meeting with my counterpart in Canada. This is one of the topics we are going to be talking about, the concern about invasives. They are very concerned, especially since some of these are heading their way. We want to pursue ways that we can work together and maybe do some things, right now that maybe will stop that spread and at least maybe stop it at the border or a little bit north of the border.

Ms. MCCOLLUM. Thank you, Mr. Chairman. Thank you, sir.

Mr. SIMPSON. Mr. Flake.

FIRE

Mr. FLAKE. Thank you. Last year's fire season is kind of etched in history in Arizona, the wall of fire, 538,000 acres, I think the largest fire in the history of the Southwest that we know about.

Mr. TIDWELL. Yes.

Mr. FLAKE. And in last year's appropriation cycle, or the bill, we had language in to have a report done that would explain perhaps how the managed forest areas fared in the fire as opposed to those that were unmanaged. I understand that that report is being put together now and is almost ready. Can you give us some kind of initial thoughts on that subject? How did those areas that we have been able to manage fare compared to the others?

Mr. TIDWELL. You have seen out there on the ground, and I will be glad to share some of the photos. Then of course we will complete the report. Where we had been doing some restoration work and thinning those forests out around the communities there in Arizona, when the wall of fire hit those treed areas, it went from a running ground fire and running through the tops of the trees. When it hit the treated areas, there was not enough of continuous canopy cover to carry the fire so the fire dropped to the ground, burned across the ground. Then we were able to effectively suppress it, to keep it out of the homes. The difference—and if you look at those photos, it is just so obvious. Where we treated, we

have green trees and we have homes that are not burned. Where we did not do any treatments, we lost every tree and are dealing with a lot of flooding and erosion. It is just another example, and we have these year in and year out of the difference that we can make through our restoration efforts and not only around our communities but the work that we need to do even further up in the watersheds. I am anxious to get that report up here and to continue to use this wall of fire as an example of the difference that we can make.

This is one of the things where I think it is becoming so clear and there is such strong support now from everyone. Our conservation communities and many of our environmental groups, they are there. They want to work together to get this type of work done, and it is so important for us now to move forward and actually show the results and continue to do a better job to protect more areas.

STEWARDSHIP CONTRACTING

Mr. FLAKE. Thank you. I look forward to that report as well. Senator McCain and myself and Senator Kyl went up there, and you could drive along the road, a treated area on the right and untreated on the left, and just a moonscape on the left and green trees, as you mentioned, it just dropped to the floor and we were able to preserve not only the homes that were there but the trees as well. So it is stark, which brings me to the second question.

You know, we have moved forward with some stewardship contracts. Some have gone forward but we have the Four Forest Restoration Initiative (4FRI) and some other vehicles to move ahead with managing and restoration but it seems that we are still just so slow on the progress in getting some of these contracts let out. Can you shed some light on that? How can we help you move more quickly with these contracts?

Mr. TIDWELL. One way you can help is your continued support for this type of work and to help other folks understand the importance and the changes. When you take the time to go out there, it helps bring more attention. You get good press coverage. So it helps us to tell that story. So that continues to help us.

With the 4FRI, it is my understanding that in early March we will be awarding the contract to get that project up and going. It is another area where one of the efficiencies we have been working on is to look at how we can do our NEPA analysis in much larger areas, and 4FRI is one of the models that we are going to rely on to show that we can do NEPA on very large areas, in fact, up to 750,000 acres with one environmental impact statement. We are confident we can do that. We have strong support from the environmental community, the conservation communities, and of course the local communities, and also with the Council on Environmental Quality (CEQ). CEQ has been an essential partner working with us to not only provide some guidance and direction but also their support, which provides confidence to our employees that we can do this. Because so many of our folks are so worried that we—when ever we try to reduce the amount of analysis, we will get hit with a lawsuit and be tied up in court for years, and not be able to move forward with this year's work. Often that means another mill closes

down. Another 100 people are without a job and that much more work is not getting done. So part of my dilemma as we move forward with our accelerated restoration is to find ways to build more confidence that we can do NEPA differently, and at the same time that our folks feel good about it. They are the ones that live in those communities and they know that if they are not successful to implement that project, that there are consequences—consequences to the resource, consequences to the community. There is a lot of pressure on them. I understand that. I have been there. But I think that the course where we are headed is really going to make a difference.

I would just ask you to continue your support, your interest, continue to work with people across the board so that there are more people that understand that this is the type of work that needs to be done. I am optimistic that with our accelerated restoration, we will be able to continue that trend upwards.

Mr. FLAKE. Thank you.

Mr. SIMPSON. Mr. Hinchey.

RECREATION, HERITAGE, AND WILDERNESS

Mr. HINCHEY. Well, thank you very much, Mr. Chairman.

Chief Tidwell, thanks very much. I very deeply appreciate you and deeply appreciate you being here and all the things that you are doing.

I understand that you are directing the Forest Service to do a number of things in the context of drafting this budget, and in the context of drafting the budget, there is a long-overdue emphasis on things like ecosystem restoration, tourism, recreation, job creation. All of these things are a major portion or focus. Have you talked about this or is there anything else that you could say about it, what the objectives are and how this process is moving forward?

Mr. TIDWELL. You laid out the key objectives of our budget request and our continued focus on restoring ecological conditions of our forests and grasslands. This is important to watersheds, to providing clean water, clean air, to wildlife habitat, along with an overall mix of resources.

Mr. HINCHEY. Is that on?

Mr. TIDWELL. Yes. I am sorry if I am not speaking close enough.

I appreciate your acknowledgment about recreation. It continues to be one of the largest economic activities on the national forests with 170 million visits to our forests every year, along with hundreds of millions of others that drive and get to enjoy that scenic beauty. It produces 223,000 jobs annually. It produces close to \$14 billion of economic activity. It is essential that we continue to provide these recreational settings and these opportunities, and there is a direct connection to restoration. Folks, most of them want to go out there and see a healthy forest where they can walk the trails and enjoy the streams, the fishing, the hunting, the hiking. They want to do these activities in a healthy forest. We do not have a lot of folks that want to come visit one of our forests where we just had a large fire. They are dealing with more of the erosion. So there is a direct connection with our restoration efforts to be able to continue to provide these recreational opportunities.

PLANNING RULE

Mr. HINCHEY. I thank you very much. I understand also that you are in the process of updating the Forest Service management plan.

Mr. TIDWELL. Yes.

Mr. HINCHEY. And that does a number of positive things, and this plan, as I understand it, this plan dates back to 1982.

Mr. TIDWELL. Correct.

Mr. HINCHEY. And the process that you are engaged in is changing that, making it much more modern, much more effective, much more working to achieve objectives that are now important within this operation. Is that one of the things that you are focused on? Is that one of the main things that is going to be done?

Mr. TIDWELL. Yes. The preferred alternative that we put out for a new planning rule that we hope to have finalized next month does three key things. It reduces the time it takes for us to revise our plans in half. It reduces the overall costs significantly, at the same time, providing the same or higher level of protections for the critical water, soil and wildlife. It is based on what we have learned from the last two decades of trying to modernize our planning rule.

I believe we have come up with a balance. The reason for that is because of the process that we used. This time around we did not put out our proposed rule when we started the process. We put out a series of questions to ask our communities, what do you need, what do you want in a planning rule, and that is what we built this rule on, what we heard from our communities and from the public. We received over 300,000 comments. We had thousands of meetings, a number of round tables around the country, and we reflected those comments in this rule along with a few decades of experience of actually learning how to do forest planning. It is a better rule. It will be a better rule than what we have from the 1982 process.

Mr. HINCHEY. That is all very, very positive. There is also one thing that I think may be questionable, and as we look into this, the 1982 rule required the Forest Service to manage fish and wildlife habitat so that the healthy population of animals would be well distributed throughout each forest. It is my understanding that the new plan drops that language. Is that true, and what is the purpose of that and what is the main focus on that issue?

Mr. TIDWELL. The changes between 1982 and our preferred alternative, when it comes to providing for wildlife diversity, is that we were required to manage or track populations of individual species. That approach is not scientifically sound, and I do not believe there is any debate in the scientific community. Our new approach will first of all ensure that we are providing the habitat, the ecological conditions that support wildlife. When the habitat itself is not enough, and we have scientific evidence that we need to do more to address the viability, we will apply additional steps to do what we can on the national forests.

The other change is that under the 1982 rule and especially how the court interpreted that rule, we were often held accountable for things that occurred off the national forests that were beyond our

control. As much as we want to do everything we can to keep common species common, conserve or help recover species that are on the endangered and threatened list, when it is outside the authority and control of the Forest Service, it is very frustrating. So that is one of the other changes. I believe that what we have in our preferred alternative does a better job to provide for wildlife diversity, provides a better job for us to actually make the changes to address when there are viability issues. At the same time, if there is no scientific evidence that there is a concern, then we will not be taking steps. That is the other difference in our preferred alternative. There has to be scientific evidence that there is an issue, and if there is, then we are going to act. I feel that this is actually a better approach to a very key issue that is important to a lot of Americans.

Mr. HINCHEY. Well, I deeply appreciate the things that you are doing and the innovation that you have to improve a whole series of activities in the context of your responsibilities, so thank you. Thank you very much for everything you are doing. I appreciate it.

Mr. SIMPSON. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman.

Mr. Chairman, I want to join Ms. McCollum in telling you about the decor.

Mr. SIMPSON. Thank you.

Mr. SERRANO. It actually says something positive of our sitting on this side of the table as a witness, but as you know, I never miss the opportunity to represent the two districts I represent, New York and in Puerto Rico, and so I will get you a picture of the rainforest and one of maybe Niagara Falls. Do you come to Niagara Falls also?

Mr. TIDWELL. No.

Mr. SERRANO. It is not a forest.

Mr. TIDWELL. No.

URBAN AND COMMUNITY FORESTRY PROGRAM

Mr. SERRANO. Who comes to Niagara Falls? We will have to find out.

And also, Mr. Chairman, I want to take an opportunity publicly to thank you for something that happened last year, which was unnoticed by most people, did not revolutionize a lot of things but it meant a lot to me, and that is that after some conversations public and private under your leadership, the staffs sort of began to understand that the territories have to be mentioned on a regular basis in an idea of fairness, and once that is implanted, it is hard for it to disappear from committee work. So I think that under your leadership, that has happened, and Mr. Moran and I have discussed this for years, and it is a good thing and it is a healthy thing, and it is your leadership that did it, and I thank you for that.

Last year, sir, the Forest Service helped produce a report designed to enhance America's urban forests. The report was entitled "Vibrant Cities and Urban Forests: A National Call to Action." This report called for new standards and practices, and I understand that New York City wants to be a pilot for this effort. Can you tell

me the status of this effort and what is planned investment for this pilot project?

Mr. TIDWELL. We have completed the report, and there are 12 recommendations that are in that report that we are moving forward to begin to implement those. It talks about the importance of promoting environmental justice in our urban communities, especially with folks that are underserved and do not have all the same access that some others do in this country, highlighting the importance about these urban ecosystems. So many folks in America they are not going to ever get to go visit their national forest. Their forest is going to be what they see in their neighborhood, and so it really stresses the importance of those urban ecosystems, and then also the importance for us to be able to work together across federal agencies, with the states and with the cities about supporting green infrastructure and finding not only the technical assistance but being able to coordinate programs so that we are able to move forward with this.

The other key part of it was green jobs. In New York City, we had tremendous success when we partnered with the city to assist in planning the Million Tree effort. The other key part about that was the jobs. Jobs were created because of a training program to take youth, young adults from the city and actually provide them the training and the expertise so they could care for urban forests. Many of those folks now have gone on to be employed. To me, that is the success. It is one of the reasons we created our urban field station in New York City, so we actually have a presence there. We have staff and some technicians that are working together with the urban foresters and the planners in that city.

The other thing I want to point out too is the connection with research. Our research has along with some key partners, developed software. It is called i-Tree. It is available to all of us. You can get on the web and pull it up. You go onto i-Tree and it will actually help you decide where you want to plant trees around your home, around your business to promote energy efficiency. Over 800 cities are using this program to help them understand where they need to place the urban forests, the type of urban forest, and more importantly, the economic benefits so the folks can then sit down with their city councils and their mayors or their county commissioners or county supervisors with information that shows urban forestry is a good investment. Not only is it good for the quality of life but it can actually save money. We have cities now that are able to reduce the size of their stormwater drainage systems by increasing urban forests. This is just another connection that we want to make sure that our research, can apply through our Vibrant Cities and Urban Forests program.

Mr. SERRANO. Well, I will tell you one thing, I was elected to the State Assembly the same day that Maurice was elected, and we walked up that hill in January of 1975, and he was always our leader on environmental issues. But I tell you, in New York City in the last, I would say, 5 years, I have seen a dramatic change of people really interested in the whole issue of whatever green spaces are available to work on it, of the waterways available to us. There seems to be a desire to say okay, we live in a place that is surrounded by buildings and cement but we can make this dif-

ferent for many reasons, not only for our enjoyment but for health reasons and for business reasons, as you said. And one of the things that we always forget is that there are so many new folks always coming to the inner city and so many of the immigrants that come, let's be honest, and this is not insulting in any way, they do not come from urban settings. So many of them come from working the land, you know, and they understand this. And in conjunction with the fact that local governments are responding. The Bloomberg administration has planted more trees, I mean, there are trees everywhere in New York City. And so I see this desire to work with you folks and I see your desire to do it, and I thank you for that, which brings me to my next question with that field office. With the budget the way it is proposed, does that field office still have a future in New York City?

Mr. TIDWELL. It does. We are going to continue to support that field station and part of the way we will do that is if making difficult choices. We are continuing to focus on efficiencies. So as we have to spend less money on some of our fixed costs, we are going to be able to maintain that. In fact, with our budget, we are actually requesting a similar level of funding for that program.

Mr. SERRANO. Very good. I thank you for your service and I thank you for your concern for the inner city, and as we work always, I know these are difficult budget times for all and we can disagree on cuts, but it is good to know that we have a chairman that still believes that what this committee does is important, and within those cuts we still have to preserve the beauty that was given to us. Thank you so much.

Mr. TIDWELL. Thank you.

SILVICULTURE EXEMPTION UNDER CLEANWATER ACT

Mr. SIMPSON. Thank you.

Let me ask a couple of questions. The 2012 omnibus bill included language regarding implementation of the EPA's rules related to the Silviculture exemption under the Clean Water Act. Could you update us on the implementation of that bill language and have you been working with the EPA on trying to get that done?

Mr. TIDWELL. Mr. Chairman, we continue to have very productive discussions with EPA on being able to address that issue. Our focus, EPA's focus, Forest Service's focus, I believe our loggers' focus is on the same thing: providing clean water. We have a strong track record using best management practices. It is my understanding that this court case was not about water quality. It was about following a procedure, following a process that was in place. I am optimistic that we will be able to work through this issue with the EPA. They are very interested in working with us to find a way to address this so that we can still provide for the clean water but do it in a way that we do not have to put some extra burden, an extra permitting process that is not necessarily going to provide for any cleaner water than what we are doing with our best management practices now.

TRAILS

Mr. SIMPSON. Okay. I talked to you yesterday or the day before yesterday about this. Our offices receive many calls regarding the

poor conditions of our trails. Trails in our back countries cannot be accessed because of downed trees, mainly from the expansive bug infestations in Idaho's forests. In talking with the Forest Service, they have stated that it is difficult to set aside money for trail maintenance with all the other pressures on the Forest Service funding. Would you be willing to look at designating a specific fund for trail maintenance that would receive funds from recreation fees and work with user groups to match with labor and some other funds as well?

Mr. TIDWELL. Mr. Chairman, I would be very interested in working with you on a proposal like that. We have 150,000 miles of trails, and the majority of the way they are maintained is through volunteers and a lot through our outfitters and guides. I would like to see a way that we could provide even additional incentives for more partnerships. The thing I would also like to work with you on is to use this as an opportunity to employ more of our youth. This is good work for a lot of our youth crews. I would be very interested in working with you to try to set up something that would actually allow us to employ more people, get more work done, and provide some additional incentives.

STEWARDSHIP CONTRACTING

Mr. SIMPSON. Thank you, and I appreciate that.

We have talked a little bit about stewardship contracting here today. For more than 10 years, the Forest Service has provided stewardship contracting authority to folks on restoration. The authority was approved courtesy of the appropriations process really and not the authorizing process. I mentioned to you that I am committed to making this authority permanent but we have run into a couple of snags with technicalities and House rules. I will continue to do whatever we can to make sure we continue this program. Can we count on the Administration to champion stewardship contracting aggressively in this coming year? Are you pursuing this issue with the authorizing committees? Last year, we found out from the Budget Committee that we could not, as appropriators, make the authority permanent.

Mr. TIDWELL. Yes, we will continue to expand the use of this tool. Yes, I bring it up with everyone I possibly can. It is just essential that we continue to use this.

If you look at the projects we do with stewardship contracts, there are fewer appeals, very few lawsuits, and strong support for this concept. It allows everyone that is interested to be able to see that their issue is being addressed under one contract instead of having the timber sale go forward and then the trail restoration and then the stream—maybe we will still have funding to do the stream work. By putting it all together, it just builds support so that everyone can see that their issues are being addressed.

The other key part about it is it creates more jobs. Not only are our timber purchasers able to remove the biomass, but then they are also the ones that are replacing the culverts, putting a new bridge in, working on recreation facilities. They have learned how to diversify their operations so they get more work done. It is a good tool, and I am frustrated a little bit that we have not been able to take more advantage of it. But part of the problem is that

as long as it is sitting there it is going to expire, it is more difficult for me then to get our staff to be fully committed to that along with everything else they are doing. Why invest in the training on something that they think is going to go away in another year? We have had the same problem with a lot of our purchasers and our loggers. This is just here for a few years, and I am not going to take the time to either learn or invest in additional equipment. If we can make it permanent, I think it will really make a difference. It is good. It has got a proven track record without a doubt. I will be glad to show you all the information about the things we are getting done and why it is a good tool.

Mr. SIMPSON. I have seldom talked to anybody that is opposed to this. In fact, I cannot remember—I say “seldom” because there might be somebody out there, but almost everybody I talk to supports this and says it has been a good program.

Mr. TIDWELL. I agree with you.

Mr. SIMPSON. Well, we want to work with you to try to address the concerns that came up last year when we tried to reauthorize it for, what, 5 years, 10 years in the bill, and then we found out that the Rules Committee had some issues. So we ought to be able to get this done because I think an overwhelming majority of people in Congress believe it is a good program and ought to continue, and we want to work with you on making sure we can achieve that.

Mr. TIDWELL. Thank you.

WILDLAND-URBAN INTERFACE

Mr. SIMPSON. One other issue, and I brought this up yesterday with Secretary Salazar. This committee in the omnibus removed the requirement that 75 percent of the hazardous fuels funds be spent on the wildland-urban interface, not because I do not think that is where a majority of funds are going to be spent. The reason we did this was, we believe that land managers on the ground should be making the decisions about where and what projects are done to reduce fuels, and I believe those decisions will be made better by local land managers rather than having an artificial number out there that they have to meet. Are you still getting direction from OMB to spend 75 percent of the funds on the wildland-urban interface despite this committee's directions? I hope you will work with us to try to address this language issue.

Mr. TIDWELL. We are focusing our wildland-urban interface work along with everything else on the highest priority work. It just so happens with the Forest Service, we have so many acres of wildland-urban interface and they are often the more expensive acres to treat that we continue to have a significant amount of our funding going to those acres. But it is driven by the priorities. Just as Mr. Flake here talked about the difference that we made down there in Arizona. It was tragic that we lost, I think, 50 or 60 homes down there but we saved thousands and thousands of homes because of that treatment. It is driven by the priorities, but we are going to continue to see a significant amount of work in the wildland-urban interface just based on the need.

Mr. SIMPSON. Well, I do not care if 95 percent of it is spent in the wildland-urban interface or if 50 percent of it is spent there. What I care about is that it is based on the priorities rather than

an artificial number that we throw out there. If there is a higher priority somewhere else, that is what we ought to be treating, and that was the direction I think the committee was trying to give last year by removing that language.

Mr. TIDWELL. Okay. Thank you.

Mr. SIMPSON. I appreciate the work you do.
Are there any other questions?

CLIMATE CHANGE

Ms. MCCOLLUM. Mr. Chair, one of the things that we are starting to track, and we had a good presentation on it when I was in the state house, is how climate change is affecting our forests. In Minnesota, we are really starting to see the creep in of the prairie and other plant life. I know that was another concern that the chairman had that I share, that we had climate change spread out all over. How are we kind of putting it together to really study it? Climate change also sometimes has a direct correlation to how fast some of these invasive species spread as well. So any information on climate change as we are also working on trying to understand how to coordinate, be efficient with taxpayers' dollars on the invasive species. It can be documented, especially with our forest health; that is also an economic indicator of how well my state is going to do into the future. It would be helpful for us in understanding how all these issues come together.

Thank you, Mr. Chair.

Mr. TIDWELL. Well, our research is focused on understanding the effects of what is going on with the changing climate, and our researchers have been studying this for over a couple decades. It has allowed us to be well positioned to understand what is occurring out there and then how to apply different management, whether it is to address urban issues or issues on our national forests.

When you talk about climate change, Forest Service research is focused on understanding the effects to vegetation, to our forests, to our grasslands, what is happening to our watersheds. We do not study the weather, we do not study the climate. There are other agencies that are well positioned to do that. But we take that information and we use it. This is the work that we do, and it is to understand this and then apply it not only in our urban forests but also in our national forests. It is essential that we are able to continue this because as we see year in and year out, it is not only that you see some slight changes in temperature but you see an increase in the frequency of disturbances. That is the thing that is more important I think for us to really understand what is going on and how this then is creating favorable environment for invasives, and even for some of our natural pests like the bark beetles. This stuff is all connected, and so it is essential we continue to understand that. That is what is going to be our focus on our research.

We coordinate with other federal agencies and of course with our universities to make sure that we are not duplicating efforts that we use the science, whether it is dealing with the climate or the atmosphere, that we understand that. Then our scientists use that information. We are not duplicating that. But that is where our focus has been. That is our niche. That is why we are recognized

as being first of all the largest forest research agency in the world, and why so many people internationally come to Forest Service scientists for the science that we have developed because of this expertise when it comes to understanding the effects on vegetation.

Mr. SIMPSON. That is an interesting subject. Contrary to sometimes popular belief, I am not opposed to studying climate change and the impacts on forests. What I have always wondered, ever since we started putting more and more money into it is the shotgun approach. We put money into this subject instead of into a coordinated effort to study it. As an example, the Forest Service spends money on studying the impacts on the forest and so forth. We also give a lot of money to the Park Service. Now, do the impacts of climate change change as you go into the national park as opposed to the national forest on the other side of it? I do not know. I mean, it is kind of strange. It is like everybody has got to get some climate change money, and it is the coordination of the spending that I have questioned, not the fact that we are studying climate change.

Again, I thank you for being here. Thank you for the work that you do. It is important work, and in spite of sometimes differences either within the House between the parties or maybe even within this committee, I will tell you that I think we all have the same goal. Sometimes we have differences of opinion about how to achieve that goal but we all want healthy forests in this country. We want open spaces for the American people to enjoy, and those spaces are going to become more and more important as this world gets more and more crowded. So I appreciate all you do and look forward to working with you to put together a budget that achieves these goals this year.

Mr. TIDWELL. Thank you.

Mr. SIMPSON. Hearing is adjourned.

**Hearing Questions for the Record (QFR) Prepared for the U.S.
Forest Service, Chief Tidwell**

**Hearing: U.S. Forests Service FY 13 Budget Oversight
Friday, February 17, 9:30am Rayburn B308**

Questions for the Record from Chairman Simpson

Hazardous Fuels Restrictions

In the FY12 Omnibus, the Committee directs the Forest Service to remove the requirement that 75% of hazardous fuels funds be spent in the Wildland Urban Interface.

Simpson Q1: Is the Forest Service still getting direction from OMB to spend 75% of the funds in the WUI despite Committee report directions?

Answer: The hazardous fuels funding will be used to focus on the Wildland Urban Interface (WUI) and other high priority areas. The funds will treat approximately 1,000,000 acres of the highest priority areas. Populations within the WUI are a very important consideration in determining priorities. Other considerations include municipal water supplies, air quality non-attainment areas, and completed community wildfire protection plans. The FY 2013 target for percentage of acres treated in the WUI that have been identified in community wildfire protection plans or equivalent plans is 75 percent.

Forest Planning Rule

Simpson Q2: Will the new planning rule reduce the amount of time and funding it takes to finish a forest plan? How will it do this?

Answer: The new planning rule is expected to reduce the total overall cost of revising a plan by reducing the time needed for revision. Currently, plans take about five to seven years to revise under the 1982 planning rule process. Plans revised under the new 2012 planning rule should take between three to four years, reducing the overall cost. This is achieved by removing many of the burdensome process requirements of the previous rule; streamlining the assessment phase preceding a revision by emphasizing rapidly gathering existing information, without requiring new inventories, surveys, or creating new information. The rule requires forest supervisors to manage planning within the fiscal capability of the unit.

Simpson Q3: The Forest Service has stated that the intent of the planning rule is to save time and money in the planning process.

Can you explain how the addition of a “national consistency review” by the Washington office is consistent with saving time and money on forest planning?

Answer: Though not in the previous planning rule, there is currently a national oversight process in the Forest Service planning directives (FSM 1926), which we will be strengthening with the release of the new planning rule to include a national consistency review for land management plans. Most of the oversight currently occurs at the regional level, working directly with the forests. In the longer term, the new planning rule oversight requirement will be very similar to the current process. Initially, the first forest plan revisions will be reviewed more closely to ensure quality control and consistent application of the planning rule requirements, which will reduce the overall cost of plans. The National Headquarters’ staff is committed to work with the regions and forests doing plan revisions to avoid delay and disruption of their planning process. As regions and forests become more adept at applying the new rule requirements, oversight and quality assurance may be delegated to the regions.

Multiple Initiatives – Will They Improve Performance?

The Committee authorized a pilot of the Forest Service’s proposed Integrated Resource Restoration to test a simplified budget structure meant to improve performance. However the Forest Service budget proposal shows only a very slight increase to fund these efforts.

Simpson Q4: With these new efforts and expanded authority, please explain what you plan to accomplish one year from now with this new budget structure.

Answer: The FY 2013 President’s Budget proposes \$793,124,000 as a single budget line item, Integrated Resource Restoration (IRR). Activities emphasized under IRR include those necessary to maintain, enhance, or restore watersheds at the landscape level, and meet the statutory needs for sound resource management. With full authority and appropriations in FY 2013, projected outputs and outcomes are displayed in the table below.

Budget Line Item	FY 2013 Target
Total Funding (dollars in thousands)	\$793,124
Number of watersheds moved to an improved condition class	10
Acres treated annually to sustain or restore watershed function and resilience	2,600,000
Volume of timber sold (MMBF)	2,800
Miles of roads decommissioned	2,028
Miles of stream habitat restored or enhanced	2,750

Simpson Q5: How will the Forest Service measure the increased efficiency of IRR (if any)?

Answer: One of the critical components in evaluating the successful implementation of Integrated Resource Restoration (IRR) is the Watershed Condition Framework. This framework provides the foundation and guidance for consistent identification of factors limiting a watershed's condition, determining the overall condition class of a watershed, identifies the priority watersheds to focus restoration efforts on, and identifies the essential suite of projects to improve a watershed's condition. The number of watersheds improved as a result of restoration actions is one of the key performance measures under IRR and is an integral component of the watershed condition framework. This is an outcome based measure that assesses a change in condition, rather than the traditional output based measures usually depicted by metrics such as acres treated. This increasing trend over time will help demonstrate increased efficiencies under IRR.

To evaluate the efficiency of the IRR efforts, in FY 2012 the three Regions provided with the pilot authority will submit detailed accounts of implementation. Information will be compiled into a national report illustrating how the pilot authority addressed operational efficiencies and met desired outcomes. This information will be applied to help improve the program in subsequent years.

Stewardship Contracting - Pursuing Authorizing Process?

Simpson Q6: Does the Administration support permanent authority for stewardship contracting?

Answer: Yes. The FY 2013 budget request requests permanent reauthorization of stewardship contracting. Permanent extensions of this authority is important for several reasons, including:

1. Permanent authority will remove uncertainty about how long this tool will be available and help institutionalize its use in the field. The ten year term is critical for industry to invest in the required capacity and value-added elements of treating large landscapes at reasonable costs. Most if not all of the current restoration projects will utilize stewardship instruments. Many will be relying upon full ten year contract terms.
2. Projects developed and implemented under the stewardship contracting authority create and enhance long-term relationships between the Forest Service, communities, other government entities and stakeholder groups.
3. Stewardship contracting is critical to achieving the Secretary's vision for all-lands restoration; however, it will not be the only tool we use. There is still a place for our more traditional tools, but where it is to the advantage to tax payers and the government we will use stewardship contracts.

Stewardship contracting can help fulfill the Secretary's priorities including: improving the health of America's forests, to implement on-the-ground collaborative restoration projects over large landscapes, and to contribute to local job creation.

Trail Maintenance

The Committee receives many calls regarding the poor condition of trails on national forests. Trails in the backcountry cannot be accessed because of downed trees, mainly from expansive insect infestations. In talking with the specific national forests, they have stated that it is difficult to set aside money for trail maintenance with all the other pressures on the forest that need funding.

Simpson Q7: Would the Forest Service be willing to look at designating a specific fund for trail maintenance that would receive funds from recreation fees and work with user groups to match with labor and some private funds as well?

Answer: The Forest Service already has a specific line item under Capital Improvement and Maintenance to fund trail work. In addition, the Forest Service works with a variety of user groups who provide labor and sometimes funds to increase the amount of trail work that can occur.

The Federal Lands Recreation Enhancement Act requires that recreation fee revenues be used to ensure that those who paid the fees directly benefit. This may include trail work. Where fees are authorized to be collected for trailheads, the agency does work with user groups that provide labor and matching funds to repair, maintain, and improve trails. A good example is the work done by national forests in the state of Washington with the Washington Trails Association. In FY 2010, the Mt. Baker-Snoqualmie National Forest leveraged \$500,000 in volunteer labor with the Washington Trails Association. Fees collected from Outfitter and Guide special use authorizations are available to benefit the Outfitters, which may include trail maintenance.

Research

In the FY 2012 Omnibus bill report, the Committee commended the Forest Service for its localized needs research. The Committee has heard great things about this research and how it's solving local problems with grazing and restoration (for example) and filling the 'science gap' that sometimes exists. The Committee directed the Forest Service to expand this research.

Simpson Q8: Has the Forest Service done this? How?

Answer: Localized research is research that the Forest Service Research and Development (FS R&D) conducts to address local, regional, and national needs. The agency has a long history of conducting research that provides land managers science based answers to help solve local, regional and national problems with grazing and restoration or filling the science gap that sometimes exists. The FY 2013 President's

Budget for FS R&D presents a balanced approach with prioritized research to address localized needs. FS R&D will continue to provide new information through scientists working at diverse research locations and through collaborative efforts with other federal governmental agencies, academia, state governments, local governments, tribes, nongovernment organizations, and private ranches. Examples of grazing and restoration research include:

- Scientists have identified a promising biocontrol organism that can kill dormant cheatgrass seeds and sometimes a high proportion of germinable seeds.
- Resource managers are testing ways to control leafy spurge without using herbicide that might damage other components of the riparian ecosystem.
- Research on genetic diversity and genecology of native grasses, forbs and shrubs is guiding the choice of adapted populations for restoration of grasslands and shrublands in the interior Pacific Northwest and Great Basin.
- Research on seed technology and cultural practices for seed production is focused on native forbs and grasses in settings for proposed restoration species.
- Strategies for reducing fuels and restoring fire-adapted ecosystem include thinning live and dead trees and burning surface fuels to reduce risk and severe surface and crown fires. These treatments may be effective in initiating short-term changes in forest structure and may shift existing diameter distributions toward those that might persist in late-successional forests, but single treatments or entries are insufficient to mitigate structural changes resulting from nearly a century of fire exclusions.

Simpson Q9: We are told that the reduction in the Forest Service Forest Inventory and Analysis Program will interrupt inventory cycles and the levels of data collected. How does the agency propose to deal with those disruptions?

Answer: The Forest Inventory and Analysis program will continue with reduced annual forest inventory data collection in all 50 states. This will result in extending the inventory cycles and state forest resource reports by one year for all 50 states.

Forest Health

In the Forest Service's recent report, "Increasing the Pace of Restoration and Job Creation on the National Forest" it states 12.5 million acres need mechanical treatments. This year the Forest Service is proposing to treat 211,000 acres.

Simpson Q10: How much will it cost to treat 12.5 million acres?

Answer: The FY 2013 President's Budget proposal for \$793,124,000 includes a wide variety of management activities associated with Integration Resource Restoration including those necessary to maintain, enhance, or restore watersheds at the landscape level, and to meet statutory requirements needed for sound resource management. Many of these activities involve non-mechanical treatment including reforestation, rangeland

improvements, invasive species treatments, terrestrial habitat improved for wildlife, soil and water resource improvements, and non-Wildland Urban Interface fuel treatments.

Also, under the FY 2013 budget proposal mechanical treatments will play a critical role in accomplishing a variety of resource objectives. The level of acres treated annually to sustain or restore watershed functions and resilience is 2,600,000 acres, which includes approximately 200 – 250,000 acres of mechanical treatment. Increased levels of funding would be needed to accomplish more acres of mechanical treatment.

The \$241 million requested in the hazardous fuels program will be focused on the Wildland Urban Interface (WUI) and other high priority areas which also includes restoration work. The funds will treat approximately 1,000,000 areas of the highest priority areas. Populations within the WUI are a very important consideration in determining priorities. Other considerations include municipal water supplies, air quality non-attainment areas, and completed community wildfire protection plans.

Simpson Q11: Realizing the scope of the forest health problem is huge and we'll never be able to treat every acre, how will the Forest Service complete 12.5 million acres of treatment at the current pace of 211,000 acres per year?

Answer: We cannot treat every acre in need of treatment, but we will be able to treat the highest priority acres. The annual appropriated funds are used to balance various resource management needs across National Forest System lands. The FY 2013 budget would fund a wide variety of management activities designed to balance those needed to maintain, enhance, or restore watersheds at the landscape level, and meet the statutory requirements needed for sound resource management.

The consolidation of multiple budget line items, as proposed in the President's FY 2013 budget permits the agency to focus on the highest priority. However, the efficiencies intended by the Integrated Resource Restoration (IRR) authority can only be fully realized with full nation-wide authority as requested for FY 2013. The agency's capability provided with the full implementation of the IRR authority will ensure our work is performed in the most critical areas.

Simpson Q12: How many acres, total, are dead and/or dying due to the bark beetle?

Answer: The unprecedented bark beetle epidemic across six states of the interior West is growing at an estimated 600,000 acres per year with the potential to affect the majority of our western pine, fir and spruce forests, posing serious environmental impacts. For the period 2000-2010, a total of 43,195,000 acres in the West had trees infested with bark beetles, a total of 31,862,000 of these acres are National Forest System lands.

Simpson Q13: Can you tell me how the Forest Service came to the conclusion that 12.5 million acres are in need of hazardous fuels reduction? A 2006 research paper by Forest Service researchers showed that 23.9 million acres would benefit from treatments like thinning or other harvesting activity, and that was just in the Western United States and it

excluded low fire hazard and inventoried roadless areas. Have you treated 11.4 million acres in the West in the last 5 years?

Answer: The 12.5 million acres is not an estimate of the number of acres needing mechanical hazardous fuels reduction. It is an estimate of the number of acres of National Forest System lands where mechanical treatment, e.g., commercial timber harvest, could be implemented by the Forest Service as a treatment that will restore more natural forest conditions to address decades of fire suppression, insect mortality, invasive species, the effects of climate change, and the associated build-up of hazardous fuels. This figure includes only those lands deemed suitable for timber harvest (e.g. outside wilderness, areas with fragile soils, etc.), and where scheduled timber harvest is likely to occur, and thus excluded roadless lands.

The 23.9 million acres referenced in the research paper, "Estimating Woody Biomass Supply from Thinning Treatments to Reduce Fire Hazard in the U.S. West," included all forested land in the Western U.S. Across National Forest System lands, we have treated 11.8 million acres in the last 5 years.

Simpson Q14: Does the Forest Service consider acres burned as part of Wildland Fire Use fires to be acres treated under the Hazardous Fuels Reduction Program?

Answer: After the updated "Guidance for Implementation of Federal Wildland Fire Management Policy" was approved in February of 2009, the Forest Service issued direction that revised our approach to wildland fire policy implementation. That direction eliminated the "Wildland Fire Use" category of wildland fires.

This change enabled the Forest Service to track acres burned by wildfire, even fires being actively suppressed, that accomplished fuel treatment objectives and met desired conditions described in the applicable land management plan. Acres burned from unplanned natural ignition are assessed to determine if the vegetation and other ecosystem components moved closer to desired conditions described in the Forest Land and Resource Management Plan for that specific National Forest.

If it is determined that the acres burned from naturally-ignited wildfires met the desired conditions in the Forest Land and Resource Management Plan then only through this assessment are the acres allowed to be counted as "acres treated" under the Hazardous Fuels Reduction Program. Human caused wildfires are not considered "acres treated."

Simpson Q15: How many Wildland Fire Use Fires have subsequently become Type 1 incidents in the last 10 years?

Answer: We did not collect information on the number of "Wildland Fire Use" fires that converted to Type 1 incidents prior to 2009. While a formal data collection system is not in place to track the information requested, we do monitor the occurrence of undesirable outcomes related to the practice of managing certain wildfires for resource benefit,

regardless of the type of the incident, in order to learn from those incidents and improve future performance.

Due to the implementation of Federal Wildland Fire Management Policy in 2009, the "Wildland Fire Use" category of wildland fires was abolished. The Forest Service now manages all wildfires with a singular approach where we first establish a protection strategy for those values at risk.

Simpson Q16: Are commercial timber sales just as important and effective at accomplishing resource objectives as stewardship contracts and other tools?

Answer: Forest land managed through timber harvest will continue to play a critical role in restoration, maintenance, and enhancement of national forests and grasslands. The FY 2013 President's Budget proposes to achieve an output of 2,800 MMBF in timber volume sold and to also mechanically treat forest lands through timber harvest as part of the agency's goal to increase watershed function and resilience. Both the traditional timber sale contract and stewardship contract will serve a vital role where appropriate.

Simpson Q17: When you look at all of the funding being brought to the table in CFLRA projects, what is your average cost per acre in accomplishing these projects?

Answer: The FY 2013 President's Budget proposes \$40,000,000 for the Collaborative Forest Landscape Restoration Program (CFLRP). In FY 2012 and FY 2011 this program was funded respectively at \$39,936,000 and \$24,950,000 (\$14,970,000 from NFS and \$9,980,000 from WFM in FY 2011).

Providing an average CFLRP unit cost per acre would create an unreliable and invalid metric because of the wide variety of accomplishments completed under CFLRP and the program's focus on landscape scale outcomes such as achieving a desired future state of the landscape. Accomplishments under the CFLRP program are unique to each project area and focus on landscape scale restoration of priority forest landscapes. Attempting to produce a national average cost per acre for a particular CFLRP performance measure would be misleading due to the variability in CFLRP project area restoration needs and the program's focus on landscape scale outcomes. In addition, some CFLRP performance measures are not reported in acre accomplishments.

The first projects accomplished were reported nationally in FY 2011 and included the activities listed in the table below. The FY 2011 CFLRP project funds allowed us to leverage over \$3 million in funds contributed through partnership agreements and partner in-kind contributions valued at over \$5 million. Project implementation and accomplishments are expected to increase in FY 2012 as project analyses are completed. A list of FY 2011 accomplishments is provided below.

Performance Measure	FY 2011 Actual
Acres of Forest Vegetation established	5,537
Acres of Forest Vegetation improved	20,561
Acres of noxious weed and invasive plants treated	11,393
Miles of stream habitat restored or enhanced	38
Acres of terrestrial habitat enhanced	167,263
Volume of timber sold (MMBF)	121.3
Number of green tons and/or volume of biomass	267,890
Acres of wildland interface (WUI) high priority	77,133
Acres hazardous fuels treated outside (WUI)	45,884
Miles of roads decommissioned	50
Miles of passenger car system reconstruction capital improvement	25
Miles of high clearance system road reconstruction and capital improvement	40

Simpson Q18: Do you anticipate that CFLRA and Watershed dollars will result in additional forest products outputs, or is this amount embedded within the FY13 target?

Answer: We do anticipate that investments in CFLRA and Watershed projects will result in additional outputs. These anticipated increases are displayed in the FY 2013 President's Budget and are, in part, associated with increases relative to accomplishments achieved in previous years.

Simpson Q19: What level of appropriations would the Forest Service need to reach the goal of 3 billion board feet offered in the FY 2012 Omnibus Appropriations Act?

Answer: There is no appropriation level that alone would result in the Forest Service immediately reaching a goal of 3,000 MMBF in FY 2013. The FY 2013 President's Budget proposes a wide variety of management activities associated with Integration Resource Restoration (IRR) designed to balance the needs to maintain, enhance, or restore watersheds at the landscape level, and meet statutory requirements needed for sound resource management. Based on the IRR funding level proposed in the FY 2013, the expected output is 2,800 MMBF of timber volume sold. Actions taken by the agency over the next three years are expected to increase the number of acres mechanically treated by 20 percent. These actions would increase the number of acres and watersheds restored while supporting jobs and increasing annual forest products sales to 3,000 MMBF. The volume of forest products sold was 2,533 MMBF in FY 2011.

Simpson Q20: Why did the Forest Service not include a target of 3 billion board feet in FY13 when it was directed by the Committee for FY12?

Answer: As outlined in "Increasing the Pace of Restoration and Job Creation on Our National Forests," the agency will take action over the next three years to increase the number of acres being mechanically treated by 20 percent. These actions would increase the number of acres and watersheds restored while supporting jobs and increasing annual forest products sales to 3,000 MMBF. By contrast, the volume of forest products sold in FY 2011 was 2,533 MMBF. Based on the Integrated Resource Restoration funding level proposed for FY 2013, the expected output is 2,800 MMBF of timber volume sold.

Simpson Q21: What quantity of forest products resulted from CFLRA projects implemented in FY 2011?

Answer: The first projects accomplished related to CFLRP funding were reported nationally in FY 2011. The activities related to forest products program are listed below. Project implementation and accomplishments are expected to increase in FY 2012 as project analyses are completed.

Collaborative Forest Landscape Restoration Forest Products Accomplishments

Performance Measure	FY 2011 Actual
Acres of Forest Vegetation established	5,537
Acres of Forest Vegetation improved	20,561
Volume of timber sold (MMBF)	121.3
Number of green tons and/or volume of biomass	267,890

Simpson Q22: What is the timeline for implementation of the Administrative Appeals (objection process) authority included in the FY12 Omnibus Appropriations Act?

Answer: Section 428 of the fiscal year 2012 Consolidated Appropriations Act (Public Law 112-74) directs the Secretary of Agriculture, acting through the Chief of the Forest Service, to issue final regulations providing a pre-decisional objection process for proposed projects and activities, which implement land management plans and are documented with a Record of Decision or Decision Notice, in lieu of the appeal procedures of the Appeal Reform Act (Section 322 of Public Law 102-381).

The U.S. Department of Agriculture (USDA) believes considering public concerns before a decision is made aligns with the USDA's Forest Service's collaborative approach to forest management and increases the likelihood of resolving those concerns, resulting in better, more informed decisions. An increased ability to resolve public concerns can, in turn, also help to reduce litigation.

Immediately following the signing of the Consolidated Appropriations Act, the Forest Service and the USDA's Office of the General Counsel began discussions regarding options for rule promulgation, coordination with ongoing litigation, implementation

considerations, and development of an aggressive timeline. However, the Federal Eastern District Court of California's adverse opinion against the government in *Sequoia ForestKeeper v. Tidwell* is having an effect on the rulemaking effort for implementation of Section 428. The case challenged the Forest Service's exemption of projects categorically excluded from documentation in an environmental assessment or environmental impact statement from the notice, comment, and appeal requirements of the Appeal Reform Act. The Court's order included a nationwide injunction against the use of sections of Forest Service appeal regulations to exempt categorically excluded projects from notice, comment, and appeal.

In addition to the effects of the Federal Eastern District Court of California's ruling on individual activity proposals, the ruling has impacted the regulatory drafting for a revision to the pre-decisional objection procedures at Title 36, Code of Federal Regulations, Part 218. The Court's ruling and injunction have made it necessary for USDA to further evaluate its rulemaking strategy for implementation of Section 428 with the U.S. Department of Justice.

Section 428 left intact Section 322(a) of the Appeal Reform Act and was silent on categorical exclusions (CEs). Subsequently, the Court found that Section 322(a) requires the Forest Service to establish a notice, comment, and appeal process for CEs. As a result, the Forest Service may be left with multiple administrative review processes for projects and activities that implement forest plans—one for CEs, and one for Decision Notices and Records of Decisions. This additional consideration is proceeding as rapidly as possible, and we are committed to charting a course that will provide for effective implementation of Section 428 and comply with the Court's injunction.

Thank you for your support for the Forest Service's use of pre-decisional administrative reviews.

Equal Access to Justice Act (EAJA)

Simpson Q23: Is the Forest Service tracking the dollars it spends on Equal Access to Justice Act as directed in the FY 2012 Omnibus Appropriations Act?

Answer: Yes. The Forest Service paid Equal Access to Justice Act (EAJA) fees in the amount of \$42,000 in FY 2011 and \$225,000 in FY 2010. In FY 2011, the EAJA fees paid were less than 0.003 percent of National Forest System total discretionary appropriations and did not have an appreciable effect on program funding for the agency as a whole. Similarly in FY 2010, EAJA fees paid were less than 0.015 percent of National Forest System appropriations and also did not have an appreciable effect of nation-wide program funding. The Forest Service Litigation will continue in FY 2012 and require the payment of EAJA fees. An EAJA report is being prepared and will be submitted to the Subcommittee.

Large Airtanker Strategy

The Forest Service's FY 2013 budget justification states that \$40 million is designated for modernization of the airtanker fleet.

Simpson Q24: Is the \$40 million in the budget for new contracts with private industry to obtain additional airtanker support or is it for the Forest Service to purchase new airtankers?

Answer: The Forest Service's FY 2013 budget justification proposes \$24 million to pay for the increased costs of modernizing the firefighting large airtanker fleet. These funds will be used to contract for next generation large airtankers.

The Forest Service has a history of contracting out for large air tanker services rather than developing its own organic capability for aerial wildland firefighting. Primarily due to aging airframes in the existing fleet, the number of available contract air tankers has been dropping at a significant rate and the Forest Service is now faced with the need to reconstitute much of the large air tanker capability.

Simpson Q25: Can you tell the subcommittee whether the government is exploring other business case options such as long term leases or direct procurement options to ensure we are getting the most mission capable, "combat ready" air tanker fleet for the foreseeable future?

Answer: The Forest Service is exploring numerous options for modernizing the air tanker fleet.

Last Friday, the US Forest Service released its Large Air Tanker Modernization Strategy to Congress. While the strategy document appears to be a good starting point, the plan does not describe in any detail what the next steps are for implementation under the FY 2013 budget request. Please describe for the subcommittee your implementation strategy to achieve a long term solution for maintaining the large air tanker capability.

The USFS Fiscal Year 2013 President's Budget includes readiness resources and program management funding and notes that the budget "...includes an additional \$24 million to pay for the increased costs of modernizing the firefighting large airtanker fleet".

Simpson Q26: Please share with the subcommittee some additional details on what the \$24M will be used for in FY 13? What is this funding request a down payment for?

Answer: The Forest Service is expecting to award contracts for next generation large airtankers in the near future. At the request of private industry, the Forest Service used a contract which not only delivers next generation large airtankers this year, but provides time for current and new airtanker vendors to secure financing, design and develop aircraft for 2013 and beyond. The solicitation should provide up to three next generation

large airtankers this year and up to ten additional large airtankers in 2013. Based on the contract schedule (including retirement of older planes), there could be up to 20 total airtankers in 2013, nearly half of which are expected to be next generation large airtankers.

To ensure consistent aerial firefighting response and capability, a legacy (P-2V) airtanker contract will also be part of our strategy to maintain the number of large airtankers until next generation airtankers are fully operational or the legacy airtankers run out of service life. The current contract for the legacy airtankers ends in December of 2012. Another contract will be advertised in 2012 which would include legacy large airtankers and will be structured to provide the most flexibility to both private industry and the Government. The \$24 million will pay for contract costs associated with next generation large airtankers, which are expected to cost 75 percent to 100 percent more than the legacy P-2V airtankers, in accordance with our large airtanker modernization strategy.

Simpson Q27: Has the USFS developed its business case analysis to assess options for modernizing the large air tanker fleet, and if so, can you share with the subcommittee some of the criteria, the aircraft options, capabilities, etc. that USFS believes are desirable when building back the large air tanker capability? Are there aircraft out there that seem to have an inherent and proven capability and are “combat ready” to meet the very demanding aerial firefighting mission?

Answer: An aviation business case, required by OMB Circular A-11, is currently under review at USDA. Ideally, next-generation large airtankers should be designed for the maneuver load impacts of the airtanker mission. As mentioned in the Large AirTanker Modernization Strategy, the performance standards for next generation large airtankers are as follows:

- Turbine (turbo-prop or turbo-fan) powered and should be able to cruise at a speed at or greater than 300 knots, or 345 mph.
- Minimum capacity should be at least 2000 gallons of retardant, 3000 gallons or more would be preferred.
- Comply with contract Structural Integrity Program (Continued Airworthiness Program) requirements including but not limited to: certificated by the FAA in the standard or restricted category; supported by the original equipment manufacturer (OEM); have an FAA-approved maintenance and inspection program designed for an airtanker; and have FAA approval of all modifications and alterations to the aircraft which change the configuration to the firefighting role.

The Lockheed Martin C-130J was designed for missions similar to the maneuver load impact of the airtanker mission and meets the performance requirements listed above. It would be a new aircraft not possessed by the military. It has a proven record as an airtanker when flown with the Air National Guard Channel Islands 146th Air Wing using the MAFS 2 retardant system.

Other potential next generation aircraft listed in the Large Airtanker Modernization Strategy were designed as commercial passenger transport aircraft, a mission that is not comparable to the maneuver load impacts of an airtanker in the wildland firefighting environment.

Aircraft options are included in the Large Airtanker Modernization Strategy. For example, the British Aerospace BAe-146, Bombardier Q400, Boeing MD-87 and the Lockheed Martin C-130J.

Although, Single Engine Airtankers (SEATs) and water scoopers have been specifically designed for the firefighting mission, no large airtanker has been purpose-built for firefighting. However, there are large aircraft that were designed for missions that are similar to the stresses of the airtanker mission. There are also several modern commercial passenger transport aircraft that have been proposed to be reengineered and rebuilt for the firefighting mission. All aircraft would require additional inspection and maintenance programs to safely function as airtankers.

Chief Tidwell, I understand the US Forest Service had to operationally deploy the new Mobile Aerial Firefighting System 2 (MAFFS 2) system on C-130 aircraft flown by the Air National Guard during some of the most intense stretches of the 2011 fire season.

Simpson Q28: Can you provide the subcommittee some observations on how the system performed in supporting your aerial firefighting operations?

Answer: The recently fielded MAFFS 2 was activated for fire response out of Abilene, Albuquerque, Boise, and Austin in 2011. These systems dispense a full 3,000 gallons of retardant and performed on par with commercial systems. Their retardant line is narrower than the existing commercial tank systems but also more consistent. The systems are reliable with only minor maintenance issues to-date.

Simpson Q29: Can you also comment on the suitability and effectiveness of the C-130s in this role?

Answer: This is the 39th year of using the military C-130 with the MAFFS. The joint military -- Forest Service mission brings together flight crews with the skills and proficiency to transition easily into this special use mission. The aircraft have good visibility for the flight crews, are maneuverable in the mountainous terrain, are able to carry the target volume needed for wildland fires, and have the speed to respond quickly to the typical fire dispatch.

Questions for the Record from Mr. Calvert

Station Fire

A December 2011 GAO report on the Station Fire listed several management issues that the Forest Service should address to better respond to similar fire incidents in the future. Although some of the GAO's suggestions have been implemented, the GAO notes that others have not. Specifically, the Forest Service "has not clarified its expectations about when its own assets are to be ordered instead of other agencies". As I'm sure you remember, the Forest Service received some criticism for choosing to mobilize its own assets over local assets even though its assets were located farther away and would take longer to arrive.

Additionally, the GAO notes that while your agency prepared a "lessons-learned" report after the fire, the GAO expresses concerns that this report "does not fully describe other actions the agency expects to take to implement lessons from the fire or time frames for doing so". I am concerned that if we do not implement these lessons learned in the near future the Forest Service may miss opportunities to fully capitalize on the timeliness of these lessons learned.

Calvert Q1: Can you please update this committee on what you have done to address these GAO concerns and when you expect to have these concerns fully addressed and new policies implemented? If the forest service has chosen to not fully implement these suggestions, why has it made that choice?

Answer: The agency's formal response to the final audit recommendations, the Statement of Action, is in draft form, but the Forest Service is working to address needed changes. Some recommendations and Lessons Learned involve national Forest Service issues and some are specific to the Pacific Southwest Region or the Angeles National Forest. The Forest Service National Headquarters has been and will continue to work closely with the Regional Office and the Angeles National Forest to respond to GAO's recommendations and fully implement the lessons learned from the Station Fire, in the following areas:

Response to Wildland Fire by Firefighting Assets

During initial attack operations (and in some cases, extended attack operations) closest available resources are mobilized, including Forest Service, other Federal, State, local, and contract assets. Closest forces are mobilized in situations where timing of response is critical, such as lives, property, or critical infrastructure is at risk. Forest Service and other federal assets may be prioritized for federal fires providing they can meet incident needs. In California (Region 5), the Forest Service will continue to follow mobilization protocols as documented in the National, Regional and California guides as well as Cooperative Agreements and Operating Plans.

Night Flying

At the National level, the Forest Service is thoroughly analyzing options for safe and effective night time aircraft firefighting operations. Regionally, the Forest Service participated in an interagency workshop made up of federal, state and local government agencies to review the Night Flying Guidelines and operational implementation protocols. For FY 2012, the Forest Fire Management Plan was updated on April 1, 2012 and the LA County Annual Operating Plans will be updated and finalized by May 1, 2012.

Fire Modeling Improvements

The Station fire's plume-dominated fire behavior is extremely difficult to predict and model. As a result, Forest Service Research is exploring new and emerging technologies that can aid in modeling wildland fire plume dynamics in several labs. As quickly as research produces updates the Forest Service will incorporate this information into training delivered to the field.

Working with Wildland Urban Interface (WUI) Communities

The Forest Service has embraced the role of providing education, awareness, tools, assistance, and funding to help local communities and residents address the risk associated with wildfire. Primarily, the Forest Service has funded and promoted the National Fire Protection Association's Firewise program since its inception. In addition, the Forest Service provides State Fire Assistance and Volunteer Fire Assistance funds to help address WUI issues through projects such as Fire Adapted Communities, Firewise, Ready, Set, Go!, development of Community Wildfire Protection Plans, and hazardous fuels mitigation. The Angeles National Forest is preparing an environmental analysis that will allow private landowners to treat hazardous fuels up to 200 feet, if warranted, from their primary residences, expected to be signed in May of 2012.

Defensible Space

The Angeles National Forest will continue to follow the direction established by the Regional Forester in his December 17, 2009 letter of direction for minimum requirements for defensible space around structures within and adjacent to National Forest lands. The Forest has also sent letters to special use permittees regarding reducing the hazardous fuels on their permitted area and is updating their evacuation route maps to be complete in May of 2012.

Tracking Aircraft Water Delivery

The Forest Service has installed Automated Telemetry Units in three large airtankers currently on Forest Service contract, to provide speed, drop height, direction, and quantity of retardant via an onboard flight following system. All of the Forest Service contracted P2V airtankers will be fitted with an Automated Telemetry Unit system by July of 2012. Additionally, any next generation airtankers will be equipped with the Automated Telemetry Units as aircraft are placed under contract.

Interagency Agreements

The Forest Service National Headquarters issued a letter in early FY 2012 reminding National Forests that it is a best management practice to ensure these agreements and annual operating plans are appropriately updated to account for any changed conditions and in place prior to fire activity. Regional Foresters will continue to meet regularly with their federal, state, tribal and local counterparts to ensure the various cooperative agreements and Annual Operating Plans are reviewed, updated and understood annually.

Resource Ordering and Status System (ROSS) Application Enhancements

A major effort to re-engineer ROSS to incorporate new technology is underway with a targeted release in early 2013. As a part of this effort, a contact tab for Aircraft and Equipment Resource Items will be added, as well as an auto-documentation feature for diversion of tactical aircraft, which were identified as lessons learned from the Station Fire. The Angeles National Forest updated and issued their Emergency Communication Center (ECC) guide on September 28, 2011. This guide is required to be used and followed for all Forest communications and provides specific direction for ROSS Business practices.

Documentation and Record Keeping

The Forest Service continues to use automated tools such as the Resource Ordering and Status System (ROSS) Application to document specific information on resource requests including the date and time that resources were ordered, filled, cancelled, or determined "Unable to Fill" (UTF) and by whom. Any additional pertinent information, such as significant delays or special requirements, is documented by ROSS as well as other systems of record including Wildland Fire Decision Support System (WFSS), Computer Aided Dispatch (CAD).

Incident Communications, Public Information, FOIA

The National Headquarters for the Forest Service has increased its use of webinars, podcasts, and other online tools to help agency employees better serve the public during wildfire incidents. The Forest Service has instituted improvements in its Freedom of Information Act/Privacy Act (FOIA/PA) process by conducting a nationwide FOIA training webinar and posted it on the FOIA/PA website. The Angeles National Forest continues to work with cooperators in an effort to develop a Joint Information System (JIS) with area cooperators to ensure there is consistent and timely internal and external communications before and during a fire. The Forest participates quarterly in the Southern Region Public Information Officer Group, which consists of all local cooperators including Cal Fire; the last meeting was in March 2012.

Dispatching, Coordination Center Protocols

National, geographic, and unit resources are requested and mobilized in ROSS in accordance with established business practices. The Angeles Lessons Learned document was presented at the Forest Service's 2011 California Interagency Emergency Communications Center Manager's meeting (March 2011). The Angeles National Forest updated and issued their Emergency Communication Center (ECC) guide on September 28, 2011; which is required to be used and followed for all Forest communications.

Additionally, the Angeles Emergency Communication Center installed a new recording system to capture incoming radio traffic on all frequencies coming in on March 17, 2011.

Transitional Briefings

Nationally, transition briefings between incoming and outgoing Incident Management teams are standard practice. The two Geographic Area Coordination Centers in California have each prepared an in-brief checklist for Type 1 and Type 2 Incident Management Team briefings in support of Forest level incident activities. In FY 2011, the Angeles National Forest implemented a complexity analysis and transition guide process, which determines the appropriate management level resources for all incidents to assist Line Officers and Fire Staff in determining the complexity level (Type) and appropriate management organization best suited for the incident.

Type III Incident Commander Refresher

As of April 2012, all Angeles National Forest Type III Incident Commanders and Trainee's had completed Incident Commander Type III simulation programs as a training and development tool.

Interagency Coordination

The Forest Service works persistently to achieve strong interagency coordination among local, state, tribal and Federal agencies and a willingness to collaborate in order to resolve conflicts and enhance partnerships. Nationally, the primary interaction takes place with the National Wildfire Coordinating Group (NWCG) year around. As the Region prepares for the 2012 fire season, they will maintain participation with the California Wildfire Coordination Group and FIREScope to achieve better coordination with all stakeholders. The Angeles National Forest is continuing to work with the agencies, elected officials, communities and stakeholders to strengthen relationships and communication.

Land Transfers

One complaint about the Forest Service I have heard in my district has to deal with land exchanges between the Forest Service and other interested parties. In particular, I often hear that these exchanges take a very long time to complete due to administrative delays on the part of the Forest Service.

Calvert Q2: Why do they take so long to complete?

Answer: The Forest Service must comply with laws and regulations that require the agency to protect the interests of the U.S. when transferring land into and out of Federal ownership. Exchanges must be based on equal land values and need to demonstrate an overall public benefit considering factors such as fish and wildlife habitats, cultural resources, watersheds, wilderness and aesthetic values, enhancement of recreation opportunities, public access, and logical and efficient management.

There are multiple components to an exchange that are frequently time consuming and costly.

1. A land exchange involves a preliminary analysis to weigh the public benefits and consider the feasibility of processing the exchange. It can take several months to identify the estates, review title reports, conduct field inspections, survey boundary lines, and determine if the exchange meets management objectives.
2. Every land exchange involves public scoping. If there are community issues, delays can be added in order to develop mitigation measures. For example, delays could be added when there is a significant loss of private lands in a small county and/or loss of tribal hunting and gathering rights on Federal land.
3. Any time Federal lands are conveyed an environmental analysis is required. National Environmental Policy Act (NEPA) regulations require an environmental analysis, which may take two years or more to complete depending on the size or complexity of the exchange. Conducting an environmental analysis requires a variety of surveys to determine the impacts to specific resources (wildlife, cultural heritage, watersheds, etc.). In addition, once the Forest Service decides to proceed with an exchange, the decision itself may be challenged administratively or in the courts adding further time to the NEPA process.
4. The appraisal value for all properties must comply with Federal standards. All properties proposed for exchange must be appraised and be equal in value or equalized by up to 25 percent with cash. The proponent in the exchange has to accept the appraised value in order for the exchange to move forward. The applicable time for a federally approved appraisal is one year. Additional time and costs are added to the process if the proponent disputes the appraisal or obtains a new appraisal.

I posed the question of why these transfers take so long to complete to the GAO and IG during previous meetings of this Subcommittee. GAO and the IG indicated that part of the reason for these administrative delays was because the Forest Service had inadequate staffing to conduct these exchanges and that the Forest Service may also be falling short in training necessary staff on land exchanges.

Calvert Q3: How do you respond to this? What actions has the Forest Service taken in this budget year to address these concerns?

Answer: In the June 2009 report, "BLM and the Forest Service Have Improved Oversight of the Land Exchange Process, but Additional Actions are Needed," GAO reviewed 109 land exchanges completed by the Forest Service and 38 land exchanges completed by the Bureau of Land Management between 2004 and 2008.

The Forest Service generally concurred with the findings and recommendations in the GAO report. The Forest Service has issued new guidance to require full disclosure of the relationship between a third-party facilitator and other parties to an exchange. We have updated our exchange guidance to provide clearer direction on exchanges and incorporated it into our training. Finally, we have taken steps to improve appraisal timeliness.

The Forest Service believes the three issues identified in the previous question (preliminary analysis, environmental review, and appraisal) play a more significant role in determining whether a land exchange project is completed on time.

The agency is doing the following to facilitate the inadequate staffing needs to conduct land exchanges:

1. Designed a lands training course and continuing to support attendance at the Complex Lands Tenure Training. This course is offered every other year.
2. Conducting succession planning to handle upcoming retirements and loss of technical expertise.
3. Dedicating funds to provide for detail opportunities to assist in additional on-the-job training.

The outcome of these investments will be more trained staff. However, the reality is that exchanges are costly and take time due to the complexity of conveying Federal land, which involves layers of laws and regulations to analyze the effects and benefits of trading lands, as is explained in our response to question 2.

Border Security

Chief Tidwell, it is no secret that U.S. land borders remain one of the United States' most vulnerable national security weaknesses. Every day our borders are not secure is one more day that drugs, human traffickers, illegal immigrants and terrorists can gain illicit entry into this country.

Calvert Q4: Does the Forest Service have sufficient resources and authorities to play its part in protecting Forest Service lands along the border? Have border protection resources been fully provided for in this year's budget? If not, what does the Forest Service need?

Answer: The Forest Service through the U.S. Department of Agriculture is statutorily charged with managing all National Forest System lands along the international border. The Forest Service shares law enforcement responsibilities over these lands (approximately 400 miles) with federal, state and local cooperators. The volume of cross border violations is a continuing threat. While it is fully recognized that Customs and Border Protection (CBP) and CPB Border Patrol (BP) have the primary mandate of

controlling and guarding the nation's borders, Forest Service Law Enforcement and Investigation's (LEI) stewardship and law enforcement responsibilities are vital to assisting in effectively defending national security, responding to terrorist threats, safeguarding human life, and stopping the degradation of the natural and cultural resources of National Forest System lands.

The Law Enforcement and Investigation's (LEI) budget line item does not separate funds specifically for border protection from other LEI activities. The FY 2013 President's budget for LEI will continue to stress the importance of coordinating the efforts of border protection with all of their federal, state, local and tribal partners.

Simpson Q5: To what extent does the Forest Service work with DHS and the Border Patrol to secure the borders? How could cooperation and coordination between the Forest Service, DHS, and law enforcement at all levels be improved to better secure our borders?

Answer: Forest Service Law Enforcement and Investigation (LEI) continues to coordinate and participate with CBP and BP in a multitude of patrols along international borders throughout the year. Through this interagency cooperation, partners utilize various methods of travel to include: motorized vehicles, foot patrols, snowmobile, horseback, water craft and various forms of aerial patrol. Over the last few years, Forest Service LEI has been a willing and instrumental partner with CBP and BP in several large operations along the northern and southern borders.

Cooperation and coordination between Forest Service, DHS, and federal, state, and local law enforcement agencies can be improved by keeping the lines of communication between all levels open. Sharing of information and resources, by cross training and educating, allows all agencies to be better equipped and to multiply efforts to ensure each agency's mission is accomplished.

Calvert Q6: We heard from the GAO and IG that although DHS and the Forest Service do cooperate, the cooperation sometimes suffers from a lack of information sharing and interoperability. What have you done to improve cooperation and interoperability between the Forest Service and DHS?

Answer: The Forest Service continues to implement the 2006 Memorandum of Understanding, Cooperative National Security and Counterterrorism Efforts on Federal Lands along the U.S.'s Borders and the Memorandum of Understanding Regarding Secure Radio Communications signed by DHS, DOI, and USDA regarding joint projects and operations. Forest Service employees and Forest Service LEI regularly consult with DHS personnel on the northern and southwestern borders pertaining to issues that may pose a threat or impact to public lands, visitors and USDA employees. This is accomplished through various interagency groups including the Borderland Management Task Forces, the Okanogan Integrated Border Enforcement Team, the U.S. Border Patrol Public Lands Liaison Agents, and the Environmental and the Cultural Stewardship Training Task Force.

Questions for the Record from Mr. Flake

Arizona's Wallow Fire

The Forest Service has indicated that the response to Arizona's Wallow Fire in must be immediate and sustained and promised Arizonans that the Forest Service would be fully committed to the recovery and rehabilitation mission in the post-fire environment. An independent assessment team from the Forest Service identified approximately \$100 million worth of needed rehabilitation projects in the Wallow Fire burned area through Fiscal Year 2018. Yet, after six months and comparatively little accomplished, Arizonan's are worried that this commitment may be hollow.

Flake Q1: What is included in this budget proposal for Wallow Fire Recovery work? Do you think that is an adequate response to the identified needs on the ground?

Answer: The FY 2013 budget request does not identify a specific funding amount for Wallow Fire recovery. However, the Southwestern Region is one of the three pilot regions for the Integrated Resource Restoration (IRR) program. Since much of the needed recovery work for the Wallow Fire falls in the IRR program area, the Region and Forest will have full flexibility within their IRR allocation to direct an appropriate amount of resources to this effort, balancing Wallow Fire recovery with other Forest and Regional restoration priorities. The region was also provided an additional \$1 million dollars in FY 2012 to assist in implementation of the Wallow Fire recovery.

Flake Q2: Can you detail recovery effort to help reassure Arizonans that the Forest Service is truly committed to that immediate and sustained recovery you talked about during the fire?

Answer: Burned Area Emergency Response work was essentially completed within three months of the fire. In an attempt to minimize anticipated post-fire damages, over \$28,000,000 was spent to seed and mulch about 34,000 acres of the most severely burned areas and to seed an additional 47,000 acres. Hundreds of miles of roads and channels were stabilized against flood damages and dangerous hazard trees were removed along roads. An additional \$3,000,000 was spent last fall to perform priority rehabilitation work to support range livestock restocking, road and trail safety, and wildlife habitat recovery.

In FY 2012, the Forest will spend over \$2,000,000 to perform critical work. Current FY 2012 work plans include repair and reconstruction of priority high-use trails; reconstruction of burned pasture and allotment fences; installation of beetle pheromone packets to protect burned areas from beetle invasion in Mexican spotted owl Protected Activity Centers and developed campgrounds; and wildlife surveys to support salvage; and other recovery work.

Additional temporary personnel are being hired in the areas of wildlife biology, range management, and National Environmental Policy Act compliance to assist with recovery projects. The Forest Service is hiring a two-year term volunteer coordinator to manage

partnerships and volunteers interested in recovery work in the fire area, as well as an Apache Trout Coordinator, in partnership with Arizona Game and Fish, to focus on recovery of that species.

NEPA Alternative Arrangements for Fire Recovery Work

Compliance with National Environmental Policy Act can be time consuming and difficult under the best of circumstances, but after a half a million acre fire it can be nearly impossible. It is my understanding that NEPA is already significantly complicating the response and causing significant delays in getting work accomplished on the ground. I, along with my Arizona colleagues, wrote to the Forest Service back in July last year urging the Service to request that CEQ grant alternative arrangements for compliance with NEPA for the activities needed to respond to this fire.

Flake Q3: Has the Forest Service requested alternative arrangements from the Council? If so, please provide a copy of the request. If not, why hasn't CEQ been asked to assist this Forest with NEPA?

Answer: Typically the Council on Environmental Quality (CEQ) provides guidance on large post-fire NEPA evaluation to determine whether Alternative Arrangements (40 CFR Section 1506.11) (36 CFR Section 220.4) would apply to any proposed projects. The Forest held discussions with CEQ and based on the Burned Area Emergency Rehabilitation (BAER) work completed, the recommendations from the Rapid Assessment Team (RAT), and other actions being undertaken, it was concluded Alternative Arrangements are not appropriate at this time. We will continue to work with CEQ to determine whether alternative arrangements are appropriate for future recovery projects.

The Forest Service has begun planning on the Wallow West project. This will provide the National Environmental Policy Act compliance for a large portion of the fire area. A decision is expected in June 2012, with implementation anticipated to begin in the summer of 2012. Funding levels support the use of existing personnel to undertake the primary analysis of the Wallow West project. Planning for the Wallow West is projected to cost \$300,000.

Salvage Work

There are tremendous opportunities and needs to remove dead and dying trees across the Wallow Fire Area. If the Forest Service moves quickly, while these trees still have value, this work can be accomplished at no cost to the Forest Service and can provide a needed boost to industry. In addition, the treatments accomplished through the White Mountain Stewardship Contract are credited with saving many of the affected Wallow Fire communities.

Flake Q4: Please explain how the White Mountain Stewardship Contract fits into the Wallow Fire recovery effort and what the Forest Service is doing to help communities in

the Wallow Fire Area take advantage of any economic opportunities (e.g., salvage timber).

Answer: Planning for the Wallow West salvage area has been on-going since November 2011 and is scheduled for decision in June 2012. The Forest has completed reviews consistent with Section 18 of the Forest Service Handbook (FSH) 1909.15, National Environmental Policy Act for areas committed to the White Mountain Stewardship Contract (WMSC) that were burned in the Wallow Fire. The purpose of Section 18 review is to determine if changed conditions warrant additional analysis. Treatments are occurring only in areas where conditions did not necessitate new analysis.

Subsequently, we have awarded three Task Orders to the WMSC for approximately 3,000 acres of salvage in these areas. We are currently preparing a fourth task order for 2,900 acres. We are also removing additional salvage in proximity of dispersed recreation sites and along open roads. Upon completion of the Wallow West environmental analysis, the Forest Service plans to begin an analysis of another large area for salvage around the communities of Alpine and Nutrioso, Arizona.

The WMSC has entered into an agreement to treat the fire salvage trees at zero cost to the Government in a goods-for-services framework. The work to be done includes removal of burned trees in a manner consistent with restoration of this vegetation type, and redistribution of coarse woody debris to reduce erosion and other potential watershed impacts from the loss of ground cover. Traditional costs of WMSC treating "green" trees generally range upward of \$450 to \$500 per acre. Approximately 287 miles of roadside hazard trees have already been sold competitively, and an additional 250 miles of roadside hazard tree salvage are left to sell. Task Orders have been issued to WMSC for approximately 5,900 acres of burned over land. The Forest Service will make an anticipated 15,500 acres in the Wallow West area available to WMSC. Additional salvage within the Wallow Fire, outside the Wallow West area, will be open to competitive bidding.

The Apache-Sitgreaves National Forest is working diligently to support communities that rely on the Forest for economic livelihood. Roadside salvage sales are supporting local industry and markets in both northeastern Arizona and some communities in nearby New Mexico. Current additional planned salvage would also support local industries in the White Mountains communities.

The Forest reopened popular recreation areas such as Big Lake and Crescent Lake that draw tourists who contribute to local businesses. We worked with the Arizona Game and Fish Department shortly after the fire to ensure safe access for hunting within the fire perimeter to support local outfitters and guides.

The Forest made personal use firewood available at \$5/cord, reduced from the normal \$10 to \$20/cord. The Forest Service has completed a damage assessment for trails within the fire perimeter; as a result, we are prioritizing trail repair and maintenance work to

accommodate the local users and outfitter guides so popular areas are accessible when the season starts.

Restocking of livestock grazing would occur within the fire area dependent upon resource conditions. The Forest has completed an assessment of all grazing allotments affected by the fire and is working closely with permittees on appropriate restocking levels that will support the viability of their livestock operations while allowing recovery of the moderate to high severity burned areas. The Forest Service has also purchased and is allocating fencing materials to permittees to assist in the replacement of critical infrastructure required for restocking.

Forest Treatments

According to the Congressional Research Service, there are more than 75 million acres of federal land at high risk yet only about 3 million acres, less than 1 percent, of federal lands are treated annually. Clearly, current treatment rates are insufficient to address this problem. However, the current federal system continues to give funding priority to suppression. This year's Forest Service budget proposes cuts to the hazardous fuel programs.

Flake Q5: Your budget justification talks about focusing on restoration through the new Integrated Resource Restoration program, but is this a real strategy for strategically and aggressively treating our forests?

Answer: The agency's strategy and expected outputs and outcomes are reflected in the FY 2013 Budget Justification for Integrated Resource Restoration (IRR). This would fund a wide variety of management activities designed to balance those needed to maintain, enhance, or restore watersheds at the landscape level, and meet statutory requirements needed for sound resource management. Many of these activities include forest treatment, reforestation, rangeland improvements, invasive species treatments, terrestrial habitat improved for wildlife, soil and water resource improvements, and non-Wildland Urban Interface fuel treatments. The annually appropriated funds are used to balance various resource needs across the National Forest System Lands.

The consolidation of multiple budget line items, as proposed in the President's FY 2013 budget permits the agency to focus on the highest priorities activities with minimal administrative constraints. However, these efficiencies intended by the IRR authority can only be fully realized with full nation-wide authority, as requested for FY 2013. The agency's capability provided with the full implementation of the IRR authority will ensure work is performed in the most critical areas. With full authority and requested appropriations in FY 2013, expected outputs and outcomes projected are displayed in the table below.

Budget Line Item	FY 2013 Target
Total Funding (dollars in thousands)	\$793,124
Number of watersheds moved to and improved condition class	10
Acres treated annually to sustain or restore watershed function and resilience	2,600,000
Volume of timber sold (MMBF)	2,800
Miles of roads decommissioned	2,028
Miles of stream habitat restored or enhanced	2,750

U.S. Forest Service Planning Rule

The Forest Service intends to issue a new planning rule for the National Forest System. While this has been a protracted process, the planning rule will be influential for those using these lands as it provides the framework for Forest Service land management plans.

Flake Q6: Many continue to hear that this new rule will reduce management plan revisions times, but what specifically in the preferred alternative will get us there?

Answer: Currently, plans take about five to seven years to revise under the 1982 rule process. Plans revised under the 2012 rule should take between three to four years, reducing the overall cost. Reduced time and costs will be achieved by removing many of the burdensome process requirements of the previous rule; streamlining the assessment phase preceding a revision by emphasizing rapid gathering of existing information without requiring new inventories, surveys, or creating new information. The rule requires forest supervisors to manage planning within the fiscal capability of the unit and to consider the costs when revising a plan.

Flake Q7: Do you view as too expansive the role of the Forest Service in managing species that are not on the endangered species list? Is this not a state responsibility?

Answer: The Forest Service is committed to managing habitat on national forests and grasslands to sustain the diversity of plant and animal communities as stated in the National Forest Management Act. This Act supports our commitment to manage habitats to sustain species so that protection and listing under the Endangered Species Act does not become necessary. In addition, we recognize and acknowledge the States' role in managing fish and wildlife populations and cooperate with the States in managing the national forests and grasslands.

Flake 8: What is the Service's response to concerns that this new planning rule is an attempt to circumvent the Forest Service's multiple use mandate as well as a means with which to designate/manage wilderness areas without Congressional approval?

Answer: The new planning rule is expected to improve delivery of multiple use management and opportunities by reducing the time and overall cost of planning under the 1982 rule process. Less time and resources spent planning means more ability to practice multiple use management and improve implementation of plans through projects and activities. The previous rule presented challenges in effectively providing for plant and animal diversity by requiring species viability on the planning unit and monitoring of Management Indicator Species (MIS). These requirements proved to be very difficult and expensive to achieve. The new rule provides for the National Forest Management Act required plant and animal diversity but in a more manageable way by focusing on providing habitat conditions rather than species population numbers on units. The new rule is expected to improve our ability to conduct multiple use management. The rule also explicitly includes a section on multiple uses and requires plans to provide for multiple uses in the plan area.

The Forest Service has had a long standing policy of addressing recommendations for additions to the National Wilderness Preservation System through land management planning. This process will continue to be conducted through an open public process. When the planning process on a unit is completed, there may be recommendations for additions to congressionally designated wilderness. Under the new rule, as with the previous rule, recommended wilderness will be submitted to Congress for consideration and action, and in the interim, the recommending unit will manage the area to maintain and conserve the values that made the area appropriate for wilderness recommendation in the first place.

Flake Q9: Does the preferred alternative ask for permanent buffer zones on ephemeral and intermittent streams?

Answer: The new planning rule does not require "permanent buffer zones on ephemeral and intermittent streams." It does require a unit to identify "riparian management zones" around lakes, perennial streams, and wetlands, within which appropriate management activities can occur that, maintain or restore the essential ecological functions of the water body.

Four Forest Restoration Initiatives

It is my understanding that Collaborative Forest Landscape Restoration Program (CFLRP) funds may be used to "pay for up to 50 percent of the cost of carrying out and monitoring ecological restoration treatments" like for Four Forest Restoration Initiative (4FRI) and the Forest Service has agreed to provide approximately \$14 million in matching funds. It is also my understanding in order to meet this commitment the Forest Service has begun to include in their match agency projects outside of the purview of 4FRI, with 4FRI fast becoming an umbrella for many restoration projects in the state because of the extensive matching requirement. For example, the White Mountain Stewardship Contract and salvage from the Wallow Fire were included in "other restoration work within the 4FRI area" in the 2011 4FRI CFLRP Report.

Flake Q10: 4FRI represents an important approach to cost-effective and landscape-level forest restoration and the desire to see 4FRI succeed is shared by many. How do you intend to respond to concerns that have been raised by labeling projects outside of the collaborative effort as components of 4FRI and ensure that the initiative moves forward?

Answer: The intent of the Four Forest Restoration Initiative (4FRI) is to recognize restoration needs at the landscape scale. The 4FRI projects extend across portions of the Kaibab, Coconino, Apache-Sitgreaves, and Tonto National Forests and include the White Mountain Landscape Assessment, Kaibab Forest Health Focus, and Small-Diameter Wood Supply Analysis, among others. All planned and implemented activities are consistent with the Collaborative Forest Landscape Restoration Act.

Since this issue of project consistency with the CFLRP Act was raised, by the stakeholder group in December 2011, the four forest supervisors are working to improve the disclosure process of how projects are selected, funded, and reported. The Forest Service line officers maintain the deciding authority.

Flake Q11: Specifically, are CFLRP funds intended for 4FRI being used for projects that are ostensibly outside the 4FRI collaborative effort, like the salvage efforts related to the Wallow Fire?

Answer: The Forest Service is not expending CFLRP funds on projects that are outside of the scope of the CFLRP proposal for the Four Forest Restoration Initiative, as approved by the Secretary of Agriculture. The proposal was developed by the Forest Service and the Four Forest Restoration Initiative Collaborative Stakeholder Group. The project proposal included restoration activities where the National Environmental Policy Act process was completed, or in progress. A variety of collaborative efforts were involved in developing these projects.

The Forest Service has not spent CFLRP funds for fire recovery efforts, including salvage, on the Wallow Fire.

Flake Q12: Could you please detail the Forest Service's responsibility to match CFLRP funds and the process by which \$14 million was derived as the 4FRI match target?

Answer: The Act states that CFLRP funds may "...be used to pay up to 50 percent of the cost of carrying out and monitoring ecological restoration treatments on National Forest System land for each proposal..."

The Four Forest Restoration Initiative proposal was developed in the early spring of 2010 and the proposed match amounts were based on the projects funded on the forests in FY 2010 and that similar funding levels and types of projects would continue in the future.

Questions for the Record from Mr. Hinchey

Tongass National Forest

Chief Tidwell, thank you for coming before us today. I applaud the Forest Service for drafting a budget that places the necessary and long overdue emphasis on ecosystem restoration, tourism and recreation, and job creation. This puts our federal priorities on the right page; protecting America's treasured lands and waters and keeping our economy afloat.

My question specifically addresses the Tongass National Forest, our nation's largest rainforest in southeast Alaska. Millions of Americans, and many of my constituents, have visited this forest both by cruise ship and as independent travelers. Its lands and waters support a billion dollar a year fishing industry and a tourism industry that provides over 20% of all jobs in the region. I support the Forest Service's work on a transition plan that moves management of the Tongass away from unsustainable old growth logging and towards a sustainable economic model while providing new jobs within the forest for southeast Alaskans.

Hinchey Q1: How will the budget as drafted help to bring about this long needed transition in the Tongass? I am especially interested in hearing about what kind of Tongass stream restoration projects on deck, like the very successful Harris River restoration project.

Answer: The current budget emphasizes the Forest's programs whose continued viability and growth will be critical in the transition effort; including visitor services, timber, restoration, and fisheries. In order to further build on recent restoration successes, such as the Harris River restoration project, the Region and the Tongass National Forest are also aggressively pursuing outside partnership support to increase the level of restoration work. Due to the critical importance of salmon populations to the economic health of southeast Alaska, the Tongass National Forest has worked with a number of partners to develop a detailed plan, the Tongass 5 year Watershed/Fish Restoration Plan, for pursuing restoration of several important salmon bearing streams. Our current priorities include Sitkoh River near Sitka, and Staney and Twelve-mile Creeks on Prince of Wales Island; however we are currently doing preparatory work in more than a dozen other watersheds on the Tongass National Forest.

The Tongass National Forest budget still spends over \$28 million a year on a timber program that creates 160 jobs while only investing \$1.5 million in the Fisheries and Watershed program which manages and restores the salmon fisheries which are responsible for over 7,000 jobs in the region and is by far the most important economic driver in the region and most valuable commodity.

Hinchey Q2: Why not switch those funding amounts in each of those programs?

Answer: Several stakeholders across southeast Alaska, from The Nature Conservancy to the Southeast Alaska Conservation Council, agree that a sustainable timber industry is critical to the long-term economic health of the region; in addition to thriving fishing, tourism, and mari-culture industries. In order for the timber industry to successfully transition to second growth, and therefore remain viable as an economic cornerstone for communities, the infrastructure and skills now supporting the old growth industry must form the foundation of the young growth based industry. The Region therefore has made it a priority to support the existing timber industry while we actively assist developing the transition to a second growth based industry. Investing in a national Integrated Resource Restoration program in FY 2013 is expected to contribute to a 20 percent increase in timber volume over the next three years, which will continue and accelerate our support for the existing timber industry.

Further, any reduction in the investment in existing timber sales will impact employment in the timber industry. In light of the current economy, it is important not to lose more jobs in the region. At the same time, the Tongass National Forest maintains an active fisheries program that enhances regional salmon stocks through fish passage enhancement and restoration projects. This program is renowned for its collaborative efforts and was most recently honored with the prestigious "Rise to the Future Award" in recognition of these successes. The Forest is continuing to aggressively pursue outside sources of funding to increase restoration work and making judicious use of stewardship contracting opportunities to leverage existing funds and accomplish desired restoration and maintenance objectives.

Your commitment to collaborative restoration across the national forest system is clear, demonstrated in the Collaborative Forest Landscape Restoration Program, the Watershed Condition Framework, the Draft Planning Rule and other initiatives. Yet in by far the highest salmon producing forest in the entire Forest Service system, the Tongass, there remains a significant investment in an outdated, ecologically harmful old growth timber sale program that contradicts this larger vision.

Hinchey Q3: When and how will you increase the agency's investment in SE Alaska to a meaningful scale? While the vision of the Transition Framework is compelling, I'm inclined to follow the money, which leads one to conclude that not much has changed.

Answer: In 2009, Agriculture Secretary Vilsack directed the Forest Service and other USDA agencies to assist communities in southeast Alaska move to a more diversified economy by supporting job creation. This effort is being accomplished by working in partnership with public and private organizations through promotion of small business creation, improving access to capital, creating quality jobs and sustainable economic growth, promoting job training and educational opportunities, and maximizing a forest restoration economy and by-product use. The strategy centers on areas offering the most growth potential including: renewable energy; forest restoration; tourism; subsistence; fisheries and mari-culture; transportation; and healthcare industries. Since implementation, more than \$150 million in guaranteed loans, grants and services to

communities, businesses, and non-profit organizations has been invested in the area. Our intention is to continue these programs, to help revitalize the local economy in southeast Alaska.

Hinchey Q4: For 50 years, the Forest Service sent the largest budgets to those National Forest that produced the most timber. This strategy worked. The National Forests of NW California, western Oregon and Washington, and the Tongass, produced billions of board feet of timber every year.

The Tongass is the number one producer of the nation's wild salmon. Why don't the budgets reflect that? Why doesn't the FS recognize wild salmon production as an important output?

Answer: We recognize wild salmon production is important. The Tongass National Forest and the Alaska Region are currently engaged in a process to evaluate our budget priorities for the next five years. Within the boundaries of the budgets available and direction provided by Congress, it is our intent to increase emphasis on restoration and enhancement of salmon-bearing streams. The Tongass National Forest budget trajectory over the last five years has been focusing on doing restoration. We have built an impressive cadre of partners and community support for our restoration work. This capacity and good-will is a critical component of our plan to make a meaningful and permanent shift in the economic investments made by all federal agencies in southeast Alaska.

Questions for the Record from Mr. Serrano

Forest Service Inventory and Analysis Program

The Forest Inventory and Analysis Program (FIA) is so critical to understanding the condition of America's forests, including the 100 million acres of urban forests. Yet, I see the proposed budget reduces the FIA program by about \$2.5 million from the 2012 level and \$5 million from 2011.

Serrano Q1: How does the Forest Service plan to sustain the information about the health of our forests?

Answer: The Forest Inventory and Analysis Program (FIA) program is based on partnerships in delivering the information about the current health and conditions of America's forests. Since 2005, FIA has partnered with the state of Colorado and Tennessee to collect information and report on urban forest conditions throughout each state. Through our partnerships with Colorado and Tennessee--who have funded 100 percent of the urban forest work--the FIA program has gained much experience in delivering urban forest inventories. In FY 2011, state partner contributions to delivering FIA was up \$1 million over FY 2010, a testament to the value of forest information on all lands, urban and rural. In addition, in FY 2013, the FIA program and researchers in the Priority Research Area of Urban Natural Resources Stewardship will be collaborating on a "Vibrant Cities" initiative to support urban forest related activities. FIA will continue inventories in all 50 states, (except the interior of Alaska), but at a slower rate than 2012. This will enable continued reporting on forest health issues.

Research and Development Budget

From 2010 through this proposed 2013 budget, about \$20 million (\$312 million to \$292 million) has been reduced from the Forest Service research and development program.

Serrano Q2: As a science-based conservation agency, are we certain that we can sustain adequate scientific capacity with such large reductions?

Answer: The Forest Service R&D structure has two components: Priority Research Areas and Strategic Program Areas. The Priority Research Areas address urgent needs in seven areas: Forest Disturbances, Forest Inventory and Analysis, Watershed Management and Restoration, Bioenergy and Biobased Products, Urban Natural Resources Stewardship, Nanotechnology, and Localized Needs Research (region-specific needs). The Strategic Program Areas (SPAs) are the long-term programs from which Priority Research Areas are funded; the seven SPAs are: Wildland Fire and Fuels; Invasive Species; Recreation; Resource Management and Use; Water, Air, and Soil; Wildlife and Fish; and Inventory and Monitoring.

The FY 2013 President's Budget is formulated to balance Priority Research Areas with the different Strategic Program Areas, with some program reductions necessary in other

areas. Sometimes this requires difficult choices to be made in a constrained budget. We are diligently working to bring staffing levels into alignment with the recent funding pattern. The result is a smaller workforce with a different assortment of skills and abilities than we've had in the past. We are working aggressively to retain the breadth of skills needed to tackle the highest priority problems.

TUESDAY, FEBRUARY 28, 2012.

INDIAN HEALTH SERVICE 2013 BUDGET REQUEST

WITNESSES

YVETTE ROUBIDEAUX, M.D., M.P.H., DIRECTOR

RANDY GRINNELL, DEPUTY DIRECTOR

Mr. SIMPSON. The hearing will come to order.

OPENING REMARKS: CHAIRMAN SIMPSON

Welcome, Dr. Roubideaux. It is good to see you again. Good to see you. Thanks for being here today for this hearing to testify on the fiscal year 2013 budget request for Indian Health Service.

I want to begin this morning by unveiling—I guess that is the proper word—the beautiful new addition to our hearing room that is hanging on the wall near the doorway. This oil painting was created by Evelyn Teton, a Shoshone-Bannock tribal member from the Fort Hall Reservation in Idaho. Ms. Teton's work was selected for display in the Shoshone-Bannock Tribal Justice Center in Fort Hall shortly after the center's opening in 2010 and is currently on loan to this subcommittee. I noticed in the letter they said as long as I was chairman, so we do not want you to get rid of it at the end of this year.

This piece represents the efforts being made in Indian Country to reduce the incidence of domestic violence against Native American women. In 2007, Amnesty International in its Maze of Injustice report highlighted the disturbing fact that 34 percent of American Indian and Alaska Native women will be sexually assaulted in their lifetimes. In February of 2008, the Centers for Disease Control reported that 39 percent of native women will face domestic violence. In July of 2010, the Department of Justice testified that a National Institute of Justice-funded analysis of death certificates found that on some reservations, native women are murdered at a rate of more than 10 times the national average. These are appalling statistics. These are also the very statistics that I am thinking about when I ask agencies like the Indian Health Service and the BIA to account for the funds we have been appropriating. What are we collectively doing to get these numbers down, down and still further down? For these and other statistics relating to crime and relating to health, these are true measures of success, or in this case, failure.

So I am looking forward to your testimony and to the shared dialogue about where the Indian Health Service is headed, how it intends to get there and how it measures success.

Let me also take a moment to thank you and your staff for setting up what was a very informative and worthwhile trip to Indian Country last August. Ms. McCollum, Mr. Cole and I along with

Representative Noem very much appreciated the opportunity to visit tribes in Oklahoma, South Dakota and North Dakota, and to see firsthand the hospitals, schools and other facilities that are wholly or at least partially funded through this appropriation bill. I enjoyed your company on the trip, and I hope that you can join us in late September as we plan to head to the desert Southwest, and as this is the first I have mentioned it, let me take a moment to extend the invitation of course to all members of the subcommittee who might want to go.

The fiscal year 2013 budget for the Indian Health Service is markedly different from the request just a year ago. Whereas last year's request was a 14 percent increase including full funding to maintain current services, this year's budget is a 2.7 percent increase, which does not even cover the costs of medical inflation. No doubt the budget request reflects so-called tough choices on the part of the Administration, but the problem with the Indian Health Service budget is that it takes a step backward on already underfunded programs that the United States has a legal and moral obligation to fund.

As a group, compared to the U.S. population as a whole, American Indians and Alaska Natives suffer from some of the worst health statistics in the country. Access to care continues to be a big part of the problem as American Indians and Alaska Natives know all too well not to get sick after June.

Last year, we provided an increase to help address this problem, and I am pleased to see increases in your fiscal year 2013 budget as well. I hope that in your testimony today, you can talk about how these increases will push the colloquial June cutoff date back to the end of the fiscal year. Eventually, we hope to reduce the rationing of contract care altogether.

Last year, over 2 days of hearings on programs for Indian Country, this committee heard more about the need for funding contract support costs than any other issue. Facilitating self-determination is the right thing to do because when we fall short on our obligations to fund support costs, then the tribes have to cut back on real health services. For that reason, contract support costs are just as important as the direct services we fund. A \$5 million increase in fiscal year 2013 as you have proposed puts this committee in the position of having to find a way to fund the shortfall. Last year, the House funded the shortfall, but just as this committee was preparing to go to conference with the Senate on the fiscal year 2012 budget, you reported that the House funding level of \$574 million for contract support costs was too high, that the total need was only about \$500 million and that you had the data to back that up. Based in part on that information, the House compromised with the Senate on a lower number. Now we come to find out that the true need for fiscal year 2012 is somewhere around \$530 million, and we are still waiting for the data.

These are just a few of the areas in this budget that I have questions and concerns about, so again, I look forward to your testimony and I thank you for being here today.

Mr. SIMPSON. With that, I am happy to yield to the gentleman from Virginia, Mr. Moran.

OPENING REMARKS: MR. MORAN

Mr. MORAN. Thanks very much, Mr. Chairman, and thank you for your support. Mr. Cole has been especially helpful on it as well. This is something that we have shared in terms of a bipartisan concern for Indian health.

Dr. Roubideaux, thank you for the job that you are doing. Thank you for being willing to take on this task. Of all of our responsibilities to American Indians and Alaska Natives, perhaps none is more important than health care.

Unfortunately, for many Native Americans, it is not a matter of losing good health but of ever having it in the first place. In category after category, Native Americans have a higher rate of disease and sickness than other Americans. We place a great responsibility on the Indian Health Service to try to alleviate these health disparities. The subcommittee has attempted to provide more adequate resources to carry out this responsibility, and as I say, it does not matter whether it is Republican or Democrat, there is clearly bipartisan support, and Mr. Simpson and Mr. Cole have been special advocates for this program.

As a result, we are able to provide a \$237 million increase to the Indian Health Service for fiscal year 2012, and I see that there is an additional \$116 million increase requested for fiscal year 2013. Now, I understand, Dr. Roubideaux, that difficult choices have to be made.

I do want to note my concern, though, with one aspect of the budget request. The request flat-funds sanitation facilities construction. In this day and age, it really is a disgrace that there are about 231,000, about 60 percent of Native American homes that are in need of sanitation facilities including nearly 33,000 homes without potable water, especially when we know the negative health effects that occur from a lack of such facilities. Most Americans do not even think about that. They just take it for granted. But we sure do not treat Native Americans in the way that we would treat our own communities.

I understand that when you and several members of the subcommittee visited Pine Ridge in South Dakota last August, you saw the home of the tribal president's daughter, which lacked indoor plumbing and for which the occupants in order to get water had to carry jugs down the road. It is just one example of how much there is left to do in Indian Country to provide Native Americans with the quality health care that they certainly deserve.

So I look forward to your testimony, Dr. Roubideaux. Thank you for your efforts. And I thank you, Mr. Chairman, as well as our good friend, Mr. Cole.

Mr. SIMPSON. Thank you. I appreciate that opening statement. It was very, I think, eye-opening for many of us who went on that trip. Some reservations are doing very well, like some that have casinos in Oklahoma—they are doing well in terms of being able to put their resources back into building health clinics and things like that. In other areas, and I have said this to people that I have talked to, we went out and saw people living in conditions that frankly I would not want my pets to live in, and it is a crying shame. Not only a crying shame, I think it is a crime and it is

something we have to address. These conditions obviously lead to the health problems that exist in Indian country. The trip was very enlightening for most of us.

So Dr. Roubideaux, welcome, and we look forward to your opening statement.

OPENING REMARKS: DR. ROUBIDEAUX

Dr. ROUBIDEAUX. Well, thank you, Mr. Chairman and members of the subcommittee. I am Dr. Yvette Roubideaux. I am the Director of the Indian Health Service and I am pleased to testify on the 2013 President's budget request for the Indian Health Service. I am accompanied by Mr. Randy Grinnell, who is my Deputy Director.

Well, I am also really pleased to be here as you unveil this very beautiful and powerful portrait that represents American Indian and Alaska Native women who are really central to keeping our families and communities whole and healthy, yet their health and safety are continually threatened by domestic violence, intimate-partner violence and sexual assault, and so we are committed to working with our federal partners and the tribes and with you to address domestic violence and sexual assault in our communities, and later I can provide more details, and in my testimony I do have some information about some early findings related to our Domestic Violence Prevention Initiative.

But in terms of our budget request, I first wanted to talk about some of our accomplishments and progress with the funding that you have appropriated over the past couple of years. My written statement has many more details but I would just like to highlight a few things.

Since 2008, the IHS budget has actually increased 29 percent, and this funding has helped the Indian Health Service make significant progress in our efforts to change and improve the Indian Health Service and to also address our priorities. Our partnership with tribes is really fundamental to all of the work that we do and the health of our communities, and each year we incorporate tribal priorities into our budget.

We are also making progress on reforming the Indian Health Service with an emphasis on improving the way we do business and also how we lead and manage our staff. One of the things I have done is set a strong tone at the top that we must change and improve, and we have been improving our financial controls, finding more efficient and effective ways to conduct our business matters, and using performance, management and accountability to help drive performance, and that has been very helpful. For example, IHS just was able to demonstrate its best performance ever on its audit in 2011, and our hiring times have improved and we have been able to address some of our pay disparities to help with recruitment and retention.

The Contract Health Services program, or how we pay for referred care, has demonstrated significant accomplishments in IHS reform through improved business practices and improving access to care. The CHS budget itself has increased 46 percent since 2008, and as a result, some of our contract health programs are able to pay for more than priority-one referrals. It used to be we just paid

for life and limb, and now we are able to pay for more referrals. In addition, we are working on improving the business of the program, and while the overall need is still significant, the funding increases are making a difference.

We have also made significant progress in improving quality and access to care with improvements in customer service, improvements in expansion of our Improving Patient Care program, which is our patient-centered medical home. We have improved our use of health information technology, and our special diabetes program for Indians continues to be very successful. And we have had some early significant accomplishments of our Methamphetamine and Suicide Prevention Initiative and our Domestic Violence Prevention Initiative, which we have detailed in the written statement, and in fiscal year 2011, for the first time ever, we met all of our clinical GPRA measurement goals.

The IHS Health Care Facilities Construction program has also contributed to increasing access to care and improving partnership with tribes to help complete and continue progress on some of our construction projects, and we understand that in order to get the support that we need, we have to demonstrate that our activities result in improved outcomes for local programs and the system as a whole. But also many challenges still remain.

When I was first appointed the IHS Director, I heard from tribes, patients and staff that we needed to change and improve the IHS in many ways. Although we have made significant progress in addressing our agency priorities, much work needs to continue to be done. The population we serve continues to grow, and the challenges of providing health care in rural settings are ever present.

Our data continue to show the incredible need for various types of services for the patients we serve, and we continue to work as hard as we can to meet our mission with those available resources. The increases in IHS funding over the past few years, however, have helped us make progress but we still have much to do.

Where we want to go with the fiscal year 2013 request, the President's budget helps us address these challenges and make progress in our agency's performance through targeted investments to increase access to care, improve the quality of care, support our oversight and accountability functions, and address tribal management support costs. The budget request is \$4.42 billion, an increase of \$116 million over 2012 enacted, and it includes funds to support activities that were identified by tribal priorities. So there is a \$34 million increase for inflation costs and \$20 million program increase for a total of \$54 million increase for the Contract Health Services program, which is really a top tribal priority, and we will use that to spend on expanding the purchasing of health care from private sector providers outside of the Indian health system through our provider referrals.

We have an increase of \$49 million to staff and operate newly constructed health care facilities including facilities completely constructed by tribes under the Joint Venture Construction program. A \$5 million increase for contract support costs is included for tribes that have assumed management of their health programs previously managed by the Federal Government. A \$1 million increase in direct operations will help the agency continue its reforms

and provide accountability and oversight in key administrative areas. The request also includes \$2.4 million in increases for pay costs for federal commission corps personnel. There is a \$6 million HIT increase, which will support mandatory ICD-10 implementation to continue billing and to provide \$1 million in support of the electronic dental record program.

For the facilities appropriation, we have \$81.5 million in the budget to continue construction of two facilities that are under way, and an increase in \$1.7 million will help address routine maintenance and improvement needs of our aging facilities.

So in closing, IHS has shown its ability to improve the health status of American Indians and Alaska Natives and to improve the way it does business with the resources that we have. We have shown notable progress and accomplishments and outcomes over the past few years but we will continue to move forward in partnership with tribes to make needed improvements and to improve the quality of and access to care for American Indians and Alaska Native people that we serve. The budget request helps us continue to make that progress in changing and improving the Indian Health Service.

So thank you for this opportunity to present on the President's 2013 budget request for the Indian Health Service.

[The statement of Yvette Roubideaux follows:]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT

OF

YVETTE ROUBIDEAUX, M.D., M.P.H.

DIRECTOR

INDIAN HEALTH SERVICE

BEFORE THE

**HOUSE SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED
AGENCIES**

APPROPRIATIONS HEARING

ON

THE PRESIDENT'S FY 2013 BUDGET REQUEST

FOR THE

INDIAN HEALTH SERVICE

February 28, 2012

STATEMENT OF THE INDIAN HEALTH SERVICE

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Dr. Yvette Roubideaux, Director of the Indian Health Service. I am accompanied today by Mr. Randy Grinnell, Deputy Director. I am pleased to have the opportunity to testify on the President's FY 2013 budget request for the Indian Health Service (IHS).

INDIAN HEALTH SYSTEM – ACCOMPLISHMENTS AND PROGRESS

First I would like to review what the IHS has accomplished with the funding you have appropriated over the past few years. Since FY 2008, the IHS budget has increased 29 percent and this funding has helped IHS make significant progress in our efforts to change and improve the organization, as well as in addressing the four priorities that guide our work. These priorities are: 1) to renew and strengthen our partnership with Tribes; 2) to reform the IHS; 3) to improve the quality of and access to care; and 4) to make all our work transparent, accountable, fair, and inclusive.

Our partnership with Tribes is fundamental to improving the health of our communities, and in partnership, we have consulted with Tribes in various formats and have made improvements based on their priority recommendations. We have improved consultation at the national level, consulted on a variety of Tribal priorities, held over 350 Tribal delegation meetings and held Tribal listening sessions by phone, videoconference or in person with all 12 IHS Areas each year. We regularly meet with Tribal advisory groups and workgroups, attend Tribal meetings and conferences and have established a website where we post letters sent to Tribes. We have also been working on Area and local improvements in consultation and partnership, and Tribes are mentioning that they see improvements. Tribal consultation is fundamental to our budget formulation process and each year we incorporate Tribal priorities into our budget requests.

We are also making progress on reforming the IHS with an emphasis on improving the way we do business and how we lead and manage our staff. Setting a strong tone at the top that we must change and improve has been important to our progress. We have improved fiscal controls and have found more efficient and effective ways to conduct our business matters and provide quality health care. We have worked with our Area Directors to make our business practices more consistent and effective, and have implemented better management controls throughout the system. Performance management and accountability, starting with our Senior leadership, has brought about needed changes at all levels of the agency.

Another very important area where we have made significant improvements is in how we manage and monitor our budgets. By requiring IHS Area Offices and service units

to implement more financial controls, return third-party collections to the IHS facility of origin, regularly monitor performance targets, and make improvements in the use of the Unified Financial Management System, our accounting system, IHS was able to demonstrate its best performance ever as a part of the HHS CFO audit. And even though we have improved, we continue to focus on using resources efficiently and effectively; for example, since 2010, we have reduced agency-wide travel by 24 percent.

We have continued our work to address the issues that were raised in the Senate Committee on Indian Affairs Investigation of the Aberdeen Area and the corrective actions that were implemented are resulting in improvements. Pre-employment suitability assessments and background checks are being conducted, providers are required to be credentialed and privileged to provide care, the use of administrative leave has decreased, pharmacy security has improved and financial management has improved. In addition to improvements in the Aberdeen Area, we are conducting reviews of all twelve IHS Areas to ensure these problems are not occurring elsewhere. So far, we have completed reviews in seven Areas: Albuquerque, Billings, Navajo, Oklahoma City, Phoenix, Aberdeen, and Tucson Areas. Overall, we are finding that we have appropriate policies in place, and we are making improvements to ensure consistent implementation of those policies across the system.

To improve how we lead and manage staff, we have made the hiring process more efficient and less time-consuming. And we have made progress by reducing our average hiring time from 140 days to 81 days! We are focused on implementing standard Position Descriptions, with the goal of more timely and effective advertisement that results in the right candidates. We have also been working on improving pay disparities in selected healthcare provider positions. These steps should help greatly with our recruitment and retention efforts.

The Contract Health Services program has demonstrated accomplishments in IHS reform through improved business practices and improving access to care. The CHS budget has increased 46 percent since 2008; as a result some CHS programs are able to pay for more than priority-one referrals and services. While the overall need is still significant, the increases are making a difference. With this 46 percent increase in funding, an additional 7,400 inpatient admissions, 278,000 outpatient visits and 10,000 one way transportations have been purchased.

Regarding business practices, IHS has negotiated lower rates with the Fiscal Intermediary (FI) that pays the claims for health services provided in the private sector programs. By reducing the rates from \$30.31 to \$28.00 per claim, the IHS estimates it will save almost \$1 million based on the estimated 468,000 claims processed in FY 2011. The IHS Director's Workgroup for Improving CHS has recommended specific activities to improve the business of the CHS Program, to better estimate the need, and to provide better education about the program to staff, Tribes, patients and our outside providers. We are also notifying outside providers that the recent reauthorization of the Indian Health Care Improvement Act contains a provision that prevents providers

from holding patients responsible for medical bills when the referral was approved by IHS for payment. We are working with outside providers to ensure better coordination of referrals and their payment.

We have also made significant progress in improving quality and access to health care. We have focused on improvements in customer service with many new activities throughout our Areas. The IHS Improving Patient Care (IPC) initiative is an important part of that progress. The IPC initiative is our patient-centered medical home initiative that is focused on improving how we deliver care that is centered on what our patients want and need. It also is about working better as a team in the care of the patient. We have expanded the IPC initiative to 90 sites in the Indian health system and plan to expand this initiative throughout our system.

The Special Diabetes Program for Indians (SDPI) continues its successful activities to prevent and treat diabetes. The grantees have shown that in partnership with our communities, we can reduce diabetes and cardiovascular disease risk factors in Indian country with innovative and culturally appropriate activities. For example, the Diabetes Prevention Program, designed as a demonstration project to translate research findings into real world settings, achieved the same level of weight loss as the original Diabetes Prevention Program Research study funded by the National Institutes of Health. The SDPI is authorized through 2013.

Our Methamphetamine and Suicide Prevention Initiative is also reporting some impressive accomplishments for 2011. During the first year of this congressionally-funded initiative:

- 4,370 individuals were identified with a methamphetamine addiction;
- 1,240 people entered a methamphetamine treatment program;
- Over 4,000 people participated in suicide prevention activities;
- 42,895 youth participated in prevention or intervention programs; and
- 647 people were trained in suicide crisis response.

And in 2011 our Domestic Violence Prevention Initiative:

- Developed 21 interdisciplinary Sexual Assault Response Teams;
- Served over 2,100 victims of domestic violence and/or sexual assault;
- Screened over 9,100 patients for domestic violence;
- Made over 3,300 referrals for mostly domestic violence services;
- Reached nearly 9,500 community members through community and educational events; and
- Provided 37 trainings events for approximately 442 participants on domestic violence, mandated reporting for abuse, child maltreatment, dating violence, and bullying.

Quality of care is being improved through the use of health information technology in our system. With the help of Recovery Act funds, IHS was the first large federal healthcare system to have a certified electronic health record (EHR). And we are

working hard to implement the meaningful use of electronic health records in the Indian health system. This is an important first step in the process for IHS, Tribal, and urban Indian health sites that use our Resource and Patient Management System (RPMS) to qualify for and receive the new EHR Incentive Payments from Medicare and Medicaid. This could help bring valuable new resources to the Indian health care system. It is also important for Tribes that do not use RPMS, because they can still qualify for incentive payments by using a certified electronic health record.

Performance improvement through GPRA measures indicates that the Indian health system is making progress in addressing health disparities. In FY 2011, for the first time ever, we met all of our clinical GPRA measurement goals. Several GPRA measures have demonstrated significant increases from 2008 to 2011, as follows:

- 12,606 additional diabetic patients received nephropathy assessments for a relative 26% increase.
- dental sealants placed have increased by 35,686 for a relative 15% increase.
- 24,860 additional patients were screened for colorectal cancer for a 57% relative increase.
- 23,585 additional smokers received tobacco cessation intervention for a relative increase of 54%.
- 132,161 additional patients were screened for depression for a relative increase of 66%.

The GPRA measure for cardiovascular disease (CVD) is a comprehensive assessment for five CVD-related risk factors (blood pressure, LDL, tobacco use, BMI, and lifestyle counseling).

- 4,767 additional patients were screened for a 48% relative increase.
- an additional 5,269 women received mammography screening for a relative 23% increase.

The IHS Health Care Facilities Construction (HCFC) Program has contributed to IHS increasing access to care and improving its partnership with Tribes. HCFC funding has increased by more than \$45 million since FY 2008 and is helping us complete the hospital in Barrow, Alaska, and continue construction in Kayenta and San Carlos, AZ, and begin the design of the Southern California Youth Regional Treatment Center. Recovery Act funds have helped complete the health care facilities in Eagle Butte, South Dakota last year and Nome, Alaska this year.

Collaborations with other agencies also are important in our efforts to improve the quality of and access to care. We are implementing our Memorandum of Understanding with the Department of Veterans Affairs (VA) and working with Tribes at the Area and local levels to help improve coordination of care for Native veterans who are eligible for the VA and the IHS.

In addition, our collaboration with the Health Resources and Services Administration

has resulted in designations of all IHS, Tribal, and urban Indian health sites as eligible for the National Health Service Corps loan repayment and scholarship programs. This will have a positive impact on our workforce development goals as more physicians, dentists and behavioral health providers will now be eligible to work in our underserved communities. So far, 490 IHS, Tribal, and urban Indian health program sites are approved for provider placement and 221 additional providers have signed on to work in Indian health sites through this program.

The principles of transparency, accountability, fairness and inclusiveness guide our work and decision-making. The decisions that we make need to benefit all the patients we serve, whether they are served by our direct service, Tribally-managed or urban Indian health programs. We understand that in order to get the support we need, we have to demonstrate that our activities result in improved outcomes – for local programs and for the system as a whole. We are working to communicate more about our activities and reform efforts and their outcomes.

INDIAN HEALTH SYSTEM – CHALLENGES REMAIN

When I was first appointed the IHS Director, I heard input from Tribes, patients and staff that we needed to change and improve the IHS in many ways. Although we have made significant progress in addressing the agency priorities, much work remains to be done. The population we serve continues to grow, and the challenges of providing health care in rural settings are ever present. The rise in chronic diseases such as diabetes, cancer and heart disease require more coordinated approaches to care over the lifetime of a patient. Along with the rest of the country, we face challenges in recruiting and retaining primary care providers. As reforms in the nation's health care system are implemented, our system needs to adapt to many changes, including delivery system and payment reforms. Our data continue to show the incredible need for services by the patients we serve, and we continue to struggle to meet our mission with available resources. Tribal consultation continues to identify areas for improvement and areas of need. The increases in IHS funding over the past few years have helped us make progress, but we still have much to do.

For example, the estimated need for the CHS program, defined as denied and deferred services, remains high. Reduced increases for inflation and population growth in recent appropriations results in less buying power. While vacancy rates have improved for dentists, pharmacists, and optometrists, physician and nurse vacancies continue to be high at 21 percent and 15 percent, respectively. After this year, implementation of the Electronic Dental Record is still needed in 118 sites. The Backlog of Essential Maintenance Alterations and Repair for Indian health facilities is currently \$427 million. The total Sanitation Deficiency System need is approximately \$3 billion. And the amount of funding needed to complete all facilities on our current priority construction list is \$2.2 billion. We are grateful for the funding we have received in the past few years because it has helped us make progress in the face of these significant needs and challenges.

FY 2013 BUDGET REQUEST – WHERE WE WANT TO GO

The FY 2013 President's Budget request for IHS will help the agency address these challenges and make progress on our agency priorities through targeted investments to increase access to care, improve the quality of care, support our oversight and accountability functions, and address Tribal management support costs. The budget request is \$4.422 billion, an increase of \$115.9 million over the FY 2012 enacted level. The request includes funds to support activities identified by the Tribes as budget priorities, including the following:

Current Services

The request includes \$2.4 million in increases for pay costs for federal Commissioned Corps personnel and \$34 million for inflation costs to cover the rising costs of contract health care, which is spent on purchasing health care from private sector providers outside the Indian health system. These increases impact access to care through supporting retention of health care providers and enabling IHS and Tribal programs to maintain the level of services purchased through the CHS program. An increase of \$49 million is included to staff and operate newly constructed health facilities, including facilities completely constructed by Tribes under the Joint Venture Construction Program. The success of the Joint Venture program reflects the effectiveness of our partnership with Tribes in reducing the \$2.2 billion backlog of health facility construction projects and staffing needs.

Funding Increases to Continue Improving Quality of and Access to Care

The IHS proposed budget includes a \$30.3 million increase for programs that will increase access to care and strengthen the capacity of the Indian health system to provide clinical and preventive care. The budget request includes a program increase of \$20 million for the CHS program, the top Tribal priority for program increases. This increase will expand the number of referrals for medical services in the private sector that IHS and Tribal CHS programs are able to fund. A \$5 million increase is included for Contract Support Costs for Tribes that have assumed the management of health programs previously managed by the Federal government. A \$1 million increase in Direct Operations will help the agency continue its reforms and to provide accountability and oversight in key administrative areas.

In this budget request we also target an important funding increase to the Agency's HIT systems, which are an increasingly critical and necessary component for the delivery of patient care services at the numerous IHS and Tribal hospitals and ambulatory clinics, and Urban Indian Health Programs. The HIT systems capture patient and performance data for statistical reporting and decision-making, and comprise the billing and collection system for third party reimbursements. The \$6 million HIT increase will support mandatory ICD-10 (International Classification of Diseases) implementation

and provide \$1 million in support for the Electronic Dental Record (EDR) program.

For the Facilities appropriation, the overall request is \$443.5 million. Within this increase, the total Health Care Facilities Construction budget is \$81.5 million to complete construction of the replacement hospital in Barrow, Alaska, and continue construction of the San Carlos Health Center in Arizona, and the Kayenta Health Center on the Navajo Reservation. An increase of \$1.7 million will help address routine maintenance and improvement needs of our aging facilities.

CLOSING

The IHS is a predominantly rural, highly decentralized federal, Tribal, and Urban Indian health system that provides health care services under a variety of challenges. However, IHS has proven its ability to improve the health status of American Indians and Alaska Natives and to improve the way it does business with the resources we receive. IHS has shown notable progress, accomplishments, and outcomes over the past few years. We will continue to move forward in partnerships with Tribes to make needed improvements and to improve the quality of and access to care for the American Indian and Alaska Native people we serve. The President's budget request will help us make progress in changing and improving the IHS.

Thank you for this opportunity to present the President's FY 2013 budget request for the Indian Health Service.



Dr. Yvette Roubideaux

Director

Indian Health Service

Yvette Roubideaux, M.D., M.P.H., a member of the Rosebud Sioux Tribe, South Dakota, is the Director of the Indian Health Service (IHS). Dr. Roubideaux was confirmed by the U.S. Senate as IHS Director on May 6, 2009, and she was sworn in on May 12, 2009. The IHS, an agency within the Department of Health and Human Services, is the principal federal health care advocate and provider for American Indians and Alaska Natives.

As the IHS Director, Dr. Roubideaux administers a \$4 billion nationwide health care delivery program composed of 12 administrative Area (regional) Offices. The IHS is responsible for providing preventive, curative, and community health care to approximately 2 million of the nation's 3.4 million American Indians and Alaska Natives in hospitals, clinics, and other settings throughout the United States.

Dr. Roubideaux previously worked for IHS for three years as a clinical director and medical officer at the San Carlos Service Unit on the San Carlos Apache Indian reservation in Arizona, and she worked for one year as a medical officer at the Hu Hu Kam Memorial Indian Hospital on the Gila River Indian reservation in Arizona.

Dr. Roubideaux recently served as assistant professor of family and community medicine at the University of Arizona College of Medicine. Dr. Roubideaux has conducted extensive research on American Indian health issues, with a focus on diabetes in American Indians/Alaska Natives and American Indian health policy. Dr. Roubideaux served as the co-director of the Special Diabetes Program for Indians Demonstration Projects, in which 66 American Indian and Alaska Native communities are implementing diabetes prevention and cardiovascular disease prevention initiatives. She also served as director of two University of Arizona programs designed to recruit American Indian and Alaska Native students into health and research professions.

Dr. Roubideaux received her medical degree from Harvard Medical School in 1989 and completed a residency program in primary care internal medicine at Brigham and Women's Hospital in Boston in 1992. She completed her Master of Public Health degree at the Harvard School of Public Health in 1997. She also completed the Commonwealth Fund/Harvard University Fellowship in Minority Health Policy before transitioning to a career in academic medicine and public health.

She is a past president of the Association of American Indian Physicians and co-editor of the American Public Health Association's book "Promises to Keep: Public Health Policy for American Indians and Alaska Natives in the 21st Century." She has authored several monographs and peer-reviewed publications on American Indian/Alaska Native health issues, research, and policy.



Randy Grinnell, M.P.H.

Deputy Director

Indian Health Service

Randy Grinnell, a member of the Sac and Fox Nation of Missouri, is the Deputy Director for the Indian Health Service (IHS), an agency in the Department of Health and Human Services (HHS). Mr. Grinnell recently served as the IHS Deputy Director of Management Operations.

As the Deputy Director, Mr. Grinnell shares responsibility with the Director for the total management of a \$4 billion national health care delivery program responsible for providing preventive, curative, and community care for approximately 1.9 million American Indians and Alaska Natives. This includes the setting of overall agency priorities, policies, and strategic direction. Mr. Grinnell provides significant input in managing the formulation, presentation, justification, and execution of the agency budget. His participation influences program and resource allocation decisions that impact the total Agency budget. Mr. Grinnell is responsible for the development of testimony presented to congressional appropriation and legislative committees. Along with the Director, he is a principal witness before such committees.

Mr. Grinnell began his IHS career as a Commissioned Officer in 1976. From 1976 through 1988, he served in a variety of Environmental Health Officer field positions in the Alaska, Albuquerque, and Oklahoma City Areas. From 1988 through 2006, Mr. Grinnell served in a number of management positions in the Oklahoma City Area. He served as the Assistant Director for Environmental Health and Engineering from 1988 through 1992, and again from 1998 through 2006. From 1992 to 1996, he served as the Deputy Area Director and from 1996 to 1998 as the Acting Area Director. While serving as the Acting Area Director, he provided overall management of clinical and administrative functions for a comprehensive health care system serving over 300,000 American Indians and Alaska Natives in 44 Tribes in Oklahoma, Kansas, and southern Texas.

Mr. Grinnell served on numerous special projects and national IHS workgroups both as a member and as a chairman. He was detailed for one year to chair and coordinate the Oklahoma City Area Redesign Task Force project. He also served as co-chair of the IHS User Population Workgroup, and as a member of the IHS Internal Evaluation Team, IHS Shared Services Workgroup, and the IHS Strategic Planning Workgroup. In 2001, he was selected and served a 4-year appointment as the Chief Professional Officer for the Environmental Health Officer category of the Public Health Service. In this role, he provided leadership and was the senior advisor to the Surgeon General and the Department of Health and Human Services on environmental health professional affairs.

In May 2006, Mr. Grinnell retired from the Commissioned Corps of the Public Health Service upon completion of 30 years of active duty service. His awards and recognitions include the HHS Secretary's Award for Distinguished Service, PHS Distinguished Service Medal, Meritorious Service Medal, two Outstanding Service Medals, Commendation Medal, Achievement Medal, Citation, Outstanding Unit Citation, two Unit Commendations, Special Assignment Service Award, Crisis Response Service Awards, and the Surgeon General's Exemplary Service Medal.

Mr. Grinnell earned a bachelor of science degree from East Central University in Ada, Oklahoma, and a master of public health degree from the University of Oklahoma Health Sciences Center.

Mr. SIMPSON. Thank you.

Jim.

Mr. MORAN. Thank you very much, Mr. Chairman.

You know, I asked about your impression of the health facilities because it really bothered me, particularly the Sioux Reservation, and that is where you come from. Pine Ridge is probably the worst stain of so many, particularly in the way we have treated Native Americans and on large tribal reservations that do not have resources that come from Indian gaming. Are we making any real progress in terms of the statistics on mortality, drug and alcohol abuse, infrastructure, water, housing, etc.? Have you seen any real progress or is it still just such an outrageous scandal, stain really, on the soul of this country?

Dr. ROUBIDEAUX. Well, I do believe—

Mr. MORAN. I am asking particularly about Pine Ridge because, you know, you cannot ignore how bad it is.

Dr. ROUBIDEAUX. Right. Absolutely. And Pine Ridge actually is one of the sites that faces the most challenges because of the high rates of poverty and the economic situation, and its isolated character. It is far away from a lot of resources and has had a lot of challenges with the community. We also have challenges there to continue to recruit providers and recruit good quality staff to come and help do the work in those areas.

But these increases in funding that we have seen in the past couple of years really are making a difference. Contract Health Services, how we pay for referred care—when I first became the Director, I would have a stack of appeal documents on my desk for patients whose care had been denied or deferred because of lack of funding or that they were not eligible or they did not meet medical priority. I have not seen one in quite a while, and I think because of the increases in funding that we have received in the last couple of years, more of our patients are getting their referrals paid for. And in terms of our CHEF funding, our Catastrophic Health Emergency Fund, it used to be that we ran out of that funding in June. Last year we were able to go into the middle of August to pay for those expenses. And so in some of our facilities, we are able to pay for more than priority one, which is life or limb, so some places priority two or three are even being paid for.

Health care facilities construction is a big area where we need increase in funding for that. We have been able, however, to complete some facilities. The Cheyenne River facility is a good example. It is now open and providing care.

You mentioned sanitation facilities construction. We have been fortunate with the ARRA funding to receive \$63 million for IHS funding and another—

Mr. MORAN. Stimulus funding?

Dr. ROUBIDEAUX. Yes, and another \$90 million from the EPA. And so while the need for water and sewage and solid-waste disposal is incredibly large, we are still in the process of working on those projects related to that large increase in funding. So as we had to make difficult choices in this budget, we felt that was an area where we could focus on other areas during this year, but it still is a significant need.

Mr. MORAN. The Indian health care reauthorization was included as part of the Affordable Health Care Act. It has not been fully implemented, obviously. It will be another couple of years before it is fully implemented. Do you expect that to represent a major improvement in the resources and the access to health care for Native Americans?

Dr. ROUBIDEAUX. I do. I think the Indian health care permanent reauthorization that was included in the Affordable Care Act is already making a big difference. There are over 80 provisions in it that are in the process of implementation, and while some are waiting for funding, we have been able to move forward with quite a few. For example, one of the provisions is to provide access to federal insurance for tribal employees and urban Indian employees, and the Office of Personnel Management has got that program up and going, so the first effective date of coverage is May 1st, so we have heard over 50 tribes have already signed up to get their employees this federal insurance, which is going to increase access for those individuals and their tribes.

Mr. MORAN. Particularly the urban Indians who are not really served by Indian Health Services directly.

Dr. ROUBIDEAUX. Yes, and in addition to that provision of the urban programs being able to purchase the insurance for the employees, the Affordable Care Act in general is increasing access to purchasing affordable insurance for all Americans including Native Americans, and it will in particular help those in urban areas who have no other options.

Mr. MORAN. There are a number of programs that were flat-funded. I am not going to ask specifically about this but, you know, it is too bad when you flat-fund a program or give it a million-dollar increase—it really is not enough to maintain the program itself.

DOMESTIC VIOLENCE

The only other thing I wanted to ask about, Mr. Chairman, you said that you would detail some of the response to the report on sexual assaults and domestic violence. You referenced that in your opening statement but you said you would provide it. Do you want to just highlight a couple of statistics, and then I will conclude?

Dr. ROUBIDEAUX. Right. Yes. We have significant challenges in our communities related to domestic violence, intimate-partner violence and also sexual assault. Forty percent of American Indian women experience intimate-partner violence. One in three native women will be sexually assaulted in her lifetime, and American Indian and Alaska Native women are five times more likely to die from domestic violence-related injuries and can suffer serious mental, social, physical and psychological consequences. That is why the Domestic Violence Initiative which was funded in our budget since 2009 has really made a big difference. It is implementing culturally appropriate best practice treatment models in our communities, establishing sexual-assault nurse examiner and response teams in our hospitals. It is making sure we are doing better at conducting forensic exams, and we have been working on the Tribal Law and Order Act with the Department of Justice to make im-

provements, do more outreach and victim advocacy and intervention and policy development. There have been so many more people that have been served by this program. We are really grateful that the funding is continuing for us to be able to address these issues. It is a great challenge but it is something we are committed to trying to improve.

Mr. MORAN. I suspect that three men on this panel agree that real men do not abuse women. Do you have any men involved in the program? It is the men we need to reach more than after the fact trying to care for the women. Have you been able to recruit men in that effort?

Dr. ROUBIDEAUX. Yes. Many of our community-based programs work with both men and women to do outreach and to do education about the importance of honoring the women in our community. Our traditions really go back to the fact that women in many of our cultures are the center of the family, and we need to honor them. And having everybody help us with this problem is an important goal.

Mr. MORAN. Thanks, Dr. Roubideaux.

Thank you, Mr. Chairman.

Mr. SIMPSON. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman.

Dr. Roubideaux, it is always a pleasure to see you, and thanks for the work you do.

CONTRACT SUPPORT COSTS

I want to pick up on a point that the chairman raised and you discussed a little bit in terms of contract support costs. Last year, obviously this committee fully funded your request, and at the end of the day, we did not get as much money as we all thought was the appropriate figure. So I would like to know, is there any shortfall in contract support costs that exists for fiscal year 2012? And then looking forward, are you comfortable that your request is going to fully fund contract support costs for 2013?

Dr. ROUBIDEAUX. Well, thank you for the question. Contract support costs are so important because those are administrative costs that the tribes need to manage their health programs, and we use the increases in funding that we get each year to address the shortfall for the 329 existing contracts and compacts. Our experience with the 2012 budget in estimating the shortfall taught us a lot of lessons. We had actually estimated the shortfall in our President's budget a couple years earlier, and a lot happened since then. So we did not get much of an increase in 2011 and so that impacted our estimate, and then we got an increase—then we were faced with what would the increase in 2012 be, and the thing that we have learned over time is that I can give you a number today of what I think the shortfall will be in 2013 based on the President's budget, and I will do that.

But that number is going to change the minute you all propose your House mark, and then the budget will change when the Senate proposes their Senate mark, and then the shortfall estimate will change when we get to the final appropriation, and the reason for that is, the shortfall for contract support costs is first based on data from the previous year after the appropriation and after all

the tribes have negotiated their contracts. We gather that information, so for 2011 we are in the process of gathering that information from all tribes, and it is really around now that you would get the estimate for last year's shortfall.

Then in the current year, you have to consider what is your appropriation and if there is any items in the budget that generate contract support costs, then that will add to the shortfall in the current year, the estimated need. And then during the year, tribes will negotiate their contracts and compacts, and if they take over additional program services and functions, that adds to it. So unless we know what the appropriation is in a certain year, we are just guessing actually at what the amount of contract support costs will be generated. And so it turns out, there is multiple points in time and multiple sources of data that change important points in time that give you an estimate of contract support costs.

And so what we can say now, based on the data we have so far about the shortfall at the end of 2011 and our estimated shortfall at the end of 2012, which we are not there yet so we are estimating that, the need for contract support costs in 2013 based on shortfall information and based on the increases that we got in 2012 and we are proposing in the President's budget in 2013 is about \$70 million to \$80 million. So if we had just paid contract support costs with no other program increases, you can probably get closer to the estimate in real time, but of course, there are other important budget priorities that we would want to fund as well. So you are always going to be estimating.

So everybody wants the number, and so what we are trying to do is to educate everybody about the fact that the number changes depending on the data you have available at the time, and so right now with the President's budget's proposed increases and based on the information we have about last year's shortfall and our estimated shortfall this year, our need next year in 2013 will be about \$70 million to \$80 million. However, that number will change if you have different program increases in your request and then the Senate's will change as well.

So what we would like to offer is the opportunity to come and work with the committee to help make those estimates and to further explain how they are made. I mean, we could give you a number now and have you work with that. The problem that we faced in the past was, we do not want to overfund the shortfall because if the funds are designated for shortfall and if we overfund it, then those funds go back to the Treasury at the end of the year and we would not want that to happen because funds are so precious to the Indian health system. So we are willing to work very closely with you on making those estimates and making sure we try to hit the mark as close as we can. But any time in a future budget where there is a program increase that generates contract support costs, there will be additional shortfalls. So it is something we need to work on an ongoing basis.

Mr. COLE. Well, that is very helpful, it really is, and I appreciate the conversation we had yesterday and I do want to continue. I know our staff and other members will want to continue to work with you on it. For what it is worth, my experience is that I would rather be a little over than under on this because I think we will

hear from a lot of tribes that are upset, and I am sure you do too. So I think because of the nature of this thing changing and the processes you lay out, I would rather risk a little overshooting because then I think it is a lot easier for this committee and a lot easier for you to deal with that, but again, as you said, we learned a lot last year so hopefully we can put that to account this year.

PER CAPITA HEALTHCARE EXPENSES

I have tons of questions but I do not want to abuse my time. Let me ask you, one of the things, and I mentioned this to you yesterday, that you provided us last year, which I thought was—I always tell my staff sometimes when I am speaking, I want what I call “gee whiz” facts, things that just get you to go wow, I have not thought about that. And the document that you provided that showed how much money is spent for the average American in terms of health care, around \$6,900, \$11,000 for Medicare recipients, and I think it was a little over \$7,000 for veterans and \$5,200 for federal prisoners and then \$2,700 for Native Americans. I thought that that was a great “gee whiz” fact because we can do an awful lot in terms of increasing your budget, and there are limits to how much any organization can absorb and use wisely in a single year, but the reality is, we are very far behind and we are going to be far behind for a lot of years just in terms of trying to provide comparable care, which I think is a trust responsibility of the United States government, to what every other American gets.

Given that, we have got sort of a standstill budget here. There is a little bit of an increase but not a lot. Looking forward, what do you think we need to do over a longer period of time to get Indian health care where I know you want it to be?

Dr. ROUBIDEAUX. Well, thank you for the comment about the per capital health expenses.

Mr. COLE. And I would love to, as we talk, if you can provide this committee with that, because I think it was a real eye-opener for a lot of people. It was really helpful because we did have an increase in a year where not many people got an increase, and I know I had a couple conversations with Members and they think Indian health is much better funded than it has been historically, and when they saw that, it really was a jaw dropper. So I would hope you keep providing that statistic to this committee at least on a very regular basis.

Dr. ROUBIDEAUX. Yes, we would be happy to, and while we are making some progress there, the overall health care in this country, we have to purchase from the private sector and have to provide care based on our growing population and addressing medical and regular inflation and those sorts of things. So looking at the per capital expenditures, especially from federal sources, really gives you an idea of where the Indian Health Service is in comparison to those sources.

I believe that we need to just keep making as much progress as we can to try to improve the Indian Health Service both in the way we manage it and in the care we provide, and the budget that we have proposed in 2013 acknowledges the overall needs related to addressing the budget deficit but it still does make IHS a priority, and I am grateful for that. And we have targeted program in-

creases that really impact the entire system and that help us maintain critical services, improve facilities and increase our third-party revenue because that is another way that we can help increase the money available for access to care at our facilities. And so my goal as the Director has been to just keep making as much progress as we can. Certainly, many factors impact the progress that we can make in a particular year but we feel that this budget, given the climate and the importance of being fiscally responsible does target increases in the areas we feel are most important and we feel will make a difference.

The way I look at it is, the most important thing to me is if more people are getting the health care services they need, the better we are doing, and the fact that I do not have a stack of appeal documents on my desk like I usually did and that we are getting to August with the CHEF fund and that we are seeing some improvements in care means we are making progress, and it is certainly not fast enough for our tribes and certainly we always want more, but we are really trying to make sure each budget carefully thinks about how to do that.

Mr. COLE. I will hold my other questions because I am sure we will probably have a second round, but I do want to associate myself with the chairman's remarks. Number one, thanks for traveling with us, which was a great trip. You are a great road companion and your staff did a wonderful job, and it was very helpful, I think, to all of us to have your perspective along the way. I hope in September if you can join us again, I recognize how busy your schedule is but it was very, very helpful to be with you and Secretary Echo Hawk and to see your folks in the field and what a great job they do with what they have.

So again, thank you, and Chairman, thanks for putting that trip together. It was terrific. And thank you and Mr. Moran and my good friend, Representative McCollum, for all you guys have done in this area. It has just been phenomenal, and hopefully we can do it again this year.

Mr. SIMPSON. Ms. McCollum.

Ms. MCCOLLUM. Thank you.

CONTRACT SUPPORT SERVICES

To follow up on what Congressman Cole was saying about funding, one of the things that we heard a lot from the veterans' community was that the VA system does not have the money and people are very concerned about a continuum of care in the VA system. In response, the VA fought very hard for advanced appropriations. How would this work, or could it work, if we were able to do that? Would that help at all with some of the challenges that you have with contracts? I agree with Tom in that I would rather have you be over, but on the other hand, we know sometimes what happens on the Floor when you are over. People think they can not just cut the overage but can cut more, that there must be a lot of waste of something, not that you were really efficient with the funds and good stewards with it. So would advanced appropriations be anything that this committee at some point should be thinking about for certain segments of the health care delivery that you do?

Would that provide any continuum of care or make things better with the providers?

Dr. ROUBIDEAUX. Well, we know that a challenge especially for our tribal programs is that sometimes when there is a continuing resolution that goes for many months, there is cash-flow problems and issues around trying to make sure that they can continue to provide the funds. So we have heard from some tribes about are there any other options for the way that we can fund the Indian Health Service, and we know the VA does receive funding for 2 years at a time instead of just 1 year at a time as the Indian Health Service. We would be willing to provide technical assistance to the committee to talk about the pros and cons of that approach. I think that you could—some of the pros might be that there would be more stable funding for a period of time, either for the whole budget or different budget lines.

The downside might be that, you know, it seems like for the Indian Health Service, each year is different. One year, we do not get a very big increase and the next year we might get a big increase, and we hate to lock in a low rate like you would do with financial decisions as well.

So we would be willing to talk with the committee about the options and sort of what the pros and cons are of those options. I think continuity of care is something that we do want to promote and do want to work on and are trying to do that very much in the ways we are improving quality of care. So we are willing to have that conversation.

Ms. MCCOLLUM. Well, Mr. Chairman, as we are brainstorming, this might be something we want to look at in the future. We might look at it to say yeah, it might work, or no, it does not work. I do not know if other people have strong feelings about it one way or the other but having providers threaten to click on and off is problematic. Sometimes they take other contracts and then you cannot put people back on. That can be a problem in certain parts of the country; not all parts of the country, but certain parts of the country.

HEALTHCARE OUTREACH

Shifting gears, I have not had a chance to look at it in depth yet, but I understand that the President's budget has cut some of the work that the Centers for Disease Control does. I have had not a chance to really delve into it. I will be looking at it in particular to see what is going on with minority disparities in outreach for cancer care and cancer prevention as well as diabetes. I do not know if those are cut or not. If there is anything in the CDC budget that affects the work that you do, I would appreciate it if at some point as you are finishing going through the numbers you would let this committee know. We do not want duplication, we want efficiency, and we want agencies to be working together, but that means that they have to be programmed for the dollars that the other agency is counting on and moving forward.

You talked about domestic violence a little bit and reaching out and helping women victims. I appreciated what Ranking Member Moran said about talking to the fathers. One of the things that we were finding out in our schools in particular is that children who

were witnesses to domestic violence, not necessarily children who were victims of it physically themselves, but emotionally and hearing the verbal attacks—did not do well in school. It caused other challenges and other problems. Do you have the funding resources, or are you just at a point in putting your program together that you have not come up with a way in which providing mental health services these for young boys and young girls? They think that this is part of a role model that they should be growing up with so we need to consider treating the whole family. Do you have any comments on that?

Dr. ROUBIDEAUX. Yes. Well, our Domestic Violence Prevention Initiative is funded at \$10 million a year, and we have completed the first and are in the second and third years related to it, and we do a lot related to looking at sort of awareness of community response, looking at families. I do believe there are some outreach to schools because children who witness violence often become bullies, and that can cause a lot of mental health issues for them and they can also become victims as well.

And so I do know that our local programs are coming up with some very innovative and culturally appropriate ways to deal with some of these challenges, and we would be happy to provide some examples of some programs that may be working on exactly what you are talking about. Our mental-health and substance-abuse programs in general also do outreach to schools on some of these issues, and in the area of suicide prevention, which sometimes is where some of this trauma can lead to, we have been actually partnering with the Department of Interior, and I know that they are working on implementing activities in their schools to address some of the issues with children and violence.

Ms. MCCOLLUM. When you break out how much per capita you are spending on health care, as Mr. Cole mentioned, can you break that out between mental health and physical health? Are you able to do that?

Dr. ROUBIDEAUX. I could have staff take a look at that.

Ms. MCCOLLUM. I think that would be interesting too. If we are really going to attack all substance abuse, if we are really going to do something about domestic violence, if we are really going to do something about suicide, we need to look to see what we are really putting in for an honest investment. So thank you.

And as everybody said, it was a fabulous trip. We learned a lot, and in no small part because you were with us. So thanks.

Mr. SIMPSON. Thank you.

Yes, if anybody thinks that that was a vacation trip, they do not know how hard we worked from way early in the morning until way late in the evening at some places.

You know, being a dentist in a previous life, I appreciated the fact that at every health clinic we went to, you showed me the dental clinic and what they were doing in the health clinic. You thought I might have a special interest, and you were right.

DENTAL CARE

Let me ask a couple questions relative to that. In 2008, the IHS GPRA summary report noted that only 25 percent of American Indians and Alaska Natives have access to dental care, and those

that do find themselves without the ability to receive many routine procedures. The fiscal year 2013 target is still 25 percent, which tells me that the IHS is not able to make any progress. Why is this percentage not growing? What is the status of the chief dental officer position and have you advertised to fill it? And the committee was told that two of the four top leadership positions in the division of oral health were vacant. Have they been advertised and filled?

Dr. ROUBIDEAUX. Well, thank you for your question about the dental program, and it was really fun to see all the dental programs along the way on the trip.

Mr. SIMPSON. Nice clinics.

Dr. ROUBIDEAUX. Yes, we have some beautiful clinics, and it was great to see your enthusiasm for it and for you to understand the challenges that the dentists are facing in our remote and rural areas. Dental care is so important to the overall health of an individual.

One of our GPRA measures, our Government Performance and Results Act, measures that we track over time is access to dental care, and you are right, the target in 2013 is similar to the targets in the past, and the reason for that is the way we calculate our GPRA targets because their budget performance measures are really based on whether increases are received in those budget lines over time, and that is based on both program increases and whether we receive increases for pay inflation and population growth. And so you will remember in 2011, we hardly received an increase at all so there were not increases there, so when there is no increase for inflation and population growth, we actually fall behind. And so in 2012, again, that was another challenge that we faced.

So even though we think the access has actually gotten better, especially because we have great improvements in our vacancy rates, the actual access measure targets we set a little bit lower because of the fact that we have had to absorb the lack of increases in inflation and population growth over the last 2 years. But dental vacancy rates, however, have improved quite a bit. I think I remember in 2009, they were, like, 33 percent and now they are only 10 percent. So we are making a big difference there.

In terms of vacancies for our administrative positions, we have had some changes in staff. Our director went off to be the chief of staff for the Surgeon General, which is a great career opportunity for him.

Mr. SIMPSON. Could we have denied that?

Dr. ROUBIDEAUX. Well, he actually now has been chosen and has decided to go be the new dean of the new dental school at A.T. Still. So we are very proud of him and we are going to continue to work with him on recruitment and retention so now he will be at the front end of developing health professionals. The last I heard, we were going to be advertising the dental position, the dental program office position, the director of that. We were going to be advertising that, and we are hoping we will be able to recruit that one quickly, and we have worked with our National Clinical Council on Oral Health to help find candidates for that, and they just met with me in January in Tucson to express their interest in helping us fill the vacancies.

Mr. SIMPSON. Good. You know, that brings up one of the real challenges we face in Indian Country. Out on the Pine Ridge or the Rosebud Reservation—how do you recruit physicians, dentists, professionals to come out and serve in those areas? I mean, that is a challenge. What are you doing to try to recruit individuals to come and serve in those locations?

Dr. ROUBIDEAUX. Well, you know, we have actually had quite a bit of success in the dental vacancy rates, as I mentioned, and the things that have helped there is to make sure that first our pays are competitive, and we have been able to do that with Title 38 for many of our positions, and we are looking at other positions. Recruitment and retention incentives and bonuses, providing those. Loan repayment, especially with the help of the National Health Service Corps, we are going to have more opportunities to get people's loans repaid, and that is a really great source for us to get providers.

Mr. SIMPSON. When those providers that we have helped repay their loans, when their loans are paid off, do they stay in those communities or do they then move on to somewhere else?

Dr. ROUBIDEAUX. Well, they actually do stay for a couple years beyond their—on average, a couple years beyond their original commitment, and we do have some career providers that have been in the Indian Health Service their entire careers. So we think that the loan repayment program is a really good recruitment and retention vehicle for us because from our statistics we know that they will stay on a few more years after their obligation on average and some stay for quite a long time. Many of the people who come to us under those programs are looking for a challenge and looking for working in an underserved area.

I think some of our reforms on how we do business and how we organize ourselves will actually help with recruitment and retention as well because, you know, if people perceive unfairness or we are not holding people accountable or we are not running the business well, then people would get frustrated and leave. So I am confident that the reforms we are making overall, improving the way we do business in IHS will ultimately lead to better recruitment and better retention.

CONTRACT SUPPORT COSTS VS. CONTRACT HEALTH SERVICES

Mr. SIMPSON. Good. One of the other things that we talked about on the phone last night and that you have gone over with several people today is the contract support costs versus Contract Health Services. You got, what, a \$5 million increase in contract support and a \$54 million—did I hear that right?

Dr. ROUBIDEAUX. Yes.

Mr. SIMPSON. In Contract Health Services.

Dr. ROUBIDEAUX. Yes.

Mr. SIMPSON. We need to change the name of those so that I do not get them confused all the time. Could you explain the differences in those?

Dr. ROUBIDEAUX. Yes.

Mr. SIMPSON. And why the large increase in Contract Health Services versus contract support? Because I will tell you, I will guarantee it, almost, when we have the Native American witnesses

come in, the different tribes, the one thing all of them are going to say is, fully fund contract support. Explain the differences of those two programs to us, why one has a \$54 million increase, why one has a \$5 million increase. Even though I understand the challenges in trying to estimate what the costs are going to be of fully funding the contract support, we are always going to be a little short because of those challenges that you mentioned. Can we come closer than \$70 million or \$80 million a year?

Dr. ROUBIDEAUX. Well, I will start with your first question which is to explain the difference between both of the programs. We actually have talked about the fact that sometimes people confuse the Contract Health Services program, which is how we pay for referred care out into the private sector, and the contract support costs funding, which relates to administrative costs that tribes have above and beyond the direct and indirect costs that they get in the secretarial amount for them. Both are important and both are tribal priorities.

Mr. SIMPSON. If a tribe has contracts that they have made with providers or whatever, and we do not fully fund that, then it comes out of their resources to fund the rest of that contract support. Is that right?

Dr. ROUBIDEAUX. Well, contract support costs are the costs associated with the contract between the federal government and the tribe when we transfer the funding for the programs and functions to the tribe. For Contract Health Services, that is when we are in the clinic providing care and a patient needs care. So we provide it directly if we have it, and you saw, we have various sizes of facilities. If we cannot provide it directly, then we will contract with outside providers. So they are fundamentally sort of different things. Contract support costs are the agreement between HHS, IHS and the tribe, and the direct and indirect costs and then the additional costs related to that for the overall program.

Mr. SIMPSON. When people say "do not get sick after June because we have run out of money," you are talking about Contract Health Services there?

Dr. ROUBIDEAUX. Yes. So we are talking about Contract Health Services. Contract Health Service is direct provision of medical care to our patients that we cannot provide in our own facilities.

Mr. SIMPSON. Do you think that the tribes that come in and testify—it certainly confuses me. Do they get confused, do you think, when they are talking about fully funding contract support versus Contract Health Services? Do they mix those two up? I am not trying to say that they do not know what they are doing. When they say contract support costs, do you think that means contract support costs or are they sometimes referring to contract services?

Dr. ROUBIDEAUX. Well, I think that sometimes there is confusion. However, the tribes certainly when they testify work with their technical consultants, so I am certain if they were saying contract support costs, that is probably what they meant. However, I think that the difference between what you hear in a hearing here in Washington versus what we hear when we go out and travel and visit all tribes, some tribes cannot afford to come in and testify at these hearings and so sometimes you may not hear the complete picture. I think that their testimony is very important because that

is what they see as a priority as an individual tribe, and I know that tribes support increases in both Contract Health Services and contract support costs.

I have to say, though, that based on my experience of traveling all around the country and having more than 350 tribal delegation meetings and attending numerous work group meetings and consultation sessions, the one thing that people complain about the most is IHS is not paying for our referrals or IHS is not paying the outside providers or people are not getting the preventive care they need.

Mr. SIMPSON. And then a tribe will often take their own resources to pay for those referrals?

Dr. ROUBIDEAUX. Yes. So in a perfect world, increasing Contract Health Service benefits everybody and helps directly get increased services. Now, the argument on the contract support cost side is, if you do not fund Contract Health Service, then they have to take the funding they would use for administrative costs and fund services. So there is really a good argument for really every line in our budget. There is such an incredible amount of need.

But I do think they are two different pots of funding that the contract support costs relate to that contract between HHS, IHS and the tribes, and the additional costs that are not provided in the direct and indirect funds that come with that contract or compact. The tribe has a choice as to how they will use those funds, and like they said, as the budgets have not kept up, they have had to use administrative funds more for clinical care. But if we fund Contract Health Service, then that does help provide more health care directly to the patients that we serve and the do not get sick after June thing really more directly applies to Contract Health Service.

We have thought about maybe changing the name of the program just to make it more clear about which program we are talking about because Contract Health Service is about purchasing care in the private sector, usually related to referrals, and we know that there is an incredible amount of need for that, and that is really why it is—the need for Contract Health Service is so great, that is why it is our number one priority in the budget. It is an incredibly large amount of need, and we have been able to address some of that, but there still is an incredible amount of need.

Mr. SIMPSON. Well, you call it what you want. I am going to call it referred health services from now on so I can keep it straight in my own mind.

UNOBLIGATED BALANCES

Your carryover balance in the services account has grown from \$434 million in fiscal year 2010 to \$776 million in fiscal year 2012. According to the budget proposal, if we appropriate the full budget request, then the fiscal year 2013 carryover balance is projected to grow to \$809 million. Why is this balance so high and why is it growing?

Dr. ROUBIDEAUX. Well, we would like to work with your staff on technical assistance about the numbers that are being used. We actually have more updated numbers. At the end of January 2012, our unobligated balances in services was \$357 million, and only a small portion of that is actually directly appropriated funds. Most

of the carryover in services is usually, or unobligated balance is usually related to collections, and that is when our local facilities will collect reimbursements, and then what they do sometimes is they save up their collections because then can cross appropriations years to be able to do things like expand their ER or hire more staff or meet accreditation requirements.

So in terms of collections amounts, those were earned by the local facilities so they rightfully belong to them, and they often will be using those to make local improvements. So the small amount of services unobligated that is based on sort of directly appropriated funds just relates to some of the timing issues around the way we do business. So Contract Health Service from the time you make the referral, then the patient goes and then there is a purchase order and then the paperwork and then you have to go to the fiscal intermediary to get the payment, we know that that time sometimes can take longer and so it still sits as an unobligated balance until the payment is made. What we have been doing is trying to work on shortening the time from referral to payment, and we have a measurement now that we are going to be able to measure that concretely, and we are also looking at making sure when you make that referral and by the time you get the service and actually pay the bill, the estimate back here may have been too large and so by the time you pay the bill, that frees up the money that was left, and we can use that for other services but it shows up in the unobligated balances.

So there are a number of other things. Our grant programs that are delayed a little bit that get paid a little bit later where the unobligated balance is still there, so we really could provide further technical assistance about how we really can account for the entire unobligated balance in terms of it either being committed to something and not yet obligated or was committed and obligated and then got freed up, or it is collections, and the collections are things that, you know, the facilities, it is theirs, they can do with it what they want. They may be waiting on—some save up things to do, renovations or to hire staff and things like that. In terms of our facilities' unobligated balances, we are at the lowest balance we have ever been. The end of January 2012, it was only \$126 million.

So since you all have expressed an interest in and a concern in unobligated balance, we have done everything we can to identify why we had those balances in the past and have been doing everything we can to reduce them, but there will always be a level of unobligated balance based on just the business of health care and the business of being a federal agency. So we will continue to provide ongoing technical assistance and updated information, and we will continue—and actually at the end of the year, we are always very close to—we hardly have any unobligated balances each time we close out each year because we close out with a clean budget every year. So we are happy to provide technical assistance and to have an ongoing conversation with you on that.

Mr. SIMPSON. Okay. Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman.

URBAN INDIAN HEALTH

I do think that the Indian Health Service is well run, so this is not any kind of antagonistic questioning because we are very supportive, and I think that the appropriations reflect that. But notwithstanding that, there are a number of programs that are flat-funded and they are of some concern. Over the last 3 years, urban Indian health, for example, has been basically flat-funded. There was a slight decrease in funding in fiscal year 2012, and this year's budget request just maintains that level, and yet about 40 percent of the Indian population do not live on reservations. Now, you mentioned the Affordable Care Act, and that is our probably our best shot at getting affordable, accessible, quality health care to them, but do you want to say anything about urban health care?

Dr. ROUBIDEAUX. Well, we actually are very supportive of our urban Indian health programs. We have 34 programs scattered around in Indian communities. However, the Indian Health Service was always meant to be a rural primary care health care system and so as we have done budget formulation with the tribes and now as we begin conferring with urban Indian programs, we try to balance that priority against other priorities in the budget, and in a tough budget year, we are not able to provide increases for everything, but we do support the urban Indian programs, and I am excited that we will be implementing our first policy to confer with urban Indian programs. It was a provision in the Indian Health Care Improvement Act, so instead of consulting with tribes, we will now confer with urban Indian health programs, and that may give us a better opportunity in a more formal way to hear about the needs of urban Indian programs and try to factor that into budget formulation.

Mr. MORAN. Good. The health care costs to this Nation are extraordinary. They are really bankrupting our country and our federal government, and yet so many of the health problems, not all of them, obviously, but many of them are "behaviorally" based. It is after the fact, and of course, we pay for the quantity of services rather than the quality of health of the individual. With regard to Indian health care, many of the problems seem to be related to behavior, you know, substance abuse, violence, a lot of risk taking. I noticed that the number of traffic accidents is so much higher. Homicides are higher. Violence within the tribe is so much higher than it is among the general population. So again, much of the health care given is reactive, after the fact, and it is not necessarily addressing the underlying cause. It is addressing the effects of something that is socially deeper, and I know you understand this.

HEALTH CARE NEEDS

And yet if we were able to make some progress on Indian reservations, we can use that experience, that example to apply to our national health care system. Have you found examples where we are able to get at the root cause of health care needs so as not only to save money but to improve lives rather than having to deal with diseases and accidents and injuries after they happen?

Dr. ROUBIDEAUX. Absolutely. I think that we have heard quite a bit from tribes and we know from public health and medicine that

preventing illness is so much better than treating the aftereffects of it, and we have some good examples in the Indian Health Service. For example, our special diabetes program for Indians focuses on both the prevention and the treatment of diabetes, and some of the programs that have been developed related to prevention have really gotten at the point that disease is not just in an individual, it is also in a family and it is also in a community, and it is also in a nation, and so the reason I value tribal partnerships is, I realize we need them. We need the tribes as the leaders of their communities to help us with factors that impact health that we cannot really impact in the clinic and that might be impacted by schools or the economy or the roads or the violence and the crime and those sorts of issues.

So I value my partnership with the Department of Interior as we look at some of these issues. I know that some of our programs help those issues, and actually, for example, Contract Health Service. It pays for referrals to the private sector. One of the things that we often have to refer to the private sector is preventive care. And so as we increase the budget for Contract Health and as we pay for all the priority, life or limb referrals, some of the priority two and three things are more preventive things and then we can go ahead and impact people before they get as bad as being life or limb. And so this budget increase represents such a huge increase in Contract Health Service because it can provide for services that we cannot provide, and that would include behavioral health, that would include preventive care, that would include some of the things that would help with taking a more proactive, preventive approach to care.

Mr. MORAN. Rick Healy, our minority staff director, gave me the statistic that I passed on to Mike. I know he was aware of these when you went to Pine Ridge, but even though it is a dry reservation, right outside the border there is this little town of 350 people and yet it has four liquor stores. Their principal clients are members of the reservation. One of our main problems on the reservation of course is the extraordinarily high rate of alcoholism and substance abuse—but I guess there is not a lot you can do about that, although clearly if we could, it would not only save money but, more importantly, save lives.

Dr. ROUBIDEAUX. Right. Well, alcohol and substance abuse are a huge issue, and we use the resources we have. Most of our programs are actually tribally run. We also partner with federal agencies like SAMHSA to be able to deal with some of these issues. And you are right, mental health, behavioral health impact general health care so much, and we are really looking to our communities and tribes to develop some innovative ways to address those issues, and our Methamphetamine and Suicide Prevention Initiative, the funding that you all have given to us, has been very helpful in addressing some of those issues.

Mr. MORAN. Thank you, Doctor.

Thank you, Mr. Chairman.

Mr. SIMPSON. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman. I just assumed when you got up to leave that it was another offer from another Indian reservation to hire you as a dentist, because when we were on the

road, every place we visited, I mean, he had not practiced in 12 years and they were ready to put him in a chair and put him to work.

Mr. SIMPSON. And I kept telling them, I did not know if they wanted to be my first patient after 12 years of not practicing.

Mr. COLE. They were willing to do it.

A couple of questions. I am very struck by what Mr. Moran said because I think it gets at the larger problem, and so much of what you do is really in a sense triage for much larger economic and social problems that we have, and a lot of this I think is due—and I was really struck by the contrast that we saw this summer. How well is the tribal reservation integrated into the surrounding economy? In Oklahoma, they are, and that has helped, and then the money they make honestly flows back into services. You guys have been wonderful in the joint ventures that you have done in Oklahoma. It is tougher obviously in both the Dakotas where those reservations are very isolated, there is not state infrastructure that has been built over the years, and when you are going to places that have 75 percent unemployment rates in states that have less than 5 percent unemployment rates, it just tells you, this is another world outside the world, and how you build the linkages there, I mean, that is really more—and I know we will talk about this with Secretary Echo Hawk when he comes up, that piece of the puzzle, but the more I wrestle with these problems, the more I think that ultimately there has got to be some way to do that, to build economic relationships. Because I do not know any place where there are prosperous tribes where health care is not pretty good, because as soon as the tribes have any money and they are doing anything, they are willing to divert their money, they want to do it. So you have got to sort of ignite economic growth in areas that just literally have not had those opportunities for a lot of years.

On that point, and I want to see if you guys do anything on this, one of the things that struck me again where I have seen health care work well, usually the tribes are in control of their own health care. I mean, IHS is a great partner, but like all of government, it is not particularly a good parent. It is much better if there is a cooperative, relationship, I think, because nobody cares more about tribal members than the tribe itself, and that is just the way the world works. And yet I have seen in some areas resistance. Actually we talked to some of the tribal leaders that did not want control of their own health services, feeling as if the federal government would then use that as an excuse to renege on its trust obligations. And in the course of visiting with one, and I am not going to single anybody out, I said, you know, we had a very different experience in Oklahoma when we took over our tribal health services in the 1970s, and there was a lot of discussion in the tribe about whether we had the wherewithal to do this, and what Governor Anoatubby said was, we did but we had to convince our own people first, and then beyond that, though, what this became was an incredible source of talented people who administer health care and now have moved into industries and other things. We actually used a facility to train up our own people and to give them a lot more confidence in what they could do.

So to that point, I know you contract with a lot of tribes in varying degrees. Do we not have programs that actually teach or encourage tribes to take control in partnership obviously with IHS of their own health care?

Dr. ROUBIDEAUX. Well, we do partner with self-governance tribes to do training for tribes to understand the benefits of self-governance and self-determination, and each year we hold a conference in partnership with the self-governance tribes at which the issues get discussed and there is training available, and I know that there has been some additional training scheduled. We do support self-governance in the Indian Health Service. We have seen that it can make a difference and it can help improve care, and the reason is, that the law provides so many more flexibilities for those tribes beyond what the federal government can do, and if a tribe is lucky enough to have a better economy or additional resources, that can help as well. One tribal leader told me healthy lifestyles require a healthy economy, and I really love that phrase because it talks about the social determinants of health and the fact that we cannot solve all the problems of health for Indian people without looking at health beyond the health care facility, and that is why this partnership with tribes is so important.

The challenge we have is that some tribes do better and some have challenges. We also have the challenge of tribes on the direct side who want to continue to be with the Indian Health Service because they believe in the trust responsibility, they believe in the treaties and the government's responsibility. We are obligated to do the best we can for them because that is their tribal choice as well, and we do not have the flexibilities that self-governance tribes have but we still do operate within the regulations and rules and laws and funding that we have to try to provide the best care. As the Director of the Indian Health Service, I am the director of the entire Indian health system including direct care, tribal programs and our urban Indian programs and we do try to support all those components.

Mr. COLE. And you do, and so again, much as Mr. Moran said in his questions, mine is not meant to be critical in any way, and I do know you participate in self-governance activities. Chief Pyle when we were down there was actually leaving for a self-governance conference I think in California after our visit, the idea being, he said, you know, to try to teach other tribes that have gone through a similar experience that my tribe has, that it really over time is empowering and you will actually do better, and I would just urge you to not only continue to help but again, I am like you, I respect tribal choice. This is their decision and I would not try and oppose it, but I think long term you can look at the tribes that have taken control and you can look at the ones that have not, and the ones that have, have generally done better as they progressively took control of their health care.

One other area, and I know the chairman has been very generous with his time, I want to go back to this Contract Health Services area and just mention to the committee, actually there is a state Senator in Oklahoma, his name is Doug Cox, who is a physician who operates in Cherokee territory who had contacted me about this very issue and about the amount of uncompensated care

that they were doing, and it is probably more prevalent in a place like Oklahoma where you are not apart in a reservation, you are in a broader community, and he is actually working on a study at least at the state level as to what the costs are, and he said look, we are going to take care of people, you do not have to worry about that, but at the end, it is a lot of money that is basically being put on non-tribal and non-IHS facilities. And he had nothing but praise, by the way, for IHS and their facilities. He said this is just a problem we have.

But can you tell us what the backlog is of uncompensated referred care where we have actually sent somebody to a non-IHS facility, they have received treatment and that private institution has not been compensated?

Dr. ROUBIDEAUX. Well, we have previously estimated that the unmet need for the Contract Health Service program, that is the denied and deferred referrals as a whole for the system—you could also call it the shortfall for Contract Health Service or referred care—is \$861 million. It is pretty significant. We have been working with GAO on a study they did on unmet need and to improve the way that we do the estimates of unmet need where our CHS work group has helped develop a standardized template for us to be able to measure unmet need, denied and deferred care so we can have a better estimate, and we do have an estimate based on all of our federal sites and some but not all of our tribal sites, and the way that self-governance works is, we cannot require reporting of the tribes but I just sent a letter encouraging them because if we can get a better estimate of the need, it probably would be greater than the estimate that we had in the past.

And so what happens when the referrals are denied and deferred, we do not have enough funding or people do not meet our eligibility requirements or do not meet medical priority, well, they may end up going to the outside private sector and they may get care there, and if they do not have an approved referral from us, then their care is uncompensated, and that is distressing for the outside providers.

Mr. COLE. I would just suggest the number is even—and I appreciate what you are doing to try to get your hands around this number and get it to us, but I think the number is greater obviously than even the figure you have, and I think that is something we need to think about because what we are really doing is offloading our trust responsibility on somebody else, and it is a number we never look at and kind of pat ourselves on the back, but it is a big number, and a lot of care that the federal government is obligated for is really being provided by somebody with no direct connection and no reimbursement rates. So whatever you can do to help us get our hands on that.

The last point, and not even a question, but I just wanted to mention it again, I very much appreciate the IHS joint venture policy. I think this has been an area of great possibility and promise and where we have been able to pool federal and tribal resources and really make substantial progress, and certainly in the case of my tribe, the work that you have done at IHS helping us with our new hospital and getting it up and going has just been terrific. I mean, it has just been good in every way and we appreciate that

and hope that other tribes have the opportunity to replicate that kind of experience and partnership with IHS.

Thank you, Mr. Chairman.

Mr. SIMPSON. That is an interesting question you bring up because if you ask almost any hospital in the country, I suspect every hospital, they could tell you what their uncompensated care is, but I doubt they break it out into uncompensated care that was delivered to American Indians that should have been compensated versus someone else that was uncompensated.

Mr. COLE. It is a big number, and it is one of the reasons we have two of your 34 urban facilities in Oklahoma, one in Tulsa and one in Oklahoma City, and they do unbelievably good work, but I always point out to people, particularly in Oklahoma City because there is no tribal jurisdiction, it is all unassigned lands in the center part of the state, if that facility was not there, almost all those thousands of patients would be in surrounding hospitals and would be in the uncompensated-care category. Instead, they are in a place where they get very good care, where they are very comfortable being, where they have got a staff honestly that understands their background and their unique health challenges. So those are really important parts of the system because we just have a lot of non-reservation Indians that quite often would fall through the cracks if it were not for these facilities.

Mr. SIMPSON. Betty.

Ms. MCCOLLUM. Thank you.

Uncompensated care is always interesting to talk about. Ramsey and Hennepin counties, but Ramsey in particular, is right across the river from Wisconsin, which does not have the same health care facilities as we do. People come across for care and we cannot collect. Wisconsin does not want to help us collect. We cannot collect, and that is something that I would like to learn more about how we could all do better.

OBSTETRICS CARE

I want to understand a little bit better how obstetrics and gynecology are handled. As the chairman pointed out, we have got contract support here and then we have got Contract Health Services here. A lot of facilities do not offer obstetrics and gynecology. When I was in Albuquerque, they were not doing it at all anymore. They had really bad outcomes and maybe the outcomes could have improved. I do not know. But there were a couple of things that I would like you to let us know about how we are doing in obstetrics and gynecology. We know that there are a lot of unintended pregnancies in Indian Country. Then we have problems with low birth weight, we have problems with child mortality, we have problems with maternal mortality. I know that is something that you are working on addressing, but how does that get figured in for your referrals? Are you providing some services on the reservation if there are enough moms in the same position? That would be reinforcing and help people keep appointments rather than the long transportation hauls that some of these women were telling me that they had. They work, and they had to find daycare. Sometimes an appointment for us might be 3 hours and we are kind of whin-

ing about that, but it could literally be a whole day for a mom in some parts of Indian Country.

Is obstetrics and gynecology neglected because you know that you are going to be referring most of it off? Is that not in Indian Health Service but do you comport in some of your administrative services because you know you are going to have it, or is that all in Indian Health Service contract, or is it different depending upon the circumstances?

Dr. ROUBIDEAUX. It differs with each facility, but in general, we only have a few larger hospitals that do actual OB/GYN from the beginning to the delivery. Most of our facilities provide the prenatal care and then the deliveries are either done in a birthing center in the facility or are done in the private sector. So actually Contract Health Services is a pot of funding that really does help us enhance our OB/GYN services because a lot of our deliveries need to be in the private sector because we may have only a small ambulatory clinic where the delivery cannot happen there.

So a couple of things that we do. We have our national clinical specialists in OB/GYN to help us. We have American College of Obstetrics and Gynecology and the American Academy of Pediatrics has a committee on child Native American health. They actually work with us in partnership to make sure we are providing the standard of care for the services that we do provide, and they have done some site reviews for us that have helped look at how we are implementing our prenatal care and our pediatric care and implementing the services that you are interested in, and they have been able to make some great recommendations for how we can improve services, but it is clear that because many of our facilities are not large hospitals with, you know, OB/GYN departments and the ability to do surgery, we do have to refer to the private sector. That is really where our Contract Health Service program helps us.

Ms. MCCOLLUM. So how would I find out if you had a protocol for a high-risk mom or somebody who starts hitting their due date? If she is two or three hours out on roads without lights where weather can be a determining factor in the winter for making it to a hospital, you have got a protocol in place, correct? Something that helps that family know what they can do, what their expectations should be?

Dr. ROUBIDEAUX. We do have standards of care and patient education that we are supposed to be providing, and we can have our staff provide you with a summary of that information.

Ms. MCCOLLUM. Mr. Chairman, not to overgeneralize, but if you are a stay-at-home mom expecting your second or third one, you might have trouble finding daycare and going offsite. The scheduled cesareans were really alarming at one of the facilities I went to. It was contract service, so it was going to be scheduled. It was convenient for the mother to drive in, yes, but it was also very convenient for the facility we were going to. That is not an outcome that we should be encouraging women to be doing just because it is more convenient for, quote, unquote, us because we do not provide the service close to home. This is something that just came to my attention, in fact, within the last 24 hours, or I would have mentioned to you that we might be seeing a lot of scheduled cesareans, especially because of the fact that we do not have facili-

ties onboard and that is the one thing that we know we should not be doing. We should not be doing things for the convenience of the surgeon. But then we have problems with transportation for the moms, so how are we handling that? Your staff can follow up with my staff later on. We are trying to bring the cesarean rate down.

Dr. ROUBIDEAUX. Yes, I agree with you, and scheduling cesareans is not optimal and we will look into seeing if that is being done in our system and to what extent.

Ms. MCCOLLUM. It may be anecdotal and might not be happening.

Dr. ROUBIDEAUX. Yes, well, I would like to know myself because I do know there is this national effort to try to reduce scheduling cesarean sections and letting the birth process happen naturally, and to the extent that we can do that with our protocols and policies in place, we will make sure that we look at what improvements we can make.

STAFFING NEW FACILITIES

Mr. SIMPSON. I noticed in the budget, you put in \$49 million for staffing at new clinics. Is that all for staffing at new clinics?

Dr. ROUBIDEAUX. It is for staffing five joint ventures and one ARRA-funded facility that are scheduled to be opened in 2013.

Mr. SIMPSON. Completion dates on construction projects are oftentimes moving targets. If the facilities are not open, or if the completion dates change, you will let us know? Obviously those funds then would not be necessary.

You are proposing to fund only 35 percent of the staffing at the new Fairbanks joint venture facility, which is scheduled to open in December. Assuming it opens then, how is the facility expected to operate on 35 percent?

Dr. ROUBIDEAUX. Well, the joint venture facilities or all of our construction facilities, we work closely with the tribes or whoever is doing the construction to estimate the date of what is called beneficial occupancy, which is the time when the building is ready to move in, they passed all the codes, construction done and all those sorts of things. It turns out that more often than not, construction is delayed for a variety of reasons so the dates of beneficial occupancy do change, and that is why we actually need flexibility in the budget to be able to readjust for those facilities. So we have requested an amount, \$49.2 million, for the facilities that we estimate will open in fiscal year 2013, but with the knowledge of the fact that, you know, dates often change so we do actually need flexibility to be able to, if some fall behind, move some more forward, that sort of thing.

In terms of the percentage that we fund, for example, most of these facilities have existing staff in their old facilities that can move in to the new facility, and so in that case, if we only—the staffing package that we provide is for the staff in addition to their existing staff. So, for example, the Fairbanks facility has 132 existing staff. They would be able to move in and then if they are on time and we get the appropriation, we would fund a portion of their package in 2013 and then we would consider the rest for the following year. So it is really hardly ever that there is no staffing

available and then this package is the only thing they have. Usually there is staff from the old facility that can move in.

There is just an incredible amount of need for new staffing because in 2011, we did not get as much funding that we requested, and then 2012 helped us catch up but there is still quite a bit of need for new staffing and we are trying to estimate what we can get done with—

Mr. SIMPSON. It has always been a priority for us. It is a priority for us to try to meet the new staffing requirements because you can build all the hospitals and the clinics in the world, and if you do not put staff in them, it does not really mean anything. How has this affected the staffing levels of existing facilities?

Dr. ROUBIDEAUX. Well, staffing levels at existing facilities are impacted by the increases that we get in hospitals and clinics and by collections, and so if we do not fund inflation and population growth on hospitals and clinics like it was not funded in 2011 and 2012, then we have to absorb those, which means there is less funding available for staffing and so that is a challenge for us.

In terms of collections, they can be used for funding staff as well, and that is how a lot of our facilities actually do try to keep up with the staffing needs.

CURRENT SERVICES

Mr. SIMPSON. I noticed that the fiscal year 2012 budget request included an increase of \$397 million just to maintain current levels of service. This year's request looks to contain an increase of \$86 million while absorbing another \$127 million. What is the estimated total increase needed just to maintain current services?

Dr. ROUBIDEAUX. The amount that we have requested in current services is \$86 million.

Mr. SIMPSON. Will that maintain current services?

Dr. ROUBIDEAUX. No, actually, an additional \$127.4 million would be needed to fully fund, pay costs, inflation and pop growth.

Mr. SIMPSON. Okay. Any other questions, Tom?

Mr. COLE. Yes, one, and it really picks up, Mr. Chairman, where you left off. This is a pretty lean budget, and I think we all recognize you are part of the Administration and we all know we have a deficit problem, and you have to live within strictures like everybody else does that might not be your preferred outcome in a perfect world. So if by some miracle this subcommittee and the full committee could find more money than you have asked for, do you think you could find some places to use it?

Dr. ROUBIDEAUX. I am certain we could find places.

Mr. COLE. Thank you very much, Director.

Mr. SIMPSON. Betty, anything else?

Ms. MCCOLLUM. No, that was a good question and a wonderful answer.

Mr. SIMPSON. Thank you for being here today and thanks for all that you have done. As I, Tom and Betty have said, it was a great trip that we went on. I think it was very eye-opening for many of us. I think we have done a good job with Indian Health Service and the BIA over the last few years, both when Norm Dicks was chairman and when Mr. Moran was chairman and now that I am chairman. I think it has been a commitment of this committee, but

while we pat ourselves on the back for that, I leave this hearing and the BIA hearing somewhat depressed. When I read the statistics, particularly as I mentioned, violence against women, rape on the reservation and things that are going on there, I will tell you that regardless of what I do in Congress, if we do not see those numbers change, I will feel like I have been a failure here.

So we want to work with you and make sure we address these problems because it is our moral responsibility to do so. Thanks for being here today.

Dr. ROUBIDEAUX. Thank you very much.

Mr. SIMPSON. Hearing is adjourned.

The Subcommittee notes that the QFR responses from the Agency did not arrive in enough time to inform the FY 13 Appropriations bill. The Indian Health Service received questions from the Subcommittee on March 8th and did not submit OMB-cleared responses to the Subcommittee until May 3rd.

Hearing Questions for the Record (QFR) Prepared for the Indian Health Service

**Hearing: Indian Health Service FY 13 Budget Oversight
Tuesday, February 28, 9:30am Rayburn B-308**

Questions for the Record from Chairman Simpson

Dental Services (+\$6.9M)

In 2008, the IHS GPRA Summary Report noted that only 25% of American Indians and Alaska Natives have access to dental care, and those that do find themselves without the ability to receive many routine procedures, such as root canals. The FY13 target is still 25%, which tells me that IHS isn't able to make any progress.

Simpson Q1: Why isn't this percentage growing?

Answer: Although the IHS GPRA target for access to dental care is not anticipated to increase in FY 2013, the IHS has made progress in the number of American Indians and Alaska Natives (AI/AN) receiving dental treatment. In 2008, 308,961 AI/ANs received dental treatment which was 24.5 percent of the population (result rounded to 25 percent). In 2011, 337,671 AI/ANs received dental treatment which was 26.9 percent of the population, an increase of 2.4 percent from 2008. The relative increase in the number of patients served; from 2008 to 2011 was 9.3 percent.

An increase in the number of AI/ANs receiving access to care may not be reflected in the projected GPRA target for two main reasons: future GPRA targets may be adjusted based on actual, which are based on maintaining access to services with a growing user population. For example, the actual FY 2011 result is 26.9 percent and the FY 2012 target anticipates maintaining previous year's performance. The projected FY 2013 target is a -1.9 percent decrease from FY 2012. The FY 2013 target reflects a conservative estimate due to the lack of current services funding for the dental budget in previous years however, the target may be revised based on final FY 2012 results. Current FY 2013 targets are calculated based on the proposed budget and the most current actual result (FY 2011). Although the FY 2013 budget proposes an increase (e.g., Electronic Dental Record implementation) the impact may not be fully realized in the proposed budget year.

The FY 2013 Budget also proposes an increase for pay costs and staffing of new and expanded facilities. However, the Budget funds Dental services at essentially the same level as the prior year and does not provide additional funds to increase the number of services provided.

Simpson Q2: What is the status of the Chief Dental Officer position? Have you advertised to fill it?

Answer: The Division of Oral Health Director position is a priority position to be filled as soon as possible in 2012. Due in part to IHS budget uncertainties, recruitment was delayed on this position in

2011. The Dental Leadership position description has been revised and we expect the position will be posted within the next 30 days.

Simpson Q3: The committee was told that 2 of the 4 top leadership positions in the Division of Oral health were vacant. Have they been advertised? Filled?

Answer: The Division of Oral Health (DOH) Director and the Deputy Director DOH are in the process of advertising. The Director's position will be advertised first and shortly after the position has been filled, the Deputy position will be advertised.

Simpson Q4: In 2010, the IHS announced a new initiative for reducing the prevalence of Early Childhood Caries among American Indian and Alaska Native children by 25 percent and increasing their dental access by 50 percent by 2015. Could you give us an update on the progress of that initiative?

Answer: IHS Early Childhood Caries (ECC) Collaborative will be included in the 2010 Oral Health Report of American Indian/Alaska Native Preschool Children, which establishes baseline data on the prevalence and severity of early childhood caries in 0-5 year-old children. The report is currently undergoing an internal review process within the Indian Health Service. The IHS DOH plans to conduct surveillance of the 0-5 year-old AI/AN population again in 2013 and in 2015 to evaluate the success of the 5-year ECC Collaborative, which began in FY 2010.

Simpson Q5: Have you released the Early Childhood Caries report yet? We understood that it was coming out last year. When can we expect it?

Answer: The 2010 Oral Health Report of American Indian/Alaska Native Preschool Children, which establishes baseline data on the prevalence and severity of early childhood caries in 0-5 year-old children, is currently undergoing an internal review within the Indian Health Service. The anticipated completion date of this process is May 2012.

I'm pleased to see that the FY 2013 budget includes a \$1 million increase for the Electronic Dental Record. Last year you testified that it will take approximately 2-3 years to complete implementation of the EDR at all IHS dental facilities.

Simpson Q6: I'm pleased to see that the FY 13 budget includes a \$1 million increase for the Electronic Dental Record. Last year you testified that it will take approximately 2-3 years to complete implementation of the EDR at all IHS dental facilities. Are you still on track to meet this goal?

Answer: The FY 2013 budget request includes \$1 million which will increase the number of FY 2012 Electronic Dental Record (EDR) implementations by 18 sites. By the end of the current EDR contract year ending February 2013, approximately 100 sites will remain to be implemented. EDR implementations may also occur with local sites opting to use funding from alternate resources.

Sexual Assault and Domestic Violence

The Justice Department has reported that Indians are at least twice as likely to be raped or sexually assaulted as all other races in the United States. Indians living in remote areas may be days away

from health care facilities providing medical forensic exams, which collect evidence related to an assault for use in criminal prosecution. The principal health care provider for Indians, which operates or funds tribes to operate 45 hospitals, is the IHS. According to a recent GAO study, the IHS needs to strengthen its response to sexual assaults and domestic violence.

Simpson Q7: Please take a moment to share with the Committee where the IHS has fallen short and how it is addressing the issue.

Answer: The IHS is actively addressing this issue. In March 2011, IHS established its first-ever formal Sexual Assault Policy, and, based on comments and feedback from Tribal leadership, Department of Justice, GAO recommendations, and Urban Indian leadership, the IHS Sexual Assault Policy, which provides guidance for hospitals operating 24/7, is undergoing revision and expanded to include outpatient and community health clinics, and to comprehensively and clearly outline the process for approving subpoenas and requests for testimony. IHS is drafting an implementation and monitoring plan for the Sexual Assault Policy that clarifies processes and guidance on how IHS will support its hospitals and staff. Federal workgroups have been formed to develop comprehensive child maltreatment response and domestic violence policies.

The IHS will offer (7) Sexual Assault Response Team and (7) Sexual Assault Examiner (SAE) training sessions to all 45 IHS and Tribal hospitals in 2012. Clinical skills training will be conducted in a simulation laboratory and any medical provider who has completed SAE training will be eligible to attend. Forensic equipment, including cameras, storage cases, tripods, laptops configured with telemedicine software, and colposcopes (where needed), will be purchased for all 45 IHS and Tribal hospitals in 2012. A telehealth component is under development that will enable IHS and Tribal health care providers access to “store and forward” network capability as well as expert case consultation when conducting sexual assault examinations.

Simpson Q8: Please give us an update on your Domestic Violence Prevention Initiative, how it fits in to this FY13 budget, and what your plans are for the out years.

Answer: The Domestic Violence Prevention Initiative (DVPI) projects recently reported its first year activities. From August 2010 through July 2011 the DVPI resulted in over 37,737 screenings for domestic violence, more than 73% of eligible patients. Over 4,700 referrals were made primarily for domestic violence services, culturally-based services, and clinical behavioral health services. Nearly 1,500 individuals received crisis intervention services and more than 3,000 individuals received counseling services. A total of 160 forensic evidence collection kits were submitted to Federal, State, and Tribal law enforcement, and over 76 percent of projects reported having interdisciplinary teams including SARTs and task forces. In addition, more than 18,000 community members were reached through community awareness and education events.

This preliminary data strongly suggests effective programming is taking place in Indian Country across a wide range of communities and areas of focus. The pilot projects within DVPI are demonstrating promising practices to address sexual and domestic violence in its first year of funding and have the potential for far-reaching effects with expansion. The appropriation for FY 2013 would support 65 projects that target domestic violence and sexual assault prevention and intervention resources to communities in Indian Country. DVPI projects continue to expand outreach and advocacy programs and utilize national training and support to provide comprehensive clinical and community-based services. Existing funding through the DVPI would help sustain existing

programs, identify culturally appropriate best and promising practices for prevention and treatment, and to fund future projects to increase capacity within the system.

Contract Support Costs (+\$5M)

Simpson Q9: Where are the reports that were due to Congress months ago?

Answer: During this administration, Dr. Roubideaux submitted Contract Support Costs (CSC) Needs Reports to Congress for FY 2003 to FY 2010. We expect that by May 15, 2012, the IHS will be in timely compliance with all CSC Needs Reports.

CSC Needs Reports that have been submitted to Congress are:

- FY 2008 (FY 2003–2007 shortfall data) CSC Needs Report was submitted March 24, 2010.
- FY 2009 (FY 2008 shortfall data) CSC Needs Report was submitted March 24, 2010.
- FY 2010 (FY 2009 shortfall data) CSC Needs Report was submitted February 27, 2012.

Reports still in progress are:

- FY 2011 (FY 2010 shortfall data) CSC Needs Report under final review.
- FY 2012 (FY 2011 shortfall data) CSC Needs Report in final preparation and with expected submission to Congress by May 15, 2012.

Simpson Q10: What is the estimated shortfall in FY13 for Contract Support Costs?

Answer: After factoring in the proposed increases in the FY 2013 President's budget, IHS estimates the remaining FY 2013 shortfall to be between \$70 and \$80 million.

Simpson Q11: The BIA is proposing \$228 million to fully fund contract support costs. How is it that BIA can estimate its shortfall for FY13 but the IHS continues to struggle at this?

Answer: The IHS estimated CSC need for FY 2013 is a sound estimate. Information gathered to develop the shortfall estimate changes several times from the start of the FY 2013 budget process until FY 2013 appropriations. Several factors, including updating of a Tribe's indirect cost rate, Tribal assumption of new or expanded programs, and changes to non-recurring funds paid to a Tribe, contribute to the changes in estimates throughout the year. The most accurate estimate of the shortfall is in the actual fiscal year for the estimate.

Unobligated Balances

Your carryover balance in the Services account has grown from \$434 million in FY10 to \$776 million in FY12. According to the budget proposal, if we appropriate the full budget request then the FY13 carryover balance is projected to grow to \$809 million.

Simpson Q12: Please explain why the balance is so high, and why it is growing.

Answer: The Services unobligated balances exhibit (CJ-25) provides out year estimates (e.g., FY 2012 and FY 2013) based on data from FY 2011. As of the end of February 2012 unobligated balances are lower, with \$379 million in Services and \$147 million in Facilities.

Unobligated balances vary during the year based on a number of factors related to doing business in the setting of continuing resolutions, delayed appropriations, large grant programs and timing issues. There are a number of contributing factors for an estimated high unobligated balance in FY 2013. The unobligated balances at the end of FY 2011 are partially related to operating under a continuing resolution (CR) until early June 2011. Under the CR, IHS maintained spending at prior year levels. The enacted appropriation received later in the year resulted in larger unobligated balances due to the time constraints in disbursing funds prior to the end of the year. Although the unobligated balance for FY 2012 is \$744 million at the beginning of the year, the actual number at the end of the year may be revised as unobligated balances are updated throughout the fiscal year. As a result, the FY 2013 estimates may be revised based on FY 2012 actuals.

IHS has several x-year accounts which provide the necessary authority to carry over funds each year and facilitate the flexibility required for program administration. IHS' x-year accounts included in the unobligated balances Services appropriation exhibit (CJ-25) are: Contract Health Services (CHS), Indian Health Professions (IHP), the Domestic Violence Prevention Initiative (DVPI), the Methamphetamine and Suicide Prevention Initiative (MSPI), Special Diabetes Program for Indians (SDPI) and Collections.

During a given fiscal year, the funds obligated for the CHS and IHP programs may be revised due to larger (or smaller) than anticipated actual costs for services or tuition, or patients and students no longer require funding (i.e., a patient is able to fund services by another mechanism, students do not complete requirements, etc.). The DVPI, MSPI and SDPI award grants (as well as other forms of funds distribution) to sites across the country. Grant awards are distributed at various times throughout the fiscal year. Depending on the timing of the various program grant cycles, funds may be considered committed but unobligated. Overall, a delay in receipt of funding after the beginning of a fiscal year results in administrative delays in awarding funds to patients, students or grantees and contributes to the Agency's unobligated balances.

Significant budget changes impact the Agency's ability to disburse funds in a timely fashion, particularly if there are significant delays in receiving an enacted budget. For example, services purchased through the Contract Health Services program can take several months to result in a payment to the provider, as eligibility, medical priority, and alternate resources must be established prior to payment. Therefore, CHS appropriations received later in the fiscal year may not be obligated and disbursed until the following fiscal year, resulting in a higher unobligated and/or unexpended balance for the fiscal year in which the funds were appropriated.

Public (i.e., Medicare and Medicaid) and Private collections are funds collected by local facilities for providing health care services to insured AI/ANs. The funds collected are x-year funds and can be used across appropriations years to meet the needs of the local facility to maintain accreditation and standards of health care. Collections reflect a large portion of unobligated balances as funds fluctuate throughout the year based on the actual amounts collected for services and obligated for improvements.

This is not an exhaustive list of all of the unobligated balances in the Services account, however these examples reflect some of the unique functions of the IHS and help to explain a large portion of the unobligated balances.

Contract Health Services (+\$54M)

I appreciate that you've put the \$54 million increase for Contract Health Services (CHS) into tangible measures: 848 inpatient admissions; 31,705 outpatient visits; and 1,116 one-way transportation services. I understand that CHS funds are needed to purchase health care services where direct IHS and Tribal health care is non-existent or unavailable.

Simpson Q13: What I'm less clear about is: what happens to these patients if the increase isn't funded?

Answer: If the increase is not appropriated, the services would be not provided, patients would not get needed health care services, and they would be accounted for in the CHS unmet need.

Simpson Q14: I don't doubt that there is a great need for funding for Contract Health Services, but in light of the recent GAO report, which stated that IHS needs to have more accurate data for estimating Contract Health Service needs, I have to ask: How do you know what the increase will buy if you don't really know what the need is?

Answer: IHS recently estimated the total need for deferred and denied care was \$861 million. This estimate was based on available data from all IHS programs and some Tribal CHS programs. The CHS workgroup agrees that the estimate could be improved. However, because tribes voluntarily contribute their data to measure the unmet need developing a more accurate estimate is difficult

The following measures, some of which were recommended by the GAO report, have been put in place to improve the accuracy of the CHS data for estimating CHS needs for FY 2011:

- The CHS Unmet Need Reporting Template was updated to reflect all CHS programs reporting or not reporting.
- WebEx training on how to report using the updated template was completed for all federal and Tribal CHS programs.
- All 66 federal CHS programs reported their data during this reporting period.
- Tribal CHS programs were encouraged to voluntarily report their needs at all Area Budget Formulation meetings and at the National Budget Formulation meeting.
- A Dear Tribal Leader Letter from the IHS Director was sent to all Tribal CHS programs encouraging them to voluntarily report their CHS unmet need data.

Simpson Q15: Last year in conference we settled with the Senate on balanced increases for both Contract Health Services and Contract Support Costs. This year's budget request heavily favors Contract Health Services. Why?

Answer: Contract Health Services (CHS) and Contract Support Costs (CSC) are both high Tribal budget priorities. CHS remains the number one Tribal budget priority due to the need for critical health care services and the significant level of deferred and denied care. CSC funds, which are administrative funds in addition to funding for Tribally operated programs and services through ISDEAA contracts and compacts, are used at the Tribe's discretion. The proposed CHS increase will purchase much needed care, while CSC helps offset the Tribes use of administrative funds for clinical care. Increases in CHS funds are allocated to all IHS and Tribal CHS programs, while CSC funds are allocated to only those Tribes who contract or compact program, services, functions or activities and who receive funding for their CSC shortfall via a distribution formula.

Maintaining Current Services (+\$86M)

The FY12 budget request included an increase of \$397 million just to maintain current levels of service. This year's request looks to contain an increase of \$86 million while absorbing another \$127 million.

Simpson Q16: What is the estimated total increase needed just to maintain current services?

Answer: This amount for current services in the FY 2013 President's Budget request is \$86 million, which will fund mandatory Commissioned Officer pay costs, inflation for Contract Health Services and staffing for new facilities. Fully funding inflation and population growth would require approximately an additional \$100 million.

Simpson Q17: Why are medical inflation costs factored in only for Contract Health Services?

Answer: Funding for inflationary increases in the Contract Health Services (CHS) program were prioritized in the President's Budget. CHS funds are used to purchase medical care and medical inflation has consistently eroded the purchasing power of CHS funds for all IHS and Tribal CHS programs. Medical inflation costs impact other programs, but were not included in the request due to other competing priorities.

Simpson Q18: So long as current services are not fully funded, isn't it accurate to say that this budget request takes one step forward in some areas—like Contract Health Services—while taking two steps back in just about every other area?

Answer: No, because although many programs may be impacted by the lack of current services funding, there are areas of the budget where increases are necessary to maintain progress. The FY 2013 request includes increases for pay costs for Commissioned Officers, staffing new facilities, Contract Health Services (CHS), Health IT, Direct Operations, Contract Support Costs, and Facilities Maintenance and Improvement. These funding increases are critical to purchasing necessary services and providing support of the overall IHS infrastructure. A funding increase for the CHS program is necessary in order to maintain the progress gained in purchasing power in recent years. The Indian health system relies upon the CHS program to purchase specialty and emergency services that IHS and Tribal direct health care delivery sites are unable to provide. As a result of the 46 percent increase in CHS funding from FY 2008 to present, some CHS programs are able to pay for more than priority one referrals; an indication that funding increases are making a difference. There is still unmet need for CHS and the progress gained thus far in purchasing critical care services remains a high priority. While the funding needs across the Indian health care system are great, the FY 2013 request highlights targeted priority areas to sustain improvement.

Staffing of New Facilities (+\$49M)

I appreciate that for the past few years your budget has included increases for staffing new facilities. That is a true partnership effort that we must continue to fund.

Simpson Q19: Given how difficult it is to accurately predict the completion dates of construction projects, is it likely that the estimated completion dates of the new facilities listed in the budget are going to change between now and the start of FY13?

Answer: The construction completion dates of the six health facility projects are not likely to change since all are fully funded and all are enclosed except one. Although the one project is not yet enclosed at this point, the project is still expected to stay on schedule as originally planned.

Simpson Q20: If so, then will the estimated costs for staffing new facilities change as well?

Answer: IHS works closely with those Tribes involved in a health facility project to provide the best estimates for construction completion, and the associated planning related to new staffing for the facility. These factors are considered when the new staffing is included in future budget requests to Congress, which are typically several years out. If a beneficial occupancy and opening date is delayed, the estimated staffing costs would be adjusted to the actual number of months to fund during the initial year (i.e., fewer months, less staffing funding) based on the amount of appropriations received for that facility. In the case of a new facility being completed sooner than originally planned, staffing funds would not be available since IHS has never received advance staffing funds from Congress.

Simpson Q21: If the costs do change, will you send up a budget revision?

Answer: It is very unlikely that the project opening dates will change; therefore we do not anticipate budget revisions will be needed. The current health facility projects are reporting that they will be on time.

Simpson Q22: You're proposing to only fund 35% of the staffing at the new Fairbanks joint venture facility, which is scheduled to open in December. Assuming it opens then, how is this facility expected to operate at 35%?

Answer: This Tanana Chiefs Conference 140,000 square-foot health facility project includes 2 phases: Construction of a new 95,000 square-foot primary health center in Phase 1; Renovation of 45,000 square feet in its existing facilities. The Phase 1 (68% of total space) is scheduled for completion in December 2012, with Phase 2 (32% of total space) scheduled for completion in July 2013. With 133 existing staff plus the 57 new staff proposed, 190 staff (54% of total staffing) would transition into 68% of total space available for health care services based on the December 2012 opening date. Until Phase 2 is renovated and completed in July 2013, space will not be available for the remaining 161 staff that will be included in future budget requests.

Simpson Q23: As this Committee has made it a priority to fund the staffing of new facilities, what has happened to staffing at existing facilities? Has it eroded?

Answer: The staffing for new facilities is intended to raise staffing to a level comparable to existing facilities. Staffing cost increases for existing IHS and Tribal health facilities are supported by overall increases in the services and facilities budget. Staffing is impacted by funding levels, and when increases for current services are not provided, the local health facilities must absorb increased costs, especially in the Hospitals & Health Clinics line item, and staffing levels may be negatively impacted.

Health Professional Vacancies

Last year you testified that IHS had 956 health professional vacancies, which was an increase of 3% over the previous year. The FY13 budget justification cites vacancy rates as an ongoing challenge.

Simpson Q24: How many health professional vacancies does IHS currently have?

Answer: Current vacancies are 991. Examples of the percent increase/decrease from 2010 to 2011:

Discipline	2010	2011	% Increase/Decrease	2012	% Increase/Decrease
Physician	21% (280)	24% (319)	+3%	21% (280/1333)	-3%
Nurse	16% (616)	17% (655)	-2%	15% (578/3853)	-2%
Dentist	17% (78)	10% (46)	-7%	10% (46/460)	No Change
Optometrist	11% (18)	10% (16)	-1%	10% (16/160)	No Change
Pharmacist	11% (126)	5% (58)	-6%	6% (69/1150)	+0.9%

Simpson Q25: What are you doing to try and bring this number down?

Answer: The IHS has identified reduction of health professional vacancies as a major challenge to access to quality health care for our beneficiaries. The agency's 2012 performance management system includes an element for the development and implementation of Recruitment and Retention plans for all IHS Areas and a reduction of health professions vacancies by 10%. The initiative includes the use of active, midlevel and passive recruitment strategies. For example, materials are under development to assist Areas and local hospital and clinic sites in the development of recruitment plans. The IHS Office of Public Health Support has placed increased emphasis on the engaging of health professionals through electronic communication means as well as direct contact at recruiting events, along with the development of systems and tools to assist Headquarters and Area recruiters and local hospital and clinic sites in the effort to attract and retain highly qualified health professionals. In addition, IHS and HRSA also worked together to increase access to recruitment of health care providers through making all I/T/U sites eligible for placement for the National Health Service Corps.

Per Capita Health Care

According to the IHS, the federal government, on average, spends \$6,909 per capita annually on medical care for the U.S. general population. Last year you testified that federal spending on health care for American Indians and Alaska Natives is less than half that amount, or approximately \$3,300 per capita.

Simpson Q26: Does the FY13 IHS budget increase or decrease this per capita spending level?

Answer: Per capita spending changes when IHS' budget changes, the number of American Indians and Alaska Natives (AI/AN) changes, or both. The number of AI/ANs that IHS serves increases by about 1 percent annually. A budget increase of more than 1 percent would raise per capita spending.

Health Information Technology (+\$5M)

Simpson Q27: Please explain the \$5 million increase for Health Information Technology. Why is the agency calling this a “mandatory” expense?

Answer: The \$5 million increase for Health Information Technology is specifically requested to enable IHS to address the mandated transition from Version 9 to Version 10 of the International Classification of Diseases (ICD) for all claims submitted to the Centers for Medicare and Medicaid Services (CMS). The funds are required to conduct modifications to health information systems and to assist Indian health programs across the country with training for coders, billers and other affected staff on the new billing/coding requirements. If systems are not updated to utilize ICD-10, or staffs are not appropriately prepared, programs will be ineligible for Medicare and Medicaid payments. Third party reimbursements of up to \$900 million annually for Federal IHS sites alone will be at risk.

Simpson Q28: The budget justification lists three pages of measurable outputs and outcomes associated with the increase. What are some of the more salient measures of success?

Answer: The measurable outputs and outcomes are associated with the Hospitals and Health Clinics (H&HC) budget line. The purpose of the outcomes and outputs tables is to identify measures that impact or benefit the program. The H&HC budget represents about 42 percent of the IHS budget authority and funds most of clinical health care services for the AI/AN population. The H&HC budget also funds activities that support clinical service delivery (including Health Information Technology) and development of public health infrastructure (e.g., Tribal Epidemiology Centers). As such, the H&HC budget reflects the majority of IHS budget measures. Due to the wide range of services and activities funded by the H&HC budget, the proposed H&HC increases may not impact all IHS budget measures.

The proposed \$5 million increase for Health Information Technology (HIT) is to conduct necessary development and training in preparation for ICD-10 compliance. Although few of the clinical measures are directly associated with the HIT budget specifically, IHS anticipates the clinical performance measures will be affected by the conversion to ICD-10. In particular, five measures show the Indian health system is demonstrating clear success in performance and impacting AI/AN health disparities by improving patient access are: diabetic nephropathy assessed (for kidney disease), influenza vaccination for AI/ANs who are 65 or older, colorectal cancer screening, domestic violence/interpersonal violence (DV/IPV) screening, and HIV screening for pregnant AI/ANs.

- Nephropathy - an additional 12,606 diabetic patients received nephropathy assessments between 2008 and 2011; a 26 percent relative increase.
- Influenza vaccination – an increase from 54% to 62% from 2004 to 2011, an 8.0 percent increase.
- Colorectal cancer screening – an increase from 22% to 41.7% from 2005 to 2011, a 19.7 percent increase.
- DV/IPV screening – an increase from 4% to 55.3% from 2004 to 2011, a 51.3 percent increase.
- HIV Screening – an increase from 54% to 80% from 2005 to 2011, a 26 percent increase.

Of the five measures above, one of the most important measures of success is the DV/IPV screening. In 2004, the national screening result was only 4% (3,358 women screened), but in educating providers about this important measure, the screening rate increased to 55.3% (113, 336 women

screened) in 2011; an astounding 51.3% increase. DV/IPV screening continues to increase each year; performance increased from 42% to 55.3% from 2008 to 2011, a 13.3% increase.

The HIT program plays an important contributing role in the overall success of the measures discussed above. The HIT budget justification (CJ-73 to CJ-77) provides further detail of the program, proposed increase and specific measures associated with the overall HIT activity.

Direct Operations (+\$1.1M)

A \$1.1 million increase is proposed for direct operations to address myriad administrative reforms, GAO reports, unfunded mandates, and Indian Health Care Improvement Act requirements.

Simpson Q29: Please discuss, with particular attention to measures of success. In other words, how will we know that the money invested here will be well spent?

Answer: This funding increase will be used primarily to fund continued administrative reforms identified both internally and by external authorities. IHS will continue Headquarters Oversight Reviews of the IHS Area Offices, and establish an office whose function will be to coordinate this important activity and continue oversight and help to implement reforms after the initial reviews are complete. IHS will conduct HQ oversight reviews of six Area Offices per year, resulting in the development of formal reports of findings and corrective action plans by the Area Offices. Dedicated full time positions will ensure that corrective action plans are implemented and closed out appropriately by the Areas. This will fully address the Senate Committee on Indian Affairs and HHS Program Integrity Council recommendations and will demonstrate a continued focus on administrative and management improvement activity by the Agency. Improvements in oversight capacity will increase the Agency's ability to respond to external oversight entities including the Congress, GAO, OIG, OSC and others. This will reduce the numbers and significance of negative findings from external authorities. The IHS HQ oversight office will ensure that program leads and subject matter experts in the subject area under review are involved in audits/inspections/evaluations, will build organizational capacity and effectiveness, and will result in improved communications and relationships with all customers.

Director's Discretionary Allocation (\$4M)

The budget requests bill language providing "That of the funding provided for information technology activities and, notwithstanding any other provision of law, \$4,000,000 shall be allocated at the discretion of the Director of the Indian Health Service".

Simpson Q30: What is this money for?

Answer: The IHS has requested a \$5 million program increase for Health Information Technology (HIT), targeted toward compliance with the transition to ICD-10. The work supported by these funds will be needed for modification of IHS health information systems that are used by all Federal and the majority of Tribal and Urban Indian health programs, and any ICD-10 training resources developed by IHS will be available throughout Indian country. IHS therefore requests that at least 80 percent of the HIT program increase be allocated at the discretion of the Director of IHS to address system wide activities, and the remaining amount be available for individual Tribal shares.

Simpson Q31: Why do you need the “notwithstanding any other provision of law” clause?

Answer: The “notwithstanding any other provision of law” clause is needed so that the provision ensures that the limited resources are focused on accomplishing the transition to ICD-10. It is more cost effective and benefits all users of the IHS’ Resource Patient Management System if the funds are used centrally rather than if funds were allocated for individual compliance efforts or Tribal shares pursuant the Indian Self-Determination and Education Assistance Act.

Youth Suicide

Youth suicide remains a persistent, devastating crisis for many Tribal communities in Indian Country. Indeed, it is the second leading cause of death for American Indians and Alaska Natives ages 10 to 34 years, and at a rate twice the national average for all races.

Simpson Q32: What does this budget do to address youth suicide?

Answer: The Budget helps Indian Health Service (IHS) continue to implement a number of recently developed strategies to address the problem of youth suicide in American Indian/Alaska Native (AI/AN) communities. The key strategy IHS employs to address suicide is to work in partnership with Tribes to bring services and resources together to focus on mental health needs and reduce the rate of suicide within AI/AN communities. Tribes must be involved at every step of developing and implementing suicide prevention strategies within their communities since many of the risk factors are related to community issues and often victims do not access the IHS or Tribal health facility prior to an attempt.

IHS launched the National Suicide Prevention strategic plan on August 1, 2011 at the IHS/BIA/ BIE/SAMHSA Action Summit for Suicide Prevention. The strategic plan was prepared collaboratively between IHS and the National Tribal Advisory Committee on Behavioral Health, the Behavioral Health Work Group, and the Suicide Prevention Committee. The Action Summits for Suicide Prevention in Arizona and Alaska resulted from 10 Regional Listening Sessions conducted from November 2010 to February 2011. The FY 2013 budget will help enable the implementation of the National Suicide Prevention Strategic Plan.

The Methamphetamine and Suicide Prevention Initiative (MSPI) funds 127 IHS, Tribal, and Urban Indian health program projects nationally to provide services focused on youth suicide prevention, treatment, and community suicide crisis response training. Over the first two years of the MSPI, more than 100,000 youth participated in strength-based suicide prevention and intervention activities. More than 4,500 professionals and community members were trained in suicide crisis response. In an effort to increase access to behavioral health services for youth, the MSPI resulted in over 2,800 tele-behavioral health encounters. Continued support of the MSPI will enable continuation and further expansion of these efforts.

Tele-behavioral health technology promises to connect far-flung and often isolated programs of varying sizes together in a web of support. The purpose of the system is to provide additional services at some clinics by accessing services of providers who may be available at other locations. Tele-behavioral health encounters related to mental health and substance abuse treatment has been steadily increasing, from 181 encounters in FY 2008 to more than 2,600 in FY 2011. FY 2013

funding will support the expansion of consultative, evaluative, and aftercare tele-behavioral health services to several Youth Regional Treatment Centers.

The integration of behavioral health in primary care supports the paradigm of mental health services from an episodic, fragmented specialty to being part of primary care and the “Medical Home”. There will be a continued focus on a comprehensive and integrated approach to providing behavioral health services in collaboration with the IHS Improving Patient Care Initiative as well as the Federal, Tribal and Urban Indian health program partners.

Strategic Goals

Looking at the IHS budget by strategic plan goal, I see here that \$14 million is included to “improve environmental, energy, and economic performance to promote sustainability”. That is nearly a \$10 million increase over last year.

Simpson Q33: What does this goal mean, why is it a priority, and where is the money going?

Answer: The increased amount for this strategic plan goal reflects an increased awareness of the IHS to identify and address environmental, energy, and economic performance to promote sustainability in the planning and execution that IHS is able to do with currently available resources. Sustainability and energy efficiency is a priority of Congress, the Administration, the Department of Health and Human Services (HHS) and the IHS. As stated in the HHS 2011 Strategic Sustainability Performance Plan: “When President Obama signed Executive Order 13514 on October 5, 2009, he committed the federal government to take a leadership role in promoting sustainability and responding to climate change. Actions called for in the order, such as reducing greenhouse gas emissions and conserving water and other resources, will help build a clean energy economy and contribute to mitigating climate change.”

The Budget amount covers how the IHS will incorporate sustainability requirements promulgated under Regulations, Laws, and Executive Orders (e.g., Energy Policy Act of 2005; Executive Order 13423, “Strengthening Federal Environmental, Energy, and Transportation Management”; Energy Independence and Security Act of 2007; Executive Order 13514, “Federal Leadership in Environmental, Energy and Economic Performance”; etc.) in IHS operations and facilities. It covers transportation (e.g., transshare, high-efficiency vehicles), green procurement, facilities operations and improvement, high-performance sustainable buildings, water management, purchase of renewal credits, electronic stewardship, sustainable acquisitions, etc.

Simpson Q34: The Committee is considering changing the name of the “Contract Health Services” line item in the budget, as per the discussion in the hearing. What does the IHS recommend?

Answer: IHS recommends “Purchased/Referred Care”.

Questions for the Record from Mr. Cole

Cole Q1: Does the FY 13 request adequately account for medical inflation to ensure that current levels of service are maintained?

Answer: Although the FY 2013 request does not include medical inflation funds for all applicable budget lines in the context of a challenging budget climate, medical inflation funds are requested specifically for the Contract Health Services (CHS) Program. IHS is requesting an increase for inflation to continue to maintain progress in the CHS program. CHS remains the number one budget priority of Tribes and medical inflation funds (\$34 million) will help maintain the current level of services and offset the rising costs of purchasing health care.

Cole Q2: As diabetes especially affects Native populations, what is IHS doing to ensure treatments for diabetes and the disease's side effects is continually up to date with new treatments and technologies?

Answer: The Indian Health Service (IHS) Division of Diabetes Treatment and Prevention (DDTP) is responsible for monitoring and updating its services based on the clinical literature related to diabetes, changes in national guidelines, and is also responsible for translating and communicating key updated prevention and treatment information to providers across the Indian health system. These efforts include:

1. Clinical Tools

- a. IHS Diabetes Standards of Care for People with Type 2 Diabetes
 - i. In 1986, DDTP produced the first *IHS Standards of Care for Diabetes* (SOC) and it has revised and updated the SOC every 2 years since. For more than 25 years, the SOC has been an essential part of individual providers', health care teams', and system-wide efforts to continuously improve the quality of diabetes care in the Indian Health system.
 - ii. Latest edition (Dec 2011) shifts approach to the SOC from a print to an electronic version, updated regularly to reflect changes in national practice standards.
- b. Indian Health Diabetes Best Practices
 - i. Developed by Indian health system professionals for use by staff in clinical and community settings to implement or improve diabetes treatment and prevention efforts.
 - ii. Cover 20 topics in diabetes treatment and prevention, including adult weight management, breastfeeding, cardiovascular disease, chronic kidney disease, nutrition and physical activity, diabetes in youth and diabetes prevention.
 - iii. Are based on findings from the latest scientific research and successful experiences of American Indian and Alaska Native diabetes programs.
- c. Treatment Algorithms—concise, pocket-sized summaries of current diabetes treatment recommendations

2. Training on Diabetes Treatment and Prevention

- a. Webinars
 - i. Advancements in Diabetes webinar monthly series, offering continuing professional education credits

- ii. Special Diabetes Program for Indians (SDPI) grantee trainings—include both clinical and community-based diabetes updates
 - b. Online professional continuing education courses—make diabetes training available at all times
 - c. Conferences and workshops
 - i. Sponsored by DDTP
 - ii. Participation by DDTP and other diabetes professional staff in conferences sponsored by other Indian Health organizations
 - iii. Area diabetes meetings
 - d. Area level—trainings, webinars, conference calls , site visits by Area Diabetes Consultants
3. **Indian Health Diabetes Website**—central information source for all clinical tools, training and resources
 4. **Electronic Health Record (EHR)**—coordinate development of EHR-based diabetes clinical note templates, clinical reminders
 5. **Diabetes Care and Outcomes Audit**—annual patient chart audit of the quality and outcomes of diabetes clinical care provides feedback to help Indian health sites improve their treatment services
 6. **Network of diabetes professionals** across the Indian health system allows for rapid dissemination of the latest diabetes treatment and prevention strategies
 - a. Extremely active email groups where the latest research articles, practical patient education/care tips and standards of care are shared very rapidly among all diabetes programs
 - b. Use of LISTSERVs to rapidly disseminate information
 7. **Review of diabetes related-medications**
 - a. IHS National Pharmacy and Therapeutics Committee with DDTP input reviews evidence (efficacy, safety, cost-effectiveness) for diabetes-related medications to be included/removed on the IHS Core Formulary.
 8. **Partnerships and Collaborations**

The IHS has developed and built upon collaborations and partnerships with federal and private organizations. These include:

- Joslin Vision Network Tele-ophthalmology Project,
- American Academy of Pediatrics, Committee on Native American Child Health,
- American Diabetes Association,
- Juvenile Diabetes Research Foundation,
- Centers for Disease Control and Prevention,
 - Division of Diabetes Translation
 - Native Diabetes Wellness Program
 - State Diabetes Control Programs
- National Institutes of Health,
 - National Institute of Diabetes and Digestive and Kidney Diseases
 - National Kidney Disease Education Program
- National Diabetes Education Program,
- American Association of Diabetes Educators, and
- American Dietetic Association.

Questions for the Record from Ms. McCollum

Funding for Urban Indian Health Programs

Between FY2010 and FY2012, the overall IHS budget has been increased by \$254 million, an increase of 5.8%. During that time, funding for Urban Indian Health Programs has been decreased in two consecutive years, reducing funding by \$155,000. The President's FY2013 request would increase IHS funding another \$116 million, while increasing Urban Indian Health funding by only \$4,000.

McCollum Q1: In light of census data which shows that 64% of American Indians and Alaska Natives live in urban areas, what steps will the IHS take to ensure that sufficient funding is available to meet the health care needs of American Indians and Alaska Natives living in America's cities?

Answer: The IHS consults with Indian Tribes and Tribal organizations to fulfill the government-to-government relationship and confers with urban Indian organizations. When Congress reauthorized and amended the Indian Health Care Improvement Act (IHCIA) in March 2010, one of the changes was to create a requirement that the IHS confer, to the maximum extent practicable, with 501(c)(3) non-profit urban Indian organizations (25 U.S.C. 1660d).

The IHS will confer with IHCIA Title V Urban Indian organizations to determine their health care priorities and associated costs. A draft National Urban Indian Health Needs Assessment Report will be sent to urban Indian health program directors this month for review and comment. Information contained in the final report will inform the IHS about the urban Indian health level of funding.

When the IHCIA was enacted into law in 1976, it identified the authorities, responsibilities, and functions of the IHS, the primary Federal Agency charged with providing health care to American Indians and Alaska Natives (AI/AN). The IHCIA included the authority for the IHS to "establish programs in urban centers to make health services more accessible to urban Indians." Indian Health care Improvement Act, Title V, section 501, Public Law No. 94-437, 90 Statute 1400, 1410 (1976), codified at 25 U.S.C. Section 1651. The IHS carries out this authority through contract with and grants to Urban Indian organizations.

Access for Indians that reside in urban areas can be addressed through other publicly funded health programs, such as health centers. Due to the remoteness of many reservations and Indian communities, the majority of IHS funds are used to provide health care services in areas where care would otherwise be unavailable.

TUESDAY, FEBRUARY 28, 2012.

INDIAN AFFAIRS 2013 BUDGET REQUEST

WITNESSES

LARRY ECHO HAWK, ASSISTANT SECRETARY FOR INDIAN AFFAIRS
MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS
KEITH MOORE, DIRECTOR, BUREAU OF INDIAN EDUCATION

Mr. SIMPSON. Good afternoon, Assistant Secretary Echo Hawk. Thank you for appearing again before this subcommittee to testify on the budget, and more importantly, thank you for the long tenure of service as Assistant Secretary for Indian Affairs. You and I go back many years to the days of the Idaho legislature, and I have always held you in the highest regard. I appreciate our working relationship as we attempt to make a positive difference in the lives of over 1.9 million American Indians and Alaska natives.

I enjoyed our trip last August with Ms. McCollum and Mr. Cole, Ms. Noem, and Jodi Gillette, and Yvette Roubideaux when we traveled to Oklahoma, South and North Dakota to visit the tribes, and I hope you will join us again as we are beginning to plan for another trip in late September.

As you know, honoring this Nation's commitments to Indian Country is something that this subcommittee has taken very seriously over the past several years, thanks to the leadership of Mr. Dicks and Mr. Moran. It continues to be a bipartisan effort. That is why I think I speak for all of us when I say that there are some good things in this fiscal year 2013 budget and some things that concern us.

Overall, the budget calls for a \$4.6 million decrease, less than 1 percent, but within that decrease is \$129 million in program changes, which means that there are a lot of moving parts in this budget. I am pleased that you have included full funding for contract support costs and that you have provided an increase for education grant support costs. I appreciate the \$8.5 million increase in public safety and justice, an issue that I know this committee cares strongly about.

I am particularly concerned, however, that the budget proposes for the second straight year to zero out replacement school construction. There are 183 schools and dormitories in the BIE school system and the Federal Government is responsible for building maintenance and, eventually, replacement. Simply replacing one each year assumes each building will last 183 years. We need to get back to a sustainable and balanced maintenance and construction budget. In the fiscal year 2012 budget, this subcommittee added \$50 million to fund replacement school construction but had to settle for \$17.8 million in conference with the Senate. We will continue in this fight in the 2013 budget.

I have no doubts about your genuine commitment to Indian Country and about your skill in identifying problems and adaptively managing through solutions. What I am interested in is where the Bureau goes from here, how we get there, and how we can measure success. I look forward to our discussions of the budget today in the context of those questions. With that, I am happy to turn to Mr. Moran for any opening statements he might have.

Mr. MORAN. Thanks very much, Mr. Chairman.

Assistant Secretary Echo Hawk, welcome. Nice to see you. If you will pardon the indulgence, the chairman particularly appreciates quotes, looks forward to them—

Mr. SIMPSON. I do.

Mr. MORAN. Once in a while—

Mr. SIMPSON. Any quotes.

Mr. MORAN. So I will share one here. Fifty years ago, President Kennedy noted, “treatment of Indians still affects the national consciousness. It should be a basic school’s requirement to study the history of Indian people. Only through this study can we as a Nation do what must be done if our treatment of the American Indian is not to be marked down for all time as a national disgrace.” We heard from Dr. Roubideaux this morning about Indian Health Services, and even though this subcommittee has been relatively generous to the Indian Health Service in a bipartisan basis, in many areas, it still is a national disgrace the conditions in which Native Americans live.

But it does not mean that there have not been substantial improvements since President Kennedy’s time back in the 1960s, but it is still obvious that there is so much that continues to demand attention and resources, both economically, and educationally. On the social status of Native Americans, we have got so much more to do to rectify this gross injustice. And for most Americans, I think the old adage applied, you know, out of sight, out of mind unfortunately.

Budgetary context is obvious. We know that you have to put your best foot forward on your budget request, but that request just holds the line, notwithstanding this great need and addressing the impoverished conditions in which so many American Indians live. In fact, the budget request is below last year’s level. The subcommittee’s support is bipartisan and our admiration and respect for you is also bipartisan. The question is a matter of national priorities, and we want to help you enhance the quality of life for all Native Americans.

We recognize the needs that exist in education and economic development. We have got to have more jobs available so that there is hope for a better future. That is perhaps the root cause of the problem. There does not seem to be the kind of future that causes people to really invest, stay away from the substance abuse and invest in education and hope for a better life for their kids. That is what we have got to turn around. It is mostly a matter of economic development and that generates jobs. We cannot rewrite history but we can certainly help to write the next chapter of history with regard to the treatment of Native Americans.

So this is a tangible expression of our commitment to Native Americans and I trust, Secretary Echo Hawk, that with your help we can start to show that it is time to do right by them.

And I thank you, Mr. Chairman, and look forward to the testimony.

Mr. SIMPSON. Thank you.

Again, welcome, and we look forward to your testimony.

Mr. LEWIS. And, Mr. Chairman, if I could—

Mr. SIMPSON. Sure.

Mr. LEWIS [continuing]. I mentioned to Secretary Echo Hawk that I am going to be with the Secretary for Energy and Water in a moment and I do have questions—

Mr. SIMPSON. You and me both.

Mr. LEWIS. I have questions for the record that I mentioned to him and the reason I would like to specifically mention if you will there is a small little problem with an Indian tribe in beautiful downtown Needles, California, I would ask your staff to help you look at. Other than that, thank you very much. It is good to be with you. Thank you.

Mr. ECHO HAWK. Mr. Chairman and Ranking Member Moran and members of the subcommittee, thank you for this opportunity to provide a statement on behalf of the Department of Interior Indian Affairs regarding the President's fiscal year 2013 request.

I have with me today the Director of the Bureau of Indian Affairs, Mike Black; and the Director of the Bureau of Indian Education, Keith Moore. I also wanted to express my personal appreciation for the invitation I received to travel with you, Mr. Chairman and members of the subcommittee, on the Cordell trip to Oklahoma and the Dakotas and also for the bipartisan support that we received from this committee and the Congress and the Senate.

The 2013 budget request for Indian Affairs programs within the Department totals 2.5 billion in current appropriations. This is a \$4.6 million decrease from last year's enacted level, which is a reduction of less than 1 percent. As this subcommittee is aware, Indian Affairs meets with tribes quarterly on the budget through the Tribal Interior Budget Council. Through this informed consultation with the tribes, we included in this budget a request for \$43.8 million in program increases in priority areas such as contract support costs, rights protection implementation, and law enforcement. And yes, we have requested reductions. We requested reductions of \$66.9 million made up of \$19.7 million in streamlining measures, \$13.8 million in management efficiencies, and \$33.1 million in program reductions that were identified as lower priority areas in our Tribal Interior Budget Council meetings.

The Tribal Interior Budget Council helps us identify priorities, but they said emphatically that they do not support any cuts in the budget. Nevertheless, that exercise in identifying priorities helps us to meet the targets that are given to us by the Office of Management and Budget.

The Indian Affairs 2013 budget request continues to provide funding for two of the Department's priority initiatives: Strengthening Tribal Nations and the New Energy Frontier.

STRENGTHENING TRIBAL NATIONS

This budget request seeks an increase of \$43.8 million for the Strengthening of Tribal Nations Initiative. This initiative was highlighted over the past three years at the White House Tribal Nations Conference where over 400 tribal leaders have attended each conference session. Within this initiative, we plan to advance nation-to-nation relationships by seeking \$12.3 million in programmatic increases for contract support costs, the Indian Self-Determination Fund, and Indian land and water claim settlements, and for continued work on the Navajo-Gallup Water Supply Project.

We also plan to continue protecting Indian Country by seeking an additional \$11 million in public safety funding over the fiscal year 2012 enacted level. Within the increase, \$3.5 million will go toward hiring additional tribal and bureau law enforcement personnel, and \$6.5 million will pay for staff increases at newly constructed tribal and bureau detention centers. This request also supports the expansion of a highly successful pilot program launched in 2010 that saw a 35 percent reduction in violent crime on four reservations with high violent crime rates.

The Department also seeks an increase of 5.2 million for our education activities. Two million dollars will go toward tribal grant support costs, which cover administrative and indirect cost at 125 tribally controlled schools and residential facilities. Additionally, the request includes a program increase of \$2.5 million for tribal colleges and universities to assist in the economic development of tribal communities and increasing enrollment, and a program increase of \$710,000 for scholarships and adult education and special higher education scholarships.

We also seek to continue assisting tribes in the management, development, and protection of Indian trust lands and their natural resources. The 2013 request includes \$15.4 million in programmatic increases for land and water management activities.

NEW ENERGY FRONTIER

To continue with the New Energy Frontier Initiative, the 2013 budget request provides a total of \$8.5 million to support energy resource development on tribal lands. Of this total, \$6 million is provided for renewable energy projects, and the remaining \$2.5 million is intended to provide for conventional energy and audit compliance in support of leasing activities on the Fort Berthold Reservation.

The President asked his Administration to meet important objectives while also exercising fiscal responsibility. Consistent with this directive, we have made several difficult choices in the 2013 request. As I mentioned earlier, we request \$66.9 million less than last year in this area. These reductions include \$19.7 million in streamlining measures, \$13.8 million in administrative savings, and \$33 million in program reductions. The \$19.7 million reduction is anticipated to come from eliminating duplicative and overlapping functions and processes to achieve necessary consolidations across the Bureau. The \$13.8 million reduction will come from anticipated management efficiencies such as less printing and less travel.

The Department's requested reduction includes \$33.1 million in program decreases. Included in this reduction is \$2.6 million less for law enforcement special initiatives and a reduction of \$6.1 million for information resource technology consistent with the standardization of IT within the Department.

Education-related activities will see a decrease of \$4.5 million for the Indian Student Equalization Program to reflect a slight decline in student population. The 2013 budget request includes a programmatic decrease of \$17.8 million for new school construction funding. The total 2013 request for education construction is \$52.9 million and provides \$11.3 million for public safety and justice, \$32.7 million for resource management and \$9 million for other program construction.

The budget provides \$5 million for the Indian Loan Guarantee program, which is a reduction of \$2.1 million from the 2012 enacted level. This level of funding will continue to allow the same dollar amount of loans—approximately \$71.7 million—to be loaned out due to a lower subsidy rate from the prior years.

Overall, the 2013 budget reflects a fiscally responsible balance of the priorities expressed by tribes during consultation and broader objectives of the Administration, as well as demonstrated program performance and realistic administrative limitations. The 2013 budget continues to focus on core responsibilities to American Indians and Alaska Native programs and services that are vital to Indian Country. This budget request focuses on priority areas in Indian Country and honors the Federal Government's obligation to tribal nations in a focused and informed manner. I want to assure this subcommittee that this Administration understands the need to take fiscal responsibility and also understands the need to strengthen tribal nations, foster responsible development of tribal energy resources, and improve nation-to-nation relationships between tribal nations in the United States.

Mr. Chairman and members of the subcommittee, thank you. I am happy to answer questions.

[The statement of Larry Echo Hawk follows:]

**STATEMENT
OF
LARRY ECHO HAWK
ASSISTANT SECRETARY – INDIAN AFFAIRS
BEFORE THE
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
ON THE PRESIDENT'S
FISCAL YEAR 2013
BUDGET REQUEST FOR INDIAN PROGRAMS IN THE
DEPARTMENT OF THE INTERIOR
FEBRUARY 28, 2012**

Good morning, Chairman Simpson, Ranking Member Moran, and members of the Subcommittee on Interior, Environment and Related Agencies. Thank you for the opportunity to provide the Department of the Interior's (Department) statement on the fiscal year (FY) 2013 President's Budget request that was released on February 13, 2012 for Indian Affairs' programs in the Department. The FY 2013 budget request for Indian Affairs programs within the Department totals \$2.5 billion in current appropriations. This is \$4.6 million below the FY 2012 enacted level, or a reduction of less than one percent. Informed by consultation with the Tribes, the budget includes \$43.8 million program increases in priority areas including contract support costs, rights protection implementation, and law enforcement. There are also reductions of \$66.9 million, comprised of a reduction of \$19.7 million as a result of streamlining measures, \$13.8 million in management efficiencies, and \$33.1 million in program reductions.

Overall, the 2013 Indian Affairs budget reflects a fiscally responsible balance of the priorities expressed by Tribes during consultation and broader objectives of the Administration, as well as demonstrated program performance, and realistic administrative limitations. The 2013 budget focuses on core responsibilities to American Indians and Alaska Natives through programs and services that are vital to Indian Country and that benefit the greatest number of Indian people on a nationwide basis. The budget focuses on priority areas in Indian Country and honors the Federal Government's obligations to tribal nations in a focused and informed manner.

As the Assistant Secretary for Indian Affairs, I have the responsibility to oversee the numerous programs within the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), along with other programs within the immediate Office of the Assistant Secretary for Indian Affairs. The Office of the Assistant Secretary for Indian Affairs, BIA, and BIE programs expend over 90 percent of appropriated funds at the local level. Of this amount, at least 62 percent of the appropriations are provided directly to Tribes and tribal organizations through grants, contracts, and compacts for Tribes to operate government programs and schools. Indian Affairs' programs serve the more than 1.7 million American Indian and Alaska Natives living on or near the reservation.

The Indian Affairs FY 2013 budget request continues to provide funding for two of the Department's priority initiatives: Strengthening Tribal Nations and New Energy Frontier.

Strengthening Tribal Nations

This budget request includes an increase for \$43.8 million for the Strengthening Tribal Nations initiative. This initiative takes a multi-faceted approach to advance Nation-to-Nation relationships, protects Indian communities, advance Indian education, and reforms trust land management, with the ultimate goal of greater tribal self-determination and self-governance. This initiative has been highlighted over the past three years as President Obama and his Administration have engaged in direct dialogue with tribal nations. Held in November 2009, December 2010, and December 2011, at the Department's Yates Auditorium, over 400 tribal leaders have attended each White House Tribal Nations Conference.

Advancing Nation-to-Nation Relationships

The Administration seeks \$12.3 million in programmatic increases for contract support costs, Indian Self Determination funds, Indian Land and Water Claim Settlements and continued work on the Navajo-Gallup Water Supply Project. The \$8.8 million increase for contract support complements the top priority identified by many tribal nations through Tribal Interior Budget Council meetings held quarterly throughout the calendar year. Funding contract support and self-determination will strengthen the capacity of Tribes to manage the Federal programs for which they contract, as well as eliminate the need for Tribes to use program funds to fulfill administrative requirements. The requested increase reflects 100% of current estimated contract support need. The remaining \$3.5 million increase is for Indian and Water Claims Settlements, with \$3.4 million of that funding requested for the Navajo-Gallup Water Supply Project.

Protecting Indian Country

The BIA supports 193 law enforcement programs throughout the nation; within the 193 programs, there are 6 district offices and 187 programs performing law enforcement services consisting of 36 BIA-operated programs and 151 tribally-operated programs. Approximately 78 percent of the total BIA Office of Justice Services (OJS) programs are outsourced to Tribes.

The FY 2013 budget request seeks an additional \$11.0 million in public safety funding over the FY 2012 enacted level. Within the increase, \$3.5 million is for hiring additional tribal and bureau law enforcement personnel and \$6.5 million will fund staff increases at newly constructed tribal and Bureau detention centers. This request also supports the expansion of a highly successful pilot program launched in 2010 to reduce crime on four reservations with high violent crime rates. The targeted, intense community-safety pilot resulted in a combined reduction in violent crime of 35 percent which exceeded the project's goals. The budget also requests an additional \$1.0 million for Tribal Courts, which are expected to increase in caseloads as a result of enforcing the Tribal Law and Order Act of 2010.

Advancing Indian Education

The BIE is one of only two agencies in the Federal government that manages a school system, the other being the Department of Defense. Education is critical to ensuring a viable and prosperous future for tribal communities and American Indians. It is this Department's goal to improve Indian education and provide quality educational opportunities for those students who attend the 183 BIE funded elementary and secondary schools and dormitories located on 64 reservations in 23 States and serving approximately 41,000 students.

The FY 2013 provides an increase of \$5.2 million for BIE activities. A component of the BIE program increase is for Tribal Grant Support Costs, which cover administrative and indirect costs at 125 tribally controlled schools and residential facilities. Tribes operating BIE-funded schools under contract or grant authorization use these funds to pay for the administrative overhead necessary to operate a school, meet legal requirements, and carry out other support functions that would otherwise be provided by the BIE school system. The budget increases funding for these activities by \$2.0 million.

The 2013 budget includes a program increase of \$2.5 million for Tribal Colleges and Universities to assist in the economic development of tribal communities and increasing enrollment. The request also includes a program increase of \$710,000 for Scholarships and Adult Education and Special Higher Education Scholarships.

Improving Trust Land Management

The United States holds 56 million surface acres of land and 57 million acres of subsurface mineral estates in trust for Tribes and individual Indians. Trust management is vital to tribal and individual economic development. The management of Indian natural resources is a primary economic driver in many regions within the country. For example, some of the larger forested Tribes operate the only sawmills in their region and are major employers of not only their own people, but of the non-tribal members who live in or near their communities.

This Administration seeks to continue assisting Tribes in the management, development and protection of Indian trust lands and their natural resources. The FY 2013 budget request includes \$15.4 million in programmatic increases for land and water management activities. Those activities include: \$3.5 million for the Rights Protection Implementation program and \$2.0 million for the Tribal Management and Development Program to support fishing, hunting and gathering rights on and off reservations. The budget also provides program increases of \$1.0 million for the Forestry program and \$500,000 for the Invasive Species program. An increase of \$800,000 supports greater BIA and tribal participation in the Landscape Conservation Cooperative, for a total program of \$1.0 million.

In February 2010, the Klamath Basin Restoration Agreement was signed to enable the recovery of salmon and other species that have been threatened by low river flows, poor water quality, and pollution. The budget request for Trust Services includes a program increase of \$5.5 million to support the objectives of the agreement including grants for economic development. The 2013

request also includes a program increase of \$1.5 million for Litigation Support/Attorney Fees which provides funding to Tribes involved in litigation, negotiation, or administrative proceedings to protect, defend, or establish their rights or trust resources guaranteed through treaty, court order, statute, executive order, or other legal authorities. The last component is a program increase of \$550,000 for the Fort Peck Water System, a new water treatment plant facility that is expected to be fully operational in early 2012. The total funding for the new water treatment plan will be \$750,000 in 2013.

New Energy Frontier Initiative

The Office of Indian Energy and Economic Development (IEED) works closely with Tribes to assist them with the exploration and development of tribal lands with active and potential energy resources. These lands have the potential for renewable and conventional energy resource development. The FY 2013 budget request provides a total of \$8.5 million to support energy resource development on tribal lands. Of this total, \$6.0 million is provided for renewable energy projects. The remaining \$2.5 million is provided for conventional energy and audit compliance in support of leasing activities on the Fort Berthold Reservation. This request will continue the Department's New Energy Frontier initiative, which will allow Indian Affairs to assist Tribes to explore and develop 1.8 million acres of active and potential energy sources on tribal land. The IEED provides funding, guidance, and implementation of feasibility studies, market analyses, and oversight of leasehold agreements of oil, gas, coal, renewable and industrial mineral deposits located on Indian lands.

To assist with developing energy on tribal lands, Secretary Salazar and I announced the reform of Federal surface leasing regulations in November 2011. The proposed reform of surface leasing regulations for Indian lands will streamline the approval process for home ownership, expedite economic development and jump-start renewable energy development in Indian Country. The BIA conducted several consultation meetings on the rule and gathered over 2,300 comments from over 70 Tribes and Federal agencies, and is working to publish the final rule in 2012.

BIA programs assist Tribes and individual tribal landowners with optimizing resource use, providing many benefits such as revenue, jobs and the protection of cultural, spiritual and traditional resources. The estimated economic impact of these activities is \$14.4 billion which supports over 136,000 jobs.

The budget also proposes a transfer of \$1.3 million for the Indian Arts and Crafts Board from the Office of the Secretary in order to better protect Indian artifacts.

Requested Decreases

The initiatives described above, and the related increases in the Administration's request, mark a continued step toward the advancement of the Federal government's relationship with tribal nations. These initiatives focus on those programs geared toward strengthening tribal nations and reflect the President's priorities to support economic development in Indian Country.

The President has also called upon members of his Administration to meet important objectives while also exercising fiscal responsibility. Consistent with that directive, we made several difficult choices in the FY 2013 appropriations request for Indian Affairs. The FY 2013 request includes \$66.9 million in reductions resulting from strategies for improving the effectiveness and efficiency of operating Indian programs. These reductions include \$19.7 million in streamlining measures, \$13.8 million in administrative savings and \$33.1 million in program reductions.

The \$19.7 million reduction is anticipated to come from eliminating duplicative or overlapping functions and processes to achieve necessary staffing reductions across the Bureau. Indian Affairs will explore the use of early retirement and voluntary separations to manage full time employment reductions along with other position management techniques. The \$13.8 million reduction will come from anticipated management efficiencies such as printing and travel.

The Department's requested reduction includes \$33.1 million in program decreases. Included in this reduction is \$2.6 million less for Law Enforcement Special Initiatives reflecting decreased participation in activities such as intelligence sharing. Also included in the reduction is \$6.1 million for Information Resources Technology consistent with the standardization of IT within the Department. Education related activities will see a decrease of \$4.5 million for the Indian Student Equalization Program (ISEP) to reflect a slight decline in student population.

The 2013 budget request for the Construction program is a reduction of \$17.7 million below 2012. The request includes a programmatic decrease of \$17.8 million for new school construction funding. Indian Affairs will focus on improving existing school facilities as part of the Department's strategic approach to not fund new construction in FY 2013. The total 2013 request for Education Construction is \$52.9 million. The budget provides \$11.3 million for Public Safety and Justice, \$32.7 million for Resource Management, and \$9.0 million for Other Program Construction.

The budget provides \$5.0 million for the Indian Guaranteed Loan program, a reduction of \$2.1 million from the 2012 enacted level, while the program undergoes an independent evaluation.. This level of funding will continue to allow the same dollar amount of loans, approximately \$71.7 million, to be loaned out due to a lower subsidy rate from the prior year.

Conclusion

We are aware of the current fiscal challenges our Nation faces. This Administration understands the need to take fiscal responsibility, and also understands the need to strengthen tribal nations, foster responsible development of tribal energy resources, and improve the Nation-to-Nation relationship between tribal nations and the United States. It is our sincere belief that we have struck a balance in this FY 2013 budget request for Indian Affairs that achieves the President's objectives of fiscal discipline while at the same time meeting our obligations to tribal nations with which our Federal government has a Constitutionally-based government-to-government relationship.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am happy to answer any questions you may have.



U.S. Department of the Interior Indian Affairs

Office of the Assistant Secretary-Indian Affairs
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Biographical Statement of Larry Echo Hawk Assistant Secretary-Indian Affairs U.S. Department of the Interior

Larry Echo Hawk, an enrolled member of the Pawnee Nation of Oklahoma, was confirmed by the United States Senate as the Assistant Secretary-Indian Affairs for the U.S. Department of the Interior on May 19, 2009, and was sworn into office by Secretary of the Interior Ken Salazar on May 22, 2009.

Mr. Echo Hawk is the 11th Assistant Secretary-Indian Affairs to be confirmed since the position was established by Congress in the 1970s. In addition to carrying out the Department's trust responsibilities regarding the management of tribal and individual Indian trust lands and assets, the Assistant Secretary is responsible for promoting the self-determination and economic self-sufficiency of the nation's 565 federally recognized American Indian and Alaska Native tribes and their 2.2 million enrolled members.

Prior to his appointment, Mr. Echo Hawk served for 14 years as a Professor of Law at Brigham Young University's J. Reuben Clark Law School where he taught federal Indian law, criminal law, criminal procedure, evidence, criminal trial practice, and published several scholarly papers.

A former U.S. Marine, Mr. Echo Hawk began his law career as a legal services attorney working for impoverished Indian people in California, then opened a private law office in Salt Lake City. In 1977, he was named Chief General Legal Counsel to the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation in Idaho, a position he held for more than eight years. He is admitted to the bar in Idaho, Utah, and California.

Mr. Echo Hawk was elected Attorney General of Idaho in 1990, the first American Indian in U.S. history to be elected as a state attorney general. He had served as the Bannock County (Idaho) Prosecuting Attorney since 1986. Before that, he served two consecutive terms in the Idaho House of Representatives, from 1982 to 1986.

Mr. Echo Hawk has served on the American Indian Services National Advisory Board and Board of Trustees. He was appointed by President Clinton to the Coordinating Council on Juvenile Justice and Delinquency Prevention, which is responsible for coordinating the federal government's efforts to combat juvenile delinquency in the United States.

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Larry Echo Hawk – Page 2

Mr. Echo Hawk was born in Cody, Wyoming, where his father worked as a land surveyor in the oil and gas industry. He later moved with his family to Farmington, New Mexico, where he attended public schools from first grade through high school. His athletic achievements led to an NCAA football scholarship to attend Brigham Young University, where he was a member of the varsity football team from 1967 to 1969, playing in every game during his career. He started at safety as a junior and senior, leading the team and ranking fourth in the Western Athletic Conference with five interceptions as a junior in 1968. In 1969, he was named to the Western Athletic Conference All-Academic Football Team. He received his Bachelor of Science degree from BYU in 1970.

Mr. Echo Hawk received his Juris Doctorate degree from the University of Utah in 1973 and attended the Stanford Graduate School of Business MBA Program from 1974 to 1975. He has received numerous awards and honors, including Distinguished Alumnus Awards from both Brigham Young University (1992) and the University of Utah (2003).

In 1991, Mr. Echo Hawk was awarded the George Washington University's prestigious Martin Luther King medal for his contributions to human rights, and was honored as a speaker at the Democratic National Convention. As Idaho's delegation chair, he became the first American Indian to lead a state delegation to a national political convention.

Mr. Echo Hawk also was honored in 1995 as the first BYU graduate ever to receive the National Collegiate Athletic Association's prestigious Silver Anniversary Award, which is given to a select few prominent athletes who completed their collegiate athletic eligibility 25 years ago and have distinguished themselves in their careers and personal lives.

Mr. Echo Hawk and his wife Terry have six children and 24 grandchildren.



U.S. Department of the Interior Indian Affairs

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Biographical Statement of Michael S. Black Director, Bureau of Indian Affairs U.S. Department of the Interior

Michael S. Black, an enrolled member of the Oglala Sioux Tribe in South Dakota, was appointed Director of the Bureau of Indian Affairs in the U.S. Department of the Interior on April 25, 2010. Prior to his appointment, Mr. Black had served as Acting BIA Director since March 18, 2010.

Reporting to the Assistant Secretary-Indian Affairs, the BIA Director is responsible for managing the Bureau's day-to-day operations through the Office of Indian Services, the Office of Justice Services and the Office of Trust Services, which administer or fund infrastructure, law enforcement, social services, tribal governance, natural and energy resources and trust management programs for federally recognized American Indian and Alaska Native tribes in 33 states, as well as through Field Operations, which oversees the Bureau's 12 regional offices and 85 agencies.

Prior to becoming the acting BIA director, Mr. Black had served since July 20, 2008, as Regional Director of the Bureau's Great Plains Regional Office in Aberdeen, S.D., following an eight-month appointment starting in June 2007 as the acting regional director. The office oversees 12 agencies serving 16 federally recognized tribes in Nebraska, North Dakota and South Dakota.

Mr. Black began his federal career in 1987 with the BIA's Aberdeen Area Office (now the Great Plains Regional Office) as General Engineer in the Branch of Facilities Management. From 1992 to 2001, he worked in the BIA's Billings Area Office (now the Rocky Mountain Regional Office) as Regional Facility Manager where he was responsible for facilities construction and operations and maintenance programs. In December 2001, he was named Chief of the Regional Office's Division of Engineering, where he was responsible for regional facility management, road construction, and road maintenance and safety programs.

In January 2004, Mr. Black was promoted to the post of Deputy Regional Director-Indian Services for the Rocky Mountain Region, where he was responsible for the management and oversight of Road Construction, Road Maintenance, Tribal Government Services, Credit, Housing, Self-Determination, Social Services, Safety, and Environmental and Cultural Resources Management programs.

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Michael S. Black – Page 2

Mr. Black graduated from Aberdeen Central High School in 1982. He received a B.S. degree in Mechanical Engineering from the South Dakota School of Mines and Technology in 1986.



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**Biographical Statement of Keith O. Moore
Director, Bureau of Indian Education
U.S. Department of the Interior**

Keith O. Moore, an enrolled member of the Rosebud Sioux Tribe in South Dakota, is the Director of the Bureau of Indian Education in the U.S. Department of the Interior. He started in his new post on June 7, 2010. Reporting to the Assistant Secretary-Indian Affairs, the BIE Director is responsible for overseeing a federal school system that provides elementary and secondary education for 42,000 American Indian and Alaska Native children from federally recognized tribes, as well as overseeing the administration of two post secondary institutions, providing funding for 26 tribal colleges and universities and two technical colleges, and operating higher education scholarship programs.

Prior to becoming the BIE director, Mr. Moore had served since August 2009 as the Chief Diversity Officer at the University of South Dakota in Vermillion, S.D. In that capacity, he served as principal advisor and coordinator of policies and programs aimed at achieving the university's diversity goals. Answering directly to the Provost, some of the projects he worked on while at USD have been the South Dakota Partnership for Teacher Quality (PTQ), the Race To the Top Proposal for South Dakota, and the American Indian University at Crazy Horse Memorial Monument.

The PTQ is intended to increase student achievement in K-12 schools by developing highly qualified teachers. The Race To the Top Proposal for South Dakota is another project he has worked on. Its primary goal is to connect the tribes and the state in a collaborative effort to develop a Native American Residential Science, Technology, Engineering and Math School. The American Indian University at Crazy Horse Memorial Monument is a summer program to take place in June 2010. Its purpose is to prepare individuals for the rigors of college, give accepted students introductory university courses that can be transferred to any regionally accredited college or university, offer paid internships at the Memorial, and to fulfill the mission of the Crazy Horse Memorial Foundation.

On July 1, 2005, Mr. Moore was named Indian Education Director for the South Dakota State Department of Education, where he was a liaison between the Department and tribal education officials, BIE offices in Aberdeen, S.D., and Albuquerque, N.M., K-12 educators and the U.S.

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Keith O. Moore – Page 2

Department of Education's Office of Indian Education. During his tenure, projects he directed or was involved with included an Indian Education Summit, Indian Education Advisory Council in South Dakota, the National Indian Education Advisory Committee, the Indian Education Act of 2007 in South Dakota, the U.S. Department of Education Office of Indian Education National Conference, Project Director GEAR UP South Dakota (GUSD), I LEAD, South Dakota College Access Challenge Grant (SDCAC), and Core Concepts Planning Grant (CCPG).

Mr. Moore graduated in 1990 from Northern State University in Aberdeen, S.D., with a B.S. degree in Health and Physical Education/Social Sciences. He received a M.A. degree in Educational Administration from South Dakota State University-Brookings in 2002. He also holds a Governor Rounds' South Dakota Leadership Development Program Masters level certification and a Specialist Degree in Educational Leadership from Montana State University-Bozeman (2009).

Mr. Moore is 45 years old and married with five daughters.

STREAMLINING

Mr. SIMPSON. Thank you for your testimony and, as I said, for being here today. I have to go the Energy and Water Subcommittee with Secretary Chu at two o'clock, so I thought I would start off.

First of all, in your statement you mention \$19.7 million in savings due to organizational streamlining. Will this require approval by this committee? Because reorganizations generally do. Will it be so extreme that it requires approval by this committee? Please give me some examples of what organizational streamlining you are talking about.

Mr. ECHO HAWK. Mr. Chairman, I am going to defer here to Director Black.

Mr. SIMPSON. Okay.

Mr. BLACK. Good afternoon.

In answer to your question, at this time we are not anticipating that it is going to be a reorganization that would require congressional approval at this point. What we are looking at largely is utilization of voluntary early retirement authorities.

Mr. SIMPSON. State your name and title for the record so that—

Mr. BLACK. I apologize. Michael Black, Director of Bureau of Indian Affairs.

Mr. SIMPSON. Okay.

Mr. BLACK. As I was saying, we are here to look at the voluntary early retirement authorities and the voluntary separation incentive payments to look at a lot of our workforce that is out there right now. Right now, at about 25 percent of our workforce is eligible to retire today with an additional, probably 10, 15 percent of those eligible to retire in the next three to five years. Looking at that right now, it gives us the opportunity to really engage in some positional management, looking at our functions across the Bureau, all of our regional offices and our agency offices. Some of those offices which really are maybe four- or five-person offices due to the influx of self-determination contracting and self-governance over the past years. In doing this we will work in consultation with the tribes, of course. Nothing we can do, on any of those things would be done without consultation with the tribes, but we are not looking at a major reorganizational effort at this time.

Mr. SIMPSON. You are talking about, as I understand it, losing about 192 FTEs. Is that right?

Mr. BLACK. I think, based on some preliminary numbers that it may be something in that range. We may be able to achieve that. But then again, using positional management, we may be able to look at some of our positions that may be higher graded positions. Maybe we do not necessarily need a GS-15 where we can use a GS-13. We may find significant savings in some of that management of our positions as well.

ADMINISTRATIVE SAVINGS

Mr. SIMPSON. Okay. The BIA says that it is going to save \$13.2 million in administrative savings. No other bureau or department even comes close to that level. Are these real savings?

Mr. ECHO HAWK. Mr. Chairman, one of the messages that we have received from the Tribal Interior Budget Council is that in tight fiscal times they want to see the Federal Government tighten its belt instead of looking at cuts in tribal programs that they care about. In fact, what this budget does to a great extent is increase those priorities that affect tribal governments. So we had tough decisions to make here, but it does demonstrate fiscal discipline because the savings that we are going after will revert to those places where we can increase the programs the tribes really care about.

Mr. SIMPSON. There will be, I am certain—there always is, every time we have a bill on the Floor—someone will bring an amendment to take money out of administration. That is always a popular place to cut. If we were to enact this budget with these administrative savings, it would pretty much cut your administrative costs down to where that would be an unwise amendment to offer or to accept.

Mr. ECHO HAWK. Mr. Chairman, I think it is getting where we are cutting down close to the bone here. It is going to be uncomfortable. We think we can achieve these savings, but it is not going to be easy for us. But it is in line with what the priorities are that have been set by tribal leaders in our consultation process.

SCHOOL CONSTRUCTION

Mr. SIMPSON. One other issue I want to talk about for just a minute is the replacement school construction. There are 41,000 students attending 183 BIE-funded schools and dormitories which the Federal Government is responsible for building, maintaining, and eventually replacing. And as I said in the opening statement, if we replace one of these a year, it would be a 183-year lifespan. The budget proposes to replace no schools. The budget justifies this \$17.8 million cut by proposing to continue the facilities' maintenance and repair programs. I have a hard time believing that there are schools out in Indian Country that are not in dire need of replacement, not just repair. What is the average lifespan of a BIE school compared to the surrounding schools and how many schools should we reasonably expect to have to replace every year to meet that need that is out there? Because on the tour we were on, we saw some schools that I do not think you could repair; they need to be replaced.

Mr. ECHO HAWK. Mr. Chairman, we have a backlog for new school construction of about \$1.3 billion, so we understand.

Mr. SIMPSON. You do have a list of those?

Mr. ECHO HAWK. We do have a pretty good idea of what those are. We have in the last go around establishing a priority list of where those new schools need to be built. There are still 3 remaining on the list of 14, and we are in the process of, through a negotiated rulemaking process, of establishing a new priority list that will be completed later this year. But in terms of that backlog, you asked the question about, how long a school will last, about 40 years. We should be building about four schools a year.

So we understand that, when we are not asking for new construction money, that seems to be putting us behind. But, just recall that through the American Recovery and Reinvestment Act, we received an infusion of \$250 million, which allowed us to replace,

five brand new schools and do major renovation on about 14. We had a total number of about 125 projects that were affecting schools. That was a very significant amount of money that helped immensely, but we still have a challenging problem. Our judgment on this, given the fiscal restraints that we are facing right now, is to use the existing funds that we have for the priority of repair and renovation of existing schools. We recognize that we need new schools, and when this new priority list comes up, we will be coming back before the Congress asking for new school construction money again.

Mr. SIMPSON. But you would not be disappointed if we found some money for some new school construction?

Mr. ECHO HAWK. Oh, no, Mr. Chairman. We recognize the need—

Mr. SIMPSON. Knowing your history and having served with you in the Idaho legislature, I know nobody cares more about education than you do.

PUBLIC SAFETY

There is one other question that I want to ask while I still have the floor. Two years ago, this subcommittee included considerable report language directing the Department of Justice, the Tribes, the States, and the Inspector General to better address the epidemic level of sexual and domestic violence, substance abuse, and related criminal problems. Could you update the Committee on the progress that you have made to date, the major obstacles that you have encountered, and what we do—we need to do to continue to address this problem?

Mr. ECHO HAWK. Mr. Chairman, you mentioned domestic violence and substance abuse?

Mr. SIMPSON. Substance abuse, sexual abuse, all of those criminal activities that are happening. We had this discussion with Dr. Roubideaux this morning. A third of all Native American women are going to be raped or sexually abused sometime in their lifetime, which is unacceptable. As I said this morning, if we do not address this issue, we will have failed our responsibility.

Mr. ECHO HAWK. Mr. Chairman and subcommittee members, with regard to domestic violence, we initiated a program called Train the Trainer where, through the federal law enforcement training facility in New Mexico, we are making a special effort to train 96 officers. That program is underway, and they in turn will go in their communities and train others. Since they are first responders to these domestic violence incidents, we want to make sure that the officers that respond know how to deal with those terrible situations that they face.

Mr. SIMPSON. So that they can collect evidence so that they can prosecute the individual?

Mr. ECHO HAWK. That is correct.

Mr. SIMPSON. Okay.

Mr. ECHO HAWK. With regard to the substance abuse issues, as a follow-up to directives given through the Tribal Law and Order Act, we have partnered with the Department of Justice and Indian Health Service, and SAMHSA. We have a formal memorandum to coordinate the funds that we have available to attack this problem.

That is in place right now, and we are taking some action. The thing that we are very pleased about is the effort that we have made to combat violent crime in Indian communities. We call it the high priority performance goal, which is a presidential initiative to demonstrate that if we only had the staffing levels for police officers that other communities across the United States had that we can turn this problem of violent crime around.

We took four of the most violent reservations in the United States and that would be Wind River, Wyoming; Rocky Boys, Montana; Standing Rock in North and South Dakota; and Mescalero Apache, and created a two-year program. The target was a reduction of violent crime by 5 percent. That ended on September 30 of 2011, so just recently. We decreased violent crime by 35 percent. It was a good intergovernmental partnership with other federal agencies and United States attorneys. It demonstrates that if we have the adequate resources, we can attack this problem.

We are expanding that program this year into two other areas: the Rosebud Sioux in South Dakota and the San Carlos Apache in Arizona. We have other tribes that know about our success and are just asking for help. When I say pilot program, this is an effort where we bring them up to the ratio of law enforcement officers that the rest of American enjoys, and it is not just one time. When we come in there, and we say we are going to increase your staffing levels for police officers, that is permanent. So we are not going to walk away from this.

Mr. SIMPSON. So even though it is just a two-year program, that is going to continue on in those four communities—

Mr. ECHO HAWK. Yes, it will, and we are hoping that we have demonstrated to OMB and we will continue to demonstrate that if you invest the money here, we know how to accomplish this. We have learned something already with the first four, and we are publishing a report very soon that will show what we learned. Some things we probably will not do the same way, but we know what worked and each of these reservations, of course, are unique. So we have to pattern a strategy that is specific to their community.

Mr. SIMPSON. Um-hum.

Mr. ECHO HAWK. But even on the one reservation in Wyoming where, when it was reported, we had a 7 percent increase. Given three more months, it actually decreased there by 11 percent overall. So we know how to do this and we are just asking the budget-makers to recognize this and to give us the resources that we need.

Mr. SIMPSON. Well, when that report is ready, I think this subcommittee would like to have a briefing on it because it is an issue of great concern to all members of this subcommittee. Thank you.

Mr. Moran.

Mr. MORAN. Thanks very much, Mr. Chairman. I understand you need to be at that Energy and Water Committee.

I wanted to recognize, though, since Mr. Echo Hawk was the chief legal counsel to the Shoshone, those are Shoshone women out there in the painting that the chairman had hung on the wall here. It is a nice painting.

INDIAN GUARANTEED LOAN PROGRAM

The budget request again tries to cut the Indian Guaranteed Loan program by \$2 million. The Congress adds money; the chairman, everybody on this subcommittee understands the importance of the loan program because it is about economic development. It is about Native Americans getting commercial loans to develop Indian-owned businesses to create jobs. You know, no jobs, no future, no hope. We want to see those jobs develop on reservations and yet the program is cut. Why did you cut it?

Mr. ECHO HAWK. Congressman Moran, we think this is a good program and tribes feel very strongly about this program as an important facet of their economic development. In these tight fiscal times, there are concerns that this program duplicates what other federal departments have to offer, and so we are in a position of having to review by independent process, that this program has some unique facets to it that deserve continued funding. We are in that process right now of review and evaluation. We think it is doing good things, and we will hope that when the review process is done we will be able to maintain the funding that is needed.

Mr. MORAN. Okay. Well, in that regard, let me just mention it troubles me and I know it troubles a lot of people. You know, if we are providing money and there is a strong bipartisan push to get this money to Native American peoples on reservations particularly for generating jobs. It is important that the money not go to people who are already making a whole lot even in my district, who are not Indians. It is important that people who have figured out the program and put a few token tribal people on the board do not exploit the program. I trust you are aware of this issue and are just as troubled by it.

Mr. ECHO HAWK. Congressman Moran, we will just make a note on this, and we are concerned about this kind of thing and we will be on guard.

Mr. MORAN. Well, I mean it has been going on for too long and it is embarrassing and it is just wrong.

CARCIERI DECISION

Two weeks ago, I asked Secretary Salazar about the impact of the Carcieri decision, what its effect was on Indian Country. Can you give us your perspective on the impact of the Carcieri decision?

Mr. ECHO HAWK. Congressman Moran, I have some very strong feelings about this—

Mr. MORAN. Share them.

Mr. ECHO HAWK [continuing]. Because—thank you very much. For 77 years, the Indian Reorganization Act law has allowed the Department of Interior to take land into trust for native people. The reason that law was put on the books in 1934 is because we had gone through an era where the Federal Government had passed a law that became the instrument of diminishing Indian landholdings by 90 million acres of land. So this was meant to begin a process of restoring that land. I am sure that at that time, it is my own belief as an Indian law professor, that they did not intend to create second-class citizens when it came to tribes, that all tribes should have this opportunity. But nevertheless, the court

handed down a ruling that indicated that only tribes that were in place in 1934 could do that. That to me does not make any sense. We have gone out and consulted across Indian Country. The message that we received is that there should be no second-class citizens out there among tribal governments, and that this required a legislative fix. That is what the position of the Administration has been, and we strongly support that clean-fix legislation, which is a part of the President's budget proposal.

I might mention that there has been some opposition, in my opinion, because of possible gaming that may occur on lands that we would take into trust. Of the 500—and I am trying to remember—541 applications that we have dealt with since I came into office, only three of them related to gaming. What we are doing is out of concern that there may be some parcel out there that has gaming connected to it. We are depriving tribal nations of the ability to develop their economies. We are preventing them from building justice centers, housing projects, agricultural development, and other economic development opportunities. I just think that is wrong, and it is very bad policy.

We have laws on the books right now that require a very careful analysis when it comes to gaming, and this Administration has demonstrated a balanced approach. We say no and we say yes based upon the law that Congress put in place that relates specifically to gaming. We should be able to move beyond that and just deal with the land in the trust and treat all tribes equally.

Mr. MORAN. Excellent statement. Thank you. Very well put.

TRIBAL LAW AND ORDER ACT

The only final thing I wanted to ask you about was the implementation of the Tribal Law and Order Act but you can be brief in addressing the issue. I suspect others will address it and I want to give sufficient time to others. The chairman's time is limited before he has to leave, as well.

Was there anything quickly you wanted to say about your implementation of that new law.

Mr. ECHO HAWK. Congressman Moran, just that we have met all the deadlines that Congress gave us. We have been able to respond as we were supposed to and will continue to do so.

Mr. MORAN. Thank you.

Thank you, Mr. Chairman.

Mr. SIMPSON. Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman.

Thank you for attending this hearing this afternoon. I appreciate it, Mr. Echo Hawk.

INDIAN EDUCATION

There was a February 2010 OIG report on BIE school health and safety, that made some startling discoveries relating to drugs, violence, and other safety issues within BIE-operated schools. Could you update us on any action that has been taken in these schools to address the issues raised in the report regarding the safety of the students? I have, as you know, a large BIE school in my congressional district in California, Sherman—

Mr. ECHO HAWK. Okay, Congressman. I would like to defer to Keith Moore. Last year, I had him sitting with me in the Senate and the House on these budget hearings, and he never got to say a word.

Mr. CALVERT. Okay.

Mr. ECHO HAWK [continuing]. This is his debut.

Mr. CALVERT. Go for it, Keith.

Mr. MOORE. Thank you, Mr. Chairman. The chairman has left, but Congressman Cole—or Congressman Simpson and Congressman Calvert—

Mr. COLE [presiding]. Identify yourself for the record.

Mr. MOORE. Keith Moore, I am the Director of the Bureau of Indian Education. The report you referred to has obviously raised the awareness in the Bureau of Indian Education across the country in our schools. Under our structure, we have associate deputy directors where now we have manpower, policies, and programs in place to address that OIG finding. We are implementing new measures and new initiatives in our schools to handle some of those concerns. We still have work to do but we feel that we have the proper manpower and also worked on policies with our schools and tribes to address a number of those issues that came through that OIG report.

Mr. CALVERT. That is good. I understand some of these other violent problems that we talked about earlier, starts early in a young man's life and so hopefully you can make some progress on that.

The other issue is, as we have budget shortfalls and decreased revenues, schools across the Nation begin to raise some of their own funds to maintain educational quality for their services. I wonder to what extent the BIE faculty and staff may solicit donations from the community to their school sites or on-campus programs? We have some wealthier tribes, as you know, out there that have been willing to help. Can the schools themselves solicit for those kinds of outside assistance.

Mr. MOORE. Thanks again for the question, Mr. Calvert. I am giving an example; the San Manuel Tribe that actually assisted with Sherman Indian High School on a career and technical education part of their program in their school. We learned through that that we have some issues to address around being able to take monetary gifts and other gifts, not necessarily monetary, through our system and to make sure that we can then get those to the proper school where they would like to work. This was a cumbersome process for us. We learned a lot. We were able to eliminate a number of pieces there.

Mr. CALVERT. To what extent do we need to have some kind of legislation that would free up BIE employees to more actively and fully support their schools through fundraising activity or soliciting community support? Because I know a lot of people just are not aware. They might want to help.

Mr. MOORE. There are a number of regulations and laws that we have to work through in terms of gifts so that we do things properly. We have all kinds of different types of measures that schools would like to take that we cannot allow because of regulations and laws such as whether you put up billboards on your property or you put up cell towers or what type of programs you run to solicit

money. We have regulations and laws that we have to follow through in order to—

Mr. CALVERT. Anything we can do to work with you to streamline that, to make it easier for these schools to get that revenue?

Mr. MOORE. I think we could certainly have that conversation to talk about what we would need to do to allow that to happen. We also are working today, on a foundation that is in statute with the BIE to be able to take monetary gifts on behalf of schools and help manage those so that we do it properly through regulation and law that we are trying to get up and running. It has been in place for a number of years in statute. We are trying to handle the number of pieces that need to be taking place legally to revitalize that foundation, which we think would tremendously help our schools and our programs where we have folks from all types of corporate and foundations that are interested in assisting us with our work in schools. But we have this foundation that has been defunct, and we are trying to revitalize it and put it in place so we can assist it better as well.

Mr. CALVERT. If your staff would work with the committee's staff to find some ways that we can cut some of this red tape to help these schools out. It does not cost the taxpayers anything and the students are the ones that are going to get the benefit from this. If you will work with us, we will be happy to help.

Mr. MOORE. Thank you.

Mr. CALVERT. Thank you.

Thank you, Mr. Chairman.

Mr. COLE. Ms. McCollum.

Ms. MCCOLLUM. Thank you. Mr. Hinchey was here first.

Mr. HINCHEY. No, you go ahead.

Ms. MCCOLLUM. Are you sure?

Mr. HINCHEY. Yeah, sure.

TRIBAL EDUCATION DEPARTMENTS

Ms. MCCOLLUM. Well, just kind of following along on that a little bit—thank you—I wanted to talk about education. My first question has to do with discussions that we had when some of the tribes were visiting us about how they wanted to be more in charge of their own schools. We heard from some tribes that had had great success with doing that. Last year in an appropriations bill there was a pilot project in there; it was called Tribal Education Departments. That is funded in the Department of Ed, but yet you have a direct role in making this initiative work. Can you update us, or some staff can update us later, on the collaborative effort between the Bureau of Indian Affairs and the Department of Education to get this pilot program moving forward?

Mr. MOORE. Thank you, Congresswoman. It is the new program for the U.S. Department of Ed to help strengthen tribal education agencies.

Ms. MCCOLLUM. Right.

Mr. MOORE. They are just releasing language for tribes to be able to apply for those monies through the U.S. Department of Education so that tribes can develop agencies that will be able to then be on equal par with state education agencies. This will allow tribal agencies to handle some of the U.S. Department of Ed monies

that currently go to State education agencies. As I understand that language, it will allow tribes over the next several months, to be able to make application for those funds. The \$2 million that is going to be available for them to strengthen their tribal ed agencies.

Ms. MCCOLLUM. And are you aware of legislation that some of us have been given the opportunity to work on directly with the tribes by introducing it on their behalf called the Native CLASS Act? It is very focused with the Department of Education, but I think the Bureau also has a role to play because of the interlocking that goes back and forth between the two organizations. I look forward to working more on that, working with you and working with the Department of Education to make sure that the Native Culture, Language, and Success for Students Act moves forward.

TRIBAL COLLEGES AND UNIVERSITIES

As I am learning more about the way the higher education rules work, I have been told that the student population is growing but their institutional operation budgets have not. Therefore the per-student funding has decreased by over \$500. This again gets into the whole issue of your interface with the Department of Education, but without education, students will have trouble achieving their goals of self-sufficiency, contributing back to the tribes, starting businesses, running for office, and conducting their own affairs. Self-sufficiency really becomes an issue. What kind of relationship are you seeing happen between higher education associations, the Bureau, and the Department of Education?

Mr. MOORE. I may need you, Congresswoman, to clarify a bit in which higher education agencies you are referring to? Universities themselves or tribal colleges and universities?

Ms. MCCOLLUM. Tribal colleges and universities.

Mr. MOORE. Right. Our tribal colleges, we fund, and I may be off by one or two, I think 22 of the 36 tribal colleges currently through our formula, but I am not sure that I am following you on the \$500 reduction.

Ms. MCCOLLUM. Well, my office can follow up with you, but we had some students in our office and some people from tribal colleges. They are seeing their per-student funding, decreasing over a period of time. It has not kept up with inflation or with the needs of students with technology and what they require to be successful college students. They were very, very concerned about what was happening. The authorization for TUC funding levels is set at \$8,000 per student, but the actual funding is only a little more than \$5,000 per student. We are actually funding \$3,000 less than what we authorized. They were sharing with me that the more successful a tribal college is, the more students enroll. However, that does not necessarily make it cheaper to teach the students. There is not always a positive cost-benefit analysis that comes out with increased enrollment. In fact sometimes the tribal colleges have problems being successful in the way that they would like to be. We could followup later; I am just learning about this and I thought this was an opportunity to start a dialogue on that.

SCHOOL CONSTRUCTION

Back to the school construction, I know you and the chairman had a good conversation. I will not speak for you but I am sure that you share some of the same concern that I do. I was in Pueblo Laguna in New Mexico in some of the Lagunas there and one of the schools literally had earthquake damage. There were structural problems with sewage underneath the school. We went into one part of the school that is condemned. In other parts of the school—and I have pictures of this stuff—there were cracks in the wall and they put these mesh gauges on them to see if the building was going to continue to spread apart. This was before you came on, sir, so this predates you. The building had been condemned. All this earthquake damage was significant. You could see it with your eye. Then the next thing they knew, they were told that they could paint. They painted some of the interior walls of the building and the school, just from having been painted, went from needs to be demolished to okay; Not in great shape but okay. You could occupy it again, after just a coat of paint.

So I am really glad you are working on the rule and moving forward with a plan for how we go about doing the replacement at the same time. When you are doing the replacement, I'd like to know if you are considering, or the Bureau is considering, the inclusion of Head Start programs. We know there are significant waiting lists for Head Start. Is that going to be somehow worked into the building list? What is the Department doing for pre-K?

Mr. ECHO HAWK. Just a brief comment. I have been out there of course and toured schools and it is disheartening to see some of them that have these kind of problems. When I came in as Assistant Secretary, there had already been generated an Inspector General report on school safety, which meant that we had to react to that. I testified on Capitol Hill on that very issue, and we have upgraded our efforts to deal with those problems. The bad news in this proposed budget is no new construction, but the good news is we are taking the money that we do have available and addressing some of these kind of problems. But, we know that there is a great need out there not only to patch and scratch the problems we have, but a lot of these schools just need to be replaced. We are in the process of identifying what that list will be on a priority basis and we will be coming to Congress and asking for help then.

PRESCHOOL EDUCATION

Mr. MOORE. Regarding that preschool question, we run what are called BabyFACE and FACE programs in our schools. We also have tribal Head Starts which are run through the HHS Head Start programs housed in Health and Human Services and come through that agency. So we have a number of different ways that we fund early learning programs in our system.

Ms. MCCOLLUM. I visited several tribes that have invested their own money in doing their own Head Start centers. Even they talk about the waiting list that is out there. There is a waiting list nationally for Head Start. There is a waiting list among tribal nations. Who takes the lead when you have so many agencies involved in providing a little bit of this and little bit of that? Do you

have the final say? Is it Human Services? Is it the Department of Education?

Mr. MOORE. That is a great question. Thank you, Congresswoman McCollum.

It is disjointed in a sense that Head Start comes through Health and Human Services. We have different programs that come through the U.S. Department of Education to us. We run and fund a certain number of schools and then obviously a greater number of students are in public schools. So they are governed and run under the state education agency in our States. So when you ask who takes the lead, it is very different at different times for different programs. I am sure if you had tribal leaders here today they would say it creates issues for them in terms of their programs. I think the President's new Executive Order 13592 tries to help with that and address that issue. It seeks to bring folks together to work a little more collaboratively and closely in terms of meeting education programs.

Ms. MCCOLLUM. I just think it is really important that to support your work in doing that because everybody wants to do the right thing but nobody is in charge of making sure that the right thing gets done with leadership. The more I have started looking into this especially within the pre-K, it is a big part of the problem.

IMPACT AID

My last question is about Impact Aid and oversight on Impact Aid. This is something I deal with on the Military Construction Affairs and Veterans Committee as well. We found out that there is very little oversight making sure that Impact Aid is properly administered. Part of it does need to go to the school district for transportation, building structure and the rest, but part of it is really designed to make sure that students get the extra support service they need. As you are going through the restructuring, are you talking about ways in which you can have more accountability with school districts with Impact Aid Funds? How can you work with the State Departments of Education, especially moving forward to achieve some of the goals and objectives in the CLASS Act?

Mr. MOORE. Thanks again for the question. Impact Aid is a program that comes again through the U.S. Department of Ed. BIE schools do not receive Impact Aid. That is one that goes to public schools in lieu of taxes for—

Ms. MCCOLLUM. Right.

Mr. MOORE [continuing]. Students on reservations, and we have no say with Impact Aid. It runs through state education agencies and out to public schools where then public schools and their school boards work with tribes on the fidelity of those dollars, and the programs that they implement in those public schools. I think you are probably correct in saying that some tribes probably feel that they have a very strong voice with Impact Aid in public schools and some tribes would say we have very little play in terms of what those dollars are going for, the programs and how the money is implemented.

Ms. MCCOLLUM. Do you see the Bureau having a role in giving people the tools that they need in order to be able to do some of

the oversight, or should that be done through the Department of Ed?

Mr. MOORE. Again, at this time, it is a Department of Education program that runs through states, and we have no play in that game.

Ms. MCCOLLUM. None? Okay, thank you.

Mr. COLE. The chair reserves his questions until the end.

Mr. Flake.

Mr. FLAKE. Thank you. Nice to have another BYU grad here. That is always nice.

SURFACE LEASING

You talked a little in your testimony about the proposed reformed surface leasing regulations on Indian land, said it would streamline the process and expedite economic development and jumpstart renewable energy development in Indian Country. Can you elaborate on that a little? How is that reform going to accomplish that?

Mr. ECHO HAWK. Thank you for the question, Congressman. I will make some comment and then perhaps Director Black might want to supplement what I say.

This is really all about improving opportunities for economic development, and these leasing regulations have not been touched in over 50 years. We were just interested in modernizing here to streamline the process to make it occur on a more timely basis instead of waiting, almost sometimes endlessly, for these approvals to come across for leases. Not only to make it more timely but to put much of the decision-making authority in the hands of tribal governments and not the Federal Government. We have gone out and consulted on these regulations, and the comments have been very favorable. We take into account all comments, but we are in that process right now of reviewing what we have heard tribal leaders say.

And I think Mr. Black says I have covered the high points.

Mr. FLAKE. All right. Thanks.

STREAMLINE

Also in your testimony you note that the Department anticipated about \$20 million in reductions come from eliminating duplicative and overlapping functions and the process to achieve necessary staffing reductions across the Bureau. Also the \$13.8 million in reductions come from anticipated management efficiencies such as printing and travel and some other things. Believe me, here in Congress we are king at saying we are going to achieve reductions through, you know, waste, fraud, and abuse and whatever else. How specifically do you expect to actually reduce costs that much? Are these realistic numbers I guess is what I am asking about?

Mr. BLACK. Well, I think they are going to be difficult to achieve but I think—oh, do I need to say who I am again? Mike Black, Director of Bureau of Indian Affairs.

But I think they are going to be very difficult to achieve but it is going to be an overall look at the entire organization as a whole, looking at all of our staffing, evaluating all of the grade levels that we utilize, all of the programs that we have, the offices that we

have, utilizing the authorities under OPM, that we have on voluntary early retirements, voluntary separation incentive payments, consultation with the tribes which will be beginning here in the next 30 to 45 days. We will be going on about six different consultations across Indian Country to gather input from the tribes on just how we can achieve some of these savings.

LAW ENFORCEMENT

Mr. FLAKE. Okay. You mentioned that \$2.6 million less will be spent on law enforcement special initiatives including "decreased participation in activities such as intelligence sharing." Will there be much of an impact or is there too much intelligence sharing going on or is there less of a need for that than we think? Can you elaborate on that a little? I mean are we going to meetings that we just do not need to? Is there plenty of collaboration going on without the added expense of travel or whatever else?

Mr. ECHO HAWK. Congressman, public safety has been a very high priority of the Administration. We appreciate the support from the Congress that we have received in ratcheting up our budgets, but in these times of needed fiscal constraint, we had to make tough decisions. So we are trimming back in some of these areas but trying to meet the priorities identified by tribes, that are concerned about these problems. So, there are some spots where you can see us withdrawing. It is basically a decision about what was most effective that we were doing out there. So these would be some of the lower priority areas that we are proposing to cut back on.

Mr. FLAKE. Thank you.

Thanks, Mr. Chairman.

Mr. COLE. Thank you.

Mr. Hinchey.

Mr. HINCHEY. Thank you very much.

Secretary Echo Hawk, thank you. I deeply appreciate everything that you are doing and I want to thank you and express that appreciation for everything that you have done. The Indian Country has certainly benefitted from the leadership that you provided, the initiations that you have put forward over the course of the last three years and we deeply appreciate everything that you have done. They are much better as a result of your direct involvement here.

RENEWABLE ENERGY

In your testimony you highlighted the investment that the Department intends to make in the context of renewable energy development on tribal lands. I think that this is of course very critically important. According to your budget documents, there is enormous potential for renewable energy on Indian reservations. Things like wind, solar energy, hydroelectric all are very, very abundantly available. And as I understand it, there are more than 200 federally recognized tribes who have the energy capacity needed to create and sustain as much as 25 megawatts of renewable power generating facility, all of that very, very interesting and very, very powerful for them, changing their whole lives in many ways.

Tribal lands alone, as I understand it, have enough renewable energy potential to far exceed the Interior Department's goal of permitting 11,000 megawatts by the end of 2013. Obviously, in many ways, it takes time to plan, finance, and permit those projects. But there is a huge economic development opportunity here for many tribes. I just want to ask you in that context a couple of questions.

Can you give us an update on renewable energy projects on Indian lands so that we can understand that a little bit better? What is the Department doing to utilize and take advantage of these resources? What is going on with regard to these resources? How many renewable energy projects have been permitted on Indian lands? And do you have an estimate of how many may be approved, for example, say over the course of the next three to five years?

Mr. ECHO HAWK. Congressman Hinchey, I think your question asks for a lot of specific information that I am not able to answer on today but we will submit a written response and give you the detailed information.

I did want to mention that we recognize the potential of renewable energy development in Indian Country, and we do have a very modest amount of money, targeted for that effort which I am sure is woefully inadequate to meet things that we have got. We do have renewable energy projects that are going forward, and just last week, I had a meeting with Secretary Salazar's top renewable energy person, and they are really trying their best to wrap Indian Country into the initiatives of the Department of Interior. It is kind of a renewed effort, so we are going to be connecting with them and trying to do better in this regard.

When we build our budget, of course, we are listening very carefully to the Tribal Interior Budget Council, so it is important for those tribal leaders to identify that as one of the top-tier priorities so that we can respond and recommend money to go in that direction.

And I do not know if Director Black has anything to add to that.

Mr. BLACK. The only other thing I would add is going back to the surface leasing regulations. One of the purposes of doing that was to try and make it easier for the tribes to partake in a lot of the renewable energy efforts, addressing our regulations that really did not deal with the renewable opportunities that were out there.

Mr. HINCHEY. Good. Well, the situation of course is very important because it is making a better set of circumstances for these whole operations and I think that, you know, your initiative in bringing them about is very, very important, very significant and it is a great access for all of them.

In the context of this is it going to be done in a way that is going to be beneficial to all of the people in the region? Everybody is going to be getting benefits from it?

Mr. BLACK. I think it is one of those things I do not know whether we are really prepared to provide you a good solid response. I mean I would rather go back and make sure that what we give you is valid and solid.

Mr. HINCHEY. Um-hum. Okay.

Mr. BLACK. So we will provide that.

Mr. HINCHEY. Okay. Well, we are interested in, you know, what these Indian communities are going to get. I mean there is a lot of advancement that is very important for them and should be I think pretty clear that these benefits should be fairly extended and expanded for all of them involved in these operations.

Mr. BLACK. I think the opportunities are definitely there for the tribes. It may vary from region to region on what is available dealing with transmission, what is available for power purchase agreements and different things and we are trying to address a lot of those issues working with the Department of Energy and working with our collaborations there and bringing the tribes in to really look at each individual situation.

Mr. HINCHEY. Oh, good. Okay. So you are doing a lot of good stuff and I deeply appreciate it, what is going on. So thanks very much and I look forward to getting more of the specific information on this. Thanks.

Mr. BLACK. Thank you.

Mr. COLE. Thank you. Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman.

And I want to thank all three of you for joining us. Mr. Assistant Secretary, I see that you are among a long line of very proud and distinguished Americans who were born in Cody, Wyoming, and you have an impeccable western, including being named to the Western Athletic Conference All Academic football team. My father was also a member of the Western Athletic Conference All Academic team. So very cool. I will tell my dad.

LAW ENFORCEMENT

I want to visit a little more with you about the high priority goal for safe Indian communities and specifically the Wind River Indian Reservation in Wyoming. As you are aware, we have had some enormously tragic violent crime, Indian-on-Indian violent crime on the Wind River Reservation. And I am delighted to see that after the surge that violent crime decreased, but it did during the surge increase, and I wonder if you could explain a little more about what you think contributed to that? What have you learned from the surge in law enforcement on those four reservations where you did the pilot project? And how do you see maintaining the decline in violent crime on those four reservations where the pilot project was undertaken while you expand the program going forward?

Mr. ECHO HAWK. Thank you for the question, Congresswoman.

Was your father with the Wyoming Cowboys?

Mrs. LUMMIS. He was indeed and we love to hate BYU. And I must say that we miss BYU in our conference very, very much even though your record against us was something to be desired by us.

Mr. ECHO HAWK. Well, I have to say I played twice on the plains of Laramie. I think the wind was blowing like 50 miles an hour, and they seemed to change every quarter. It was always in our face. So that is how they win football games up there.

My comment about Wind River in our high priority performance goal is that it was the largest reservation that we had to deal with. I think the figure is that Wind River is a greater size than two of the States combined. I think it was Delaware and Rhode Island or

something and they had just a handful of officers there when we started. So it was the largest reservation that we dealt with, and we actually put more law enforcement officers into that reservation than any one of the other three reservations. I think what happens when you increase that law enforcement presence is that people, that in the past, have not been willing to report crime—

Mrs. LUMMIS. Um-hum.

Mr. ECHO HAWK [continuing]. When they see that they have actually got officers out there on the ground, they are more apt to report because they feel like maybe something is going to be done about it this time. So that is what accounts for the increase in reports and prosecution of crime. It makes it look like you actually have more crime occurring there, but our experience is it is just a matter of time before what happens is the crime reports will go up and then they will start to taper off. That is why when that snapshot was taken on September 30 of 2011, at Wind River, it would appear like we were not successful because it was a 7 percent increase. But that was again the area where we had a greater law enforcement surge that came in. I hesitate using that term surge because again these are permanent officers that will remain there.

What happened after that is that within three months those figures turned around. We actually demonstrated an 11 percent decrease in violent crimes, that were reported and prosecuted. We consider that to have been a remarkable success. I can assure you, since I have been to Wind River and met with the tribal leaders there during a process of our high priority performance goal, they appreciated the effort that was made there by the Federal Government, and they felt safer. I believe that things went very well in their community as a result of the efforts that were made there.

Mrs. LUMMIS. Well, thank you. I have a lot of friends there so I really appreciate the attention that you have paid because it is a very unique situation with two tribes that have a longstanding history of conflict being placed on the same reservation and having to work things out. It has been difficult for them.

Does the Wind River Reservation have a higher incidence of alcoholism and methamphetamine addiction than others? I know that we did have a terrible infiltration of the Mexican drug cartels into Wind River, massively spreading addiction to meth on the reservation and thereby recruiting these co-dependencies between the drug cartel and the reservation. It was just debilitating. Have you seen those kinds of incidents elsewhere or is Wind River unique in that regard?

Mr. ECHO HAWK. The fact that we selected Wind River as one of the four target reservations speaks for itself. It is one of the most high-violent crime areas in Indian Country, and as a former prosecuting attorney, I can assure you that when you are seeing that violent crime, you are seeing substance abuse issues. Undoubtedly, it would rank up there toward the top in that kind of situation. There are a lot of communities in Indian Country that have that kind of challenge, but Wind River I think was a more aggravated situation.

I appreciate you mentioning the fact that one of the unique things about Wind River is they have two tribal governments there. That was also a challenge for us to be able to work with two dif-

ferent governing bodies as we established our crime reduction strategy in that community.

Mrs. LUMMIS. And one more question, Mr. Chairman. Thanks.

We have Eastern Shoshone, Northern Arapaho. Do you see anything from your perspective at the BIA that Congress can do to help ease that uncomfortable relationship between those two tribes on those Indian trust lands? In some ways it seems like it is one step forward and two steps back in terms of the efforts that those of us who do not understand the tensions among those tribes are trying to make hearing that property. And I would be interested in any ideas you may have.

Mr. BLACK. I will just make a quick comment. I spent 15 years up in the Rocky Mountain region out of Billings working with the Wind River tribes amongst all the other tribes up there, so I am well aware of the tensions that you are talking about and some of those things. I do not have an answer as far as what Congress could possibly do. I think that is something that would really have to, more than anything, come from the tribes themselves and engaging them in some communication and discussions.

Mrs. LUMMIS. Thank you very much. I appreciate your being here.

Mr. COLE. To Ms. Lummis' point, we actually have this problem quite frequently in Oklahoma. We solved it I believe on one occasion the Chickasaws and Choctaws were placed on the same reservation in the 1830s. We did not like that. They outnumbered us four to one so we actually bought the western half of the Choctaw reservation from the Choctaws and we got the western half because they wanted us between them and the Comanches who were still on the loose on the plains. So, you know, maybe somebody here can be a buffer; you can split it. Well, either that or just an agreement. We now have wonderful relationships with the Choctaws but it has taken about 600 years. It has been a while.

I have got a number of questions to ask but I would be remiss, Secretary Echo Hawk, if I did not begin by just thanking you for all you do. And I think you are really one of the fine public servants that we have. The fact that we have had stability in this department, which we had not had for many years before I think has made an enormous difference. He obviously came exceptionally well qualified and with great background. I think the President did a wonderful job in selecting you and you did the country and certainly Indian Country an enormous favor in accepting that and all the challenges that come with it because you do have one of the tough jobs. So thank you and your team for what you do.

Second, I will tell you that I hope this committee once again decides to give you more money than the President thinks you need because we think you do need more. And it is tough in this budget environment, but again, as the Chairman made the point at the beginning, thanks to Mr. Dicks and Mr. Moran when he was chairman and Chairman Simpson, this committee does have a very bipartisan commitment and wants to work in ways that are effective. And we are all cognizant of the budget restraints that we have, but quite often this is a matter of what are your priorities? And I cannot think of a more important priority than the most disadvantaged population that we have.

I remember on the occasion when you traveled with us and we were at Pine Ridge and you and I were looking at an Indian family that was living in mobile housing with no sanitation, no water, and two little children looking out the front door, and you turned to me and said you must feel an enormous responsibility about this because of my tribal background. Well, I know you feel that responsibility more keenly than almost anyone, so just thank you again for your work and your commitment here. And I do think you need more money for a variety of things.

EDUCATION-CHARTER SCHOOL

But I want to ask a couple of questions on education, one the chairman particularly wanted to ask for the record. Last year on the House Floor, we considered an amendment by Representative Gosar that would have lifted the ban on establishing charter schools I assume on Indian reservations. Since that time, we have begun to hear similar support from others. And so is this something that you think we should at least consider, and if so, why does your budget propose to continue the bill language prohibiting the establishment of charter schools? And that may be more appropriately directed to you, Mr. Moore.

Mr. MOORE. Thank you, Congressman Cole. I will try to do this quickly. We had charter schools several years ago in the '90s that were allowed in our schools and on our property. In '99 the statute was put in place in the appropriations language to prohibit them because of a number of different reasons. It mainly came down to liability and the comingling of funds in terms of federal funds and other funds. We had a very difficult time of proving the fidelity of the federal dollars that we had to the folks here. We also had lease agreements that were not in place in terms of using the property and the facilities. So along with that, we just had a number of internal control issues in terms of the charter schools and the language and allowing the charter schools to grow and go forward. Then the language was put in in '99 that prohibited further charter schools from moving forward.

Today I would say, you know, that as I visited with Darren a little bit about this beforehand, that we certainly do not want to say we prohibit anything that could move us forward in terms of providing quality education in Indian country. We want our tribes to run and do their school business locally. But at the same time, you would have to see the specific language and the language in the Gosar amendment allowing for the charter schools. What would that look like specifically and how could we ensure that we could have the fidelity that we need to have with the land use, the facility use, and the federal dollars going in to ensure that everything could be done properly.

Mr. COLE. I would suspect members of this committee would be more than willing to work with you on that. I mean these same types of problems exist in urban settings and a lot of other places where charter schools happen and, you know, I am probably like a lot of people up here; I am a supporter but I do not have any illusions that they are the be-all, end-all answer to education challenges. But I would hate for us not to have a tool available in Indian Country that certainly in certain circumstances works well in

other challenged communities. Would you be amenable to working with us in helping design the kind of language that would resolve some of the issues that you raised?

Mr. MOORE. Congressman Cole, certainly. And let me say this as well: the other pieces that have tribal grant school language; it is called 10297 language that allowed tribes to govern and run their schools since 1988. For all purposes, that language has allowed tribes to really operate their own schools and be autonomous to do development programs. What they do in those schools is very open and autonomous. In a sense that is charter school language. They are allowed the freedom to implement in those schools what they wish without us dictating anything other than what we do in a 133 audit each year to ensure the fidelity of the dollars. But as far as school operations, you have a local school board and the grant runs through the tribe, and the tribe runs those schools. We have 124 of our 183 schools today are grant-school operated.

Mr. COLE. I think the chairman made in his remarks clear how concerned I think probably on both sides of the aisle are on the school construction budget, and again we recognize you are living within a context of a budget. You do not get to come in here with a wish list; you represent different priorities. It does strike me as a concern. We are going to increase the budget somewhat this year and I hate to see the BIA actually take any kind of reduction when we are actually increasing the national budget in some areas. And I think the needs here are exceptionally great.

EDUCATION

To that point, let me ask you a question that you may not be able to answer. We have been struggling to get an answer for this and the GAO is now trying to help us out. But one of the things that strikes me—and this is a trust responsibility question from my way of thinking—you know, Director Roubideaux produced for us last year—I mentioned it at the hearing this morning—a really wonderful chart that was simply how much money did we spend on healthcare for different categories of people? And, you know, the average for the country was like \$6,900 a person. For Medicare recipients it was over 11,000; for veterans it was over 7,000; for prisoners it was 5,200; for Native Americans it was \$2,700. So it sort of really drove home the point about the disparity and the challenge we have. And we did some increases last year but it is going to take a long time to close that gap and it will take a sustained effort.

I have tried to find the same kind of statistics just on expenditure per pupil on BIE schools—schools that are on reservations—versus the schools at the state level that are around them. Now, that may not be a national average but how much money are we actually spending per Indian student in any of the states with reservations versus how much money is going behind each child that is, you know, in a non-BIE school, off-reservation so to speak? And this is probably a rough rule of thumb, but it is hard for me to believe if there is a big disparity that we are not somehow violating our trust responsibility. Those kids ought to get as much in the way of resources behind them as other kids in their respective states. Do you have any figures like that and the sense of disparity

and the level of support per child that we have got in BIE schools, which are a federal responsibility as opposed to what is going on in the states around them?

Mr. MOORE. Again, thanks for the question.

We would. I cannot tell that exact figure, we are still vetting it. But we had worked with our economists that we hired in Indian Affairs under Assistant Secretary Echo Hawk to help us look at these type of issues. He has created a report and we are nearly ready to release what our per-pupil expenditure is. Just as States and public schools would figure theirs, we are working on doing that in the BIA to give you that figure. We will be able to tell you exactly what we spend per student. That means per student in the classroom, not all of the surrounding pieces that may be involved in education but what is directly spent on that per-pupil expenditure in the classroom. We will be able to give that to you shortly. Ours will be different than other States so you can get anywhere from Utah to Wyoming in terms of the amount of money and disparity that is spent per student. This will be in our 23 States, 183 schools, here is what we spend per student. But it will not factor in a number of other pieces that are important to education that impact students, but is not necessarily spent per pupil.

Mr. COLE. Well, just be careful in leaving things out here because I do think education tends to be a total experience and an environmental experience; it is not just what is happening in the classroom but what a facility is like, what are the transportation facilities like if you are on a big rural expanse what is for lunch, what is for breakfast? Those things matter as to whether or not a kid is going to perform well.

Mr. MOORE. I think we will be able to show you, Congressman Cole, what is factored into that formula and what is not factored in, which is very different when you go into States. We talked about Impact Aid earlier, which is a huge program for public schools, that we do not have. The program allows them to build schools, to provide transportation, to do a lot of supplemental things in public school districts and States that we do not have with programs that have been appropriated through Congress. There are other supplemental programs oftentimes that go into public schools in States that are different than ours.

Mr. COLE. I think Congress ought to hold to that same standard of accountability that any state legislature is held to, that any local school board is. I mean we have a responsibility here.

I have a ton of questions but we need to get to another round but I do have one or two more quick points to make. First, I want to thank my friend, Mr. Moran, for pitching you the softball on Carcieri and I want to thank you for hitting it out of the park. That needs to be done and it would be remiss not to be noted that this committee under Mr. Moran's chairmanship actually did pass out a clean fix. It is something we are not supposed to do but we did and we did it in a bipartisan fashion and I think 14-to-0 vote. As I recall, we just could not get it through the Senate. And there are two pieces of legislation moving now. I think we will have a chance of dealing with this I hope in the House, but I just appreciate what you are doing and the passion with which you stated the fact that we are basically creating two classes of Indian tribes and it is just

absolutely insane. So just thanks for all you and the Administration are doing to try and push forward on that.

ECONOMIC DEVELOPMENT

And the last point I wanted to make. Let me ask you like the \$64,000 question, Mr. Secretary. You know, we all know how difficult the statistics are in Indian Country and some of the things we have seen at some of the reservations that just have enormous challenges. Every place that we have been or seen where tribes have done well, it has usually been for two reasons. One, they have had control of their own affairs, which I think is really important; and second, they have had some sort of economic basis to move on.

And I do have a second question of this but providing tribal economies is the key, as Mr. Moran pointed out both this morning and again today, to so much of this. What can we do, recognize the diversity, you know, you cannot game every place, that some places have minerals and some places do not? But what are the sorts of things that the Bureau is focused on to actually enable tribes to have self-sustaining economies? I was particularly struck when we traveled this summer. We saw the four great Sioux reservations in South Dakota and North Dakota and they are pretty prosperous states. I mean the unemployment rate in those states is around 5 percent, a lot going on. Each one of those reservations had unemployment rates of 70 plus percent. So, they clearly have not integrated into the surrounding economy and there are lots of reasons for that, historic, infrastructure the isolation, lots of things. But what can we do to integrate tribal economies into the larger economies around them so that they can share in some of the greater prosperity of the country?

Mr. ECHO HAWK. That is a very good question. That is the 64 whatever-it-is question. There is a lot to say about this one I think.

EDUCATION

Just personally, I feel very strongly about education and that is the powerhouse to me of economic development, and it is why not just Assistant Secretary Echo Hawk but the Tribal Interior Budget Council puts a very high priority on quality education. But we are trying to do some things in economic development. Gaming has been something that has been very important, but there are 566 tribes and there are just a handful of tribes that do really well in gaming. It is not something that is going to be the panacea for the economic woes of most tribes.

LAND CONSOLIDATION

It was heartening to see that the Cobell litigation was finally brought to an end because that will allow us to do land consolidation efforts because the fractionation of lands within Indian Country has been a significant impediment to economic development. So as the Trust Commission is formed and moves forward, I think we are going to start to solve some of those challenging landholding patterns that have inhibited economic development.

WATER RIGHTS SETTLEMENTS

One of the things I want to compliment the Congress on has to do with economic development, particularly in the West, are the water rights settlements. I remember when I was first brought in as Assistant Secretary, I think it was my first major speech before the National Congress of American Indians, I got up there and feeling the spirit of the moment I said that we were going to work aggressively for water settlements. As I walked off the stage that day, a senior Interior Department official walked up to me and said you should not have said that because these are very expensive, and we are not likely to be able to get them across the line. But compliments to the Congress and the Administration, we have been able to push six of those across the line. I get a little emotional about this, but that means creating opportunities in Indian Country where they have not been able to have that before.

I was raised in Farmington, New Mexico, and just south of Farmington is the Navajo reservation, and we now have the Navajo-Gallup pipeline. It is 280 miles of pipeline that will deliver water for the first time to Indian communities that have been hauling water for generations. This is something that the rest of America takes for granted that you actually have a faucet that you can turn on or a toilet that you can flush, but Indian Country is not like that. Until we are able to develop that kind of infrastructure, we are going to struggle to build an economic base in many of these communities.

LEASING REGULATIONS

I have already talked about the leasing regulations that are very significant, and one I would like to emphasize again is the land into trust. We need lands in many of these communities because they just do not have much of a land base. There are landless tribes out there and without land to develop businesses are just really going to go nowhere. There are tribes that struggle to do anything because they do not have the land base. We can be helpful in that regard.

One of the things that tribes have been fortunate to have are natural resources, but oftentimes they struggle in developing those resources. And it has been the Federal Government that has been the impediment there in not being able to process the permits that are needed when you have oil and gas reserves. This Administration, when oil was discovered up in the Bakken Oil Fields of North Dakota, we had to get the one-stop-shop processing going because various federal agencies have some responsibility there, and we were too slow.

Well, we are trying to figure that out, and Director Black has got a handle on this now. We are learning as we go along here to streamline process. But that is what we are trying to do to make it easier for tribes to make the decisions out there about how they want to develop their communities and for the Federal Government not to be standing in the way of that development.

WATER RIGHTS SETTLEMENTS

Mr. COLE. Well, to your point on water, most of those agreements were actually implemented by what we called earmarks or what have been defined—so we actually have created a definitional problem up here in my view. And I know Representative Bono Mack and I both wrote a letter to the Speaker about that in connection with Indian water settlements, that there needs to be a mechanism since we have basically taken the mechanism we use to do a very good thing and have discredited it and disqualified it. So I am worried that we will not be able to act in the way that we were.

LEASING RIGHTS

The last point, I just want to ask this question and then I am going to Mr. Moran. I really appreciate what you have done on surface leasing rights, and as you know, I would be remiss not to ask you what your viewpoint is going forward on subsurface rights? I would like to see more tribal control, more ability to develop oil and natural gas, those kinds of reserves as well.

Mr. ECHO HAWK. Our intent is to tackle that issue. If it is just a matter of what phase to move into first and so we took significant bite out of the apple but there is more that we need to do and so that will be the second phase.

Mr. COLE. That is terrific. Thank you.

Mr. Moran.

Mr. MORAN. I am prepared to let Mr. Echo Hawk and his very competent colleagues get back to work.

Mr. COLE. They have a lot of work to do.

Mr. MORAN. Very good. Thanks, Mr. Chairman. I am fine.

Mr. COLE. Thank you. Again, I want to thank you for your testimony. Thank you particularly for the work that you do and look forward to continuing to work with you, hopefully for a good long time.

Mr. ECHO HAWK. Thank you very much.

Mr. COLE. You have done a good job.

Mr. ECHO HAWK. Yes, sir.

Mr. COLE. So thank you very much, and the hearing is adjourned.

The Subcommittee notes that the QFR responses from the Agency did not arrive in enough time to inform the FY 13 Appropriations bill. The Department of the Interior, Bureau of Indian Affairs received questions from the Subcommittee on March 8th and did not submit OMB-cleared responses to the Subcommittee until June 12th.

Hearing Questions for the Record (QFR) Prepared for Indian Affairs

Hearing: Indian Affairs FY 13 Budget Oversight Tuesday, February 28, 1:00pm Rayburn B-308

Questions for the Record from Chairman Simpson

Strategic Direction

Please talk about the strategic direction of the bureaus and the primary measurable objectives.

Simpson Q1: What did you set out to accomplish in FY11 with the money we appropriated; what did you actually accomplish; where did you fall short; and why?

Answer:

Strategic Direction

At a high level perspective, Indian Affairs made a number of important policy accomplishments in FY 2011 and plans to continue those successes in FY 2012 and FY 2013. For example, the Administration released and began implementation of a new Consultation Policy which strives to engage with regular and meaningful collaboration in order to strengthen the government to government relationship. With specific regards to this policy and the budget, the Administration worked to fully incorporate recommendations from the Tribal Interior Budget Council into budget formulation decisions.

Public Safety and Justice

FY 2011 represented the second half of the 24 month Safe Indian Community priority goal period for the first four targeted high-crime reservations. These reservations were Rocky Boy's in Montana, Wind River in Wyoming, Mescalero in New Mexico, and Standing Rock in North and South Dakota. By the end of FY 2011, the initiative documented results that far exceeded the initial goal. Violent crime decreased, overall, by 35 percent between all four reservations. The results were achieved by implementing community policing, tactical deployment, and interagency and intergovernmental partnerships between the Federal Bureau of Investigation (FBI), the Department of Justice, the tribal police departments, and tribal leadership. The number of sworn staff was increased by an average of 58 percent to bring each location up to national sworn staffing levels as listed under Uniform Crime Report (UCR) staffing averages.

There are a number of remaining challenges to be addressed as this approach is implemented in other locations. Continued improvements to the recruitment process, including screening police officer candidates more carefully, and making housing more accessible to officers hired would help address the problem of high turnover rates. In addition, law enforcement facilities could be better equipped with modern police communication technology such as mobile digital terminals in order to improve the effectiveness of intelligence-based policing.

Closer coordination between law enforcement and tribal courts could improve the effectiveness of justice systems and crime deterrence where court codes need to be brought up to date to appropriately sentence repeat offenders.

Two additional reservations have been identified for implementation of the HPG initiative in FY 2012. The San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota were selected from the 10 reservations ranked highest in terms of crime rate and officer staffing need in FY 2011. The initiative goal remains to achieve a significant reduction in violent criminal offenses of at least five percent within 24 months on these two targeted tribal reservations. Indian Affairs provided the two new priority goal locations with additional funding to address their current staffing and other resource deficiencies. Both locations are in the process of hiring police officers to fill vacant positions and Indian Affairs will continue intensive support to the two Tribes through the initiative period to achieve the targeted reduction by the end of FY 2013.

A community assessment has been completed at each location and Office of Justice Services staff is working with the Tribes to facilitate the initial analysis of crime data, identify current and historic crime trends, and determine criminal relationships, patterns and possible points of origin for criminal activity. Once completed, the analysis will provide an accurate portrait of the base crime rate or "crime rate profile" for each location so the program can develop an effective crime reduction plan. The crime reduction plan will provide the necessary information for management personnel to quickly prioritize their law enforcement response to most effectively begin reducing the crime rate at each location.

The overall violent crime reduction goal for FY 2012 includes a target set at 454 violent crimes per 100,000 people, which represents no change for the overall Indian Country violent crime rate from FY 2011. In fact, through the first quarter of FY 2012 violent crimes per 100,000 were 99, as compared to 88 per 100,000 for the first quarter of FY 2011. Continuing adverse economic conditions and inadequate law enforcement presence on most reservations may be contributing to crime rates running slightly higher than the previous year.

In FY 2013, the overall violent crime reduction goal includes a target set at 449 per 100,000. This represents a one percent decrease for the overall Indian Country violent crime rate from FY 2012 as the FY 2013 President's Budget request includes an increase of \$3.5 million for Criminal Investigations and Police Services, as well as corresponding increases in Detention/Corrections and Tribal Courts. Successful, effective justice systems require the cooperation and dedication of all parties to include the tribal government and tribal community. Funding additional staff, equipment, and other resources in the areas of police, corrections, and tribal courts will be crucial to bring these programs to the level of effectiveness needed to achieve a reduction in the violent crime rates in Indian communities.

Trust Services

Real Estate – In FY 2011, the Land Title and Records Office developed and implemented a new performance metric system to automate the current manual metric reporting process for probate, deeds and certifications. This system will increase the accuracy of data collection and processing, and will provide continuous process improvement, for each of these key areas.

Natural Resources – Indian Affairs implemented an improved set of performance measures in the Agriculture and Range, Forestry, and Subsistence program activities that more accurately reflect tribal priorities and Federal responsibility for the these programs. During FY 2011, baselines were established for each of these measures and the information collected will allow BIA to establish sensible milestone targets for improving program performance and effective use of appropriated funds in these important areas.

For FY 2012 both Indian Affairs Irrigation and Dams Programs face multiple challenges and opportunities. The Irrigation Program is mostly funded from revenues from water users. BIA delivers irrigation water through thousands of miles of canals and through more than 100,000 irrigation structures. The Safety of Dams Program is responsible for 136 high and significant hazard potential dams.

On track to accomplish:

- Irrigation—Improving assessments of the current infrastructure through condition assessments, GPS inventories and GIS mapping tools. Coordination with the water user groups in determining funding priorities, taking over various operational and maintenance aspects of the projects and other areas.
- Dams—Risk assessments and emergency preparedness and response to protect downstream populations are strong points and on track. Close cooperation with Tribes concerning dams on their reservation for all work in this program is a strong point and remains on track. A new risk approach has identified 78 dams with moderate to high risk (moderate to high probability of failure and consequences) failure modes. These higher risk issues are being mitigated to an acceptable level. The program received a funding increase of \$3.8 million in which an emergency management specialist has been hired and 10 dams are in the design, construction, and rehabilitation phases. The performance for the program has risen and is assisting to reduce the liability and risk for management of the dams on tribal lands.

Falling short:

- Irrigation—Ongoing difficulty in locating qualified staff who are able and willing to serve the Indian population. For instance, the recruiting and retention of qualified irrigation project managers is a longstanding problem primarily due to the remote locations associated with projects. There is difficulty in establishing accurate construction estimates given volatile fluctuations in the costs of construction materials. Many problems remain with water delivery and aging systems many of which have exceeded their life expectancies that need of major repairs and upgrades.
- Dams—For the 78 dams with moderate to high risk (moderate to high probability of failure and consequences) failure modes, some mitigation measures may be temporary until a permanent repair can be implemented.

For 2013, the Indian Affairs Irrigation Program will continue to face the same challenges.

- Irrigation—Indian Affairs is working with various Tribes and water users in finding opportunities to increase the funding stream and in turning project operations over to the Tribes and water users.
- Dams—The primary emphasis is on emergency management to protect downstream residents from undue risks associated with the dams. This includes emergency action plans and early warning systems, performing maintenance, enhancing security, and rehabilitating dams in

poor condition. Updating and exercising these plans will continue on a 3-year cycle during this period. Indian Affairs will perform design and construction rehabilitation on 15 dams during this period.

- Irrigation and Dams—Improve support to provide a Contracting Officer to the Program Office. The Personnel Office is currently partnering with Program and Project staff in establishing consistent position descriptions and job standards for all labor categories (GS Series) in the Irrigation and Safety of Dams Programs. This same team would be tasked with developing a hiring and retention plan for Irrigation Project Managers.

Indian Services

The percent of active supervised Individual Indian Monies (IIM) case records reviewed in accordance with the regulation performance measure has remained near 100 percent for the past three years. The significant increase from 81 percent in FY 2008 to 97 percent in FY 2009 and 98 percent in FY 2011 was due to a more accurate method of tracking IIM reviews, which was initiated in FY 2009. The Office of Special Trustee for American Indians and Bureau of Indian Affairs are the entities that oversee fiduciary trust activities to ensure fulfillment of the federal government's responsibility.

The Human Services program developed and has implemented a Financial Assistance and Social Services – Case Management System (FASS-CMS), which is a comprehensive case management system to help Social Service case workers provide assistance more effectively and efficiently. The system provides accurate records management, supports the processing of financial payments to eligible Indian clients and provides necessary management reporting.

As a result of Recovery Act funding, the Road Maintenance Program was able to increase the percentage of BIA-owned roads in acceptable condition from 12 percent in FY 2009 to 17 percent in FY 2010 and 2011 – an increase of 5 percent. The percentage of bridges in acceptable condition has trended upward since FY 2008, gaining 5 percentage points; this was also attributed in part to ARRA funding. ARRA funds provided the program with necessary resources to demonstrate how additional funds can vastly improve the condition of BIA owned roads.

Bureau of Indian Education

There are several key initiatives now being implemented by the Administration that will frame future Bureau of Indian Education strategies by encouraging a comprehensive approach to address the challenge of improved educational outcomes for American Indians and Alaska Natives. BIE will play a major role in each initiative. This will undoubtedly result in a reshaping of strategies to achieve success; as well as how that success will be measured. They are:

1) President Obama signed Executive Order 13592 establishing the White House Initiative on American Indian and Alaska Native Education (Initiative) during the Third Annual White House Tribal Nation's Conference on December 2, 2011. The mission of the initiative is to help expand educational opportunities and improve educational outcomes for all American Indian and Alaska Native (AI/AN) students, including opportunities to learn their Native languages, cultures, and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives.

2) The Secretary of the Interior’s initiative to advance Indian education reorganizes the strategic role of education in the long-term health and vitality of Native American communities, and is a vital component of the broader initiative to improve Native American communities. This initiative addresses the full spectrum of educational needs in Indian Country from elementary through post-secondary and adult education.

3) Department of Education Providing Additional Flexibility in Responding to Requirements of No Child Left Behind [NCLB]

The Department of Education is offering States and BIE “flexibility” in changing their Accountability systems with regard to the requirements of NCLB. States will request waivers to particular regulations of NCLB, notably the requirement of incrementally increasing annual measurable objectives to 100 percent proficiency by 2014. The BIE is exploring flexibility scenarios and its flexibility proposal likely will feature an “Accountability Index” that runs from 0 to 100. BIE proposes the goal of having 100 percent of its schools achieve a score of 70 or higher on the Accountability Index.

The proposed BIE Accountability Index will consist of student participation in assessments; achievement in assessed subjects; student attendance, graduation, and drop-out rates; school improvement activities; school participation in professional development activities; and school compliance with federal mandates. These measures provide a clearer picture of school performance in educating their students. Because BIE’s proposed accountability system will reflect stakeholder input and tribal consultation, as well as Department of Education recommended changes, the measures outlined here will likely change to reflect the implementation of the program that replaces current AYP measures.

4) Performance Goals for FY 2013 are currently established at levels consistent with baseline performance.

All current projections of BIE performance in the current FY2012-13 Annual Performance Plan are based on “steady state” assumptions. These new initiatives could have a major impact on how performance goals and strategies are formulated for FY 2013 and beyond.

In FY 2011, major learning improvements were established with the new educational initiative. Although student performance at BIE schools across the board remains lower than national averages, some dramatic progress has been made in selected schools.

- The Northwest Evaluation Association (NWEA) developed a standardized assessment tool that can be used across all Indian schools to measure student progress.
- Using NWEA data currently utilized by 128 of 173 BIE funded schools, the following examples of significant changes in achievement scores can be cited.
 - In mathematics, NWEA assessment growth data from fall 2010 to spring 2011 indicated that students in 51 of the BIE schools exceeded growth expectations or outperformed other students with similar beginning scores.
 - One particularly successful Education Line Office [ELO], New Mexico Navajo North, 8 of 9 schools exceeded growth expectations or outperformed other students with similar scores at the beginning of the year in reading and math, based on NWEA assessment growth data.

The larger challenge is to raise the achievement scores of all schools and students so that they approach, and ideally exceed the national norms. In FY 2011 (SY 09-10), with the funding appropriated our primary funding goals were the following:

- 38% of BIE and tribal schools achieve Adequate Yearly Progress (AYP), in comparison to 32% in FY 2010
- 57 % of BIE schools not making AYP show improvement in reading
- 57 % of BIE schools not making AYP show improvement in math
- 56 % of students show proficiency in reading at BIE funded schools
- 47 % of students show proficiency in math at BIE funded schools

Actual performance in FY 2011 (SY 09-10) fell short of the targeted goal in each of these key areas:

- 29% of BIE and tribal schools achieved AYP, compared to the 38% target
- 54% of BIE schools not making AYP showed improvement in reading, compared to the 57% target
- 48% of BIE schools not making AYP showed improvement in math, compared to the 57% target
- 40% of students showed proficiency in reading at BIE funded schools, compared to the 56% target
- 31% of students showed proficiency in math at BIE funded schools, compared to the 47% target

As noted in the Department of Education budget justification, a major reason for the lower than expected performance by most schools on No Child Left Behind [NCLB] goals, was the tightening of proficiency standards by all States. FY 2011 (School Year 2009-10) was the third year into the new state proficiency levels for reading and math. This trend was applicable to BIE and tribal schools as well.

In March 2011, the Secretary of Education estimated that no less than 82 percent of public schools would fail to make AYP in academic year 2010-11. Relative to this Nation-wide picture, and in light of tightening State standards, the consistent percentage of BIE and tribal schools making AYP over the past several years [30 to 32%] can be considered from a new perspective. Relative to recent national AYP results, BIE percentages fare well by comparison.

In FY 2012 BIE performance goals have been set at levels which are consistent with baseline performance. The following actions are being taken to enhance performance at both the BIE and tribally owned schools:

- Consult with Tribes to formulate strategies that will increase student achievement and identify additional measures that will track individual student achievement
- Expand use of the Northwest Evaluation Association diagnostic tool to assess students at the beginning of the year and then compare year end results with growth targets
- Use the results of data analysis to target specific teaching strategies aimed at particular areas of student weaknesses
- Conduct leadership institutes for teachers and principals in effective reading and math instruction
- Expand BIE Reads program in participating schools to all grade levels

- Expand Math Counts program at an additional ten schools

The implementation of **Executive Order 13592** will address the shortfalls referenced because it mandates a comprehensive approach to address the challenge of improving educational outcomes for American Indians and Alaska Natives. BIE will benefit from the collaboration between entities within the Department of Education, the Department of the Interior, and Tribal Leadership, as well as other representatives at the federal and State level. Furthermore, effective governance mechanisms and policy development will provide the means to bring BIE schools into alignment with standards at the national level in all areas.

Simpson Q2: What are you on track to accomplish in **FY12** and where are you falling short?

Answer:

Strategic Direction

At a high level perspective, Indian Affairs made a number of important policy accomplishments in FY 2011 and plans to continue those successes in FY 2012 and FY 2013. For example, the Administration released and began implementation of a new Consultation Policy which strives to engage Tribes with regular and meaningful collaboration in order to strengthen the government to government relationship. With specific regards to this policy and the budget, the Administration worked to fully incorporate recommendations from the Tribal Interior Budget Council into budget formulation decisions.

Public Safety and Justice

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There are a number of remaining challenges to be addressed as this approach is implemented in other locations. Continued improvements to the recruitment process, including screening police officer candidates more carefully, and making housing more accessible to officers hired would help address the problem of high turnover rates. In addition, law enforcement facilities could be better equipped with modern police communication technology such as mobile digital terminals in order to improve the effectiveness of intelligence-based policing.

Closer coordination between law enforcement and tribal courts could improve the effectiveness of justice systems and crime deterrence where court codes need to be brought up to date to appropriately sentence repeat offenders.

Two additional reservations have been identified for implementation of the HPG initiative in FY 2012. The San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota were selected from the 10 reservations ranked highest in terms of crime rate and officer staffing need in FY 2011. The initiative goal remains to achieve a significant reduction in violent criminal offenses of at least five percent within 24 months on these two targeted tribal reservations. Indian Affairs provided the two new priority goal locations with additional funding to address their current staffing and other resource deficiencies. Both locations are in the process of hiring police officers to fill vacant positions and Indian Affairs will continue intensive support to the two Tribes through the initiative period to achieve the targeted reduction by the end of FY 2013.

A community assessment has been completed at each location and Office of Justice Services staff is working with the Tribes to facilitate the initial analysis of crime data, identify current and historic crime trends, and determine criminal relationships, patterns and possible points of origin for criminal activity. Once completed, the analysis will provide an accurate portrait of the base crime rate or "crime rate profile" for each location so the program can develop an effective crime reduction plan. The crime reduction plan will provide the necessary information for management personnel to quickly prioritize their law enforcement response to most effectively begin reducing the crime rate at each location.

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In FY 2013, the overall violent crime reduction goal includes a target set at 449 per 100,000. This represents a one percent decrease for the overall Indian Country violent crime rate from FY 2012 as the FY 2013 President's Budget request includes an increase of \$3.5 million for Criminal Investigations and Police Services, as well as corresponding increases in Detention/Corrections and Tribal Courts. Successful, effective justice systems require the cooperation and dedication of all parties to include the tribal government and tribal community. Funding additional staff, equipment, and other resources in the areas of police, corrections, and tribal courts will be crucial to bring these programs to the level of effectiveness needed to achieve a reduction in the violent crime rates in Indian communities.

Trust Services

Real Estate – In FY 2011, the Land Title and Records Office developed and implemented a new performance metric system to automate the current manual metric reporting process for probate, deeds and certifications. This system will increase the accuracy of data collection and processing, and will provide continuous process improvement, for each of these key areas.

Natural Resources – Indian Affairs implemented an improved set of performance measures in the Agriculture and Range, Forestry, and Subsistence program activities that more accurately reflect tribal priorities and Federal responsibility for these programs. During FY 2011, baselines were established for each of these measures and the information collected will allow BIA to establish

sensible milestone targets for improving program performance and effective use of appropriated funds in these important areas.

For FY 2012 both Indian Affairs Irrigation and Dams Programs face multiple challenges and opportunities. The Irrigation Program is mostly funded from revenues from water users. BIA delivers irrigation water through thousands of miles of canals and through more than 100,000 irrigation structures. The Safety of Dams Program is responsible for 136 high and significant hazard potential dams.

On track to accomplish:

- Irrigation—Improving assessments of the current infrastructure through condition assessments, GPS inventories and GIS mapping tools. Coordination with the water user groups in determining funding priorities, taking over various operational and maintenance aspects of the projects and other areas.
- Dams—Risk assessments and emergency preparedness and response to protect downstream populations are strong points and on track. Close cooperation with Tribes concerning dams on their reservation for all work in this program is a strong point and remains on track. A new risk approach has identified 78 dams with moderate to high risk (moderate to high probability of failure and consequences) failure modes. These higher risk issues are being mitigated to an acceptable level. The program received a funding increase of \$3.8 million in which an emergency management specialist has been hired and 10 dams are in the design, construction, and rehabilitation phases. The performance for the program has risen and is assisting to reduce the liability and risk for management of the dams on tribal lands.

Falling short:

- Irrigation—Ongoing difficulty in locating qualified staff who are able and willing to serve the Indian population. For instance, the recruiting and retention of qualified irrigation project managers is a longstanding problem primarily due to the remote locations associated with projects. There is difficulty in establishing accurate construction estimates given volatile fluctuations in the costs of construction materials. Many problems remain with water delivery and aging systems many of which have exceeded their life expectancies that need of major repairs and upgrades.
- Dams—For the 78 dams with moderate to high risk (moderate to high probability of failure and consequences) failure modes, some mitigation measures may be temporary until a permanent repair can be implemented.

For 2013, the Indian Affairs Irrigation Program will continue to face the same challenges.

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- Dams—The primary emphasis is on emergency management to protect downstream residents from undue risks associated with the dams. This includes emergency action plans and early warning systems, performing maintenance, enhancing security, and rehabilitating dams in poor condition. Updating and exercising these plans will continue on a 3-year cycle during this period. Indian Affairs will perform design and construction rehabilitation on 15 dams during this period.

- Irrigation and Dams—Improve support to provide a Contracting Officer to the Program Office. The Personnel Office is currently partnering with Program and Project staff in establishing consistent position descriptions and job standards for all labor categories (GS Series) in the Irrigation and Safety of Dams Programs. This same team would be tasked with developing a hiring and retention plan for Irrigation Project Managers.

Indian Services

The percent of active supervised Individual Indian Monies (IIM) case records reviewed in accordance with the regulation performance measure has remained near 100 percent for the past three years. The significant increase from 81 percent in FY 2008 to 97 percent in FY 2009 and 98 percent in FY 2011 was due to a more accurate method of tracking IIM reviews, which was initiated in FY 2009. The Office of Special Trustee for American Indians and Bureau of Indian Affairs are the entities that oversee fiduciary trust activities to ensure fulfillment of the federal government's responsibility.

The Human Services program developed and has implemented a Financial Assistance and Social Services – Case Management System (FASS-CMS), which is a comprehensive case management system to help Social Service case workers provide assistance more effectively and efficiently. The system provides accurate records management, supports the processing of financial payments to eligible Indian clients and provides necessary management reporting.

As a result of Recovery Act funding, the Road Maintenance Program was able to increase the percentage of BIA-owned roads in acceptable condition from 12 percent in FY 2009 to 17 percent in FY 2010 and 2011 – an increase of 5 percent. The percentage of bridges in acceptable condition has trended upward since FY 2008, gaining 5 percentage points; this was also attributed in part to ARRA funding. ARRA funds provided the program with necessary resources to demonstrate how additional funds can vastly improve the condition of BIA owned roads.

Bureau of Indian Education

There are several key initiatives now being implemented by the Administration that will frame future Bureau of Indian Education strategies by encouraging a comprehensive approach to address the challenge of improved educational outcomes for American Indians and Alaska Natives. BIE will play a major role in each initiative. This will undoubtedly result in a reshaping of strategies to achieve success; as well as how that success will be measured. They are:

- 1) **President Obama signed Executive Order 13592 establishing the White House Initiative on American Indian and Alaska Native Education (Initiative) during the Third Annual White House Tribal Nation's Conference on December 2, 2011.** The mission of the initiative is to help expand educational opportunities and improve educational outcomes for all American Indian and Alaska Native (AI/AN) students, including opportunities to learn their Native languages, cultures, and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives.
- 2) **The Secretary of the Interior's initiative to advance Indian education reorganizes the strategic role of education in the long-term health and vitality of Native American communities,** and is a vital component of the broader initiative to improve Native American communities. This

initiative addresses the full spectrum of educational needs in Indian Country from elementary through post-secondary and adult education.

3) Department of Education Providing Additional Flexibility in Responding to Requirements of No Child Left Behind [NCLB]

The Department of Education is offering States and BIE “flexibility” in changing their Accountability systems with regard to the requirements of NCLB. States will request waivers to particular regulations of NCLB, notably the requirement of incrementally increasing annual measurable objectives to 100 percent proficiency by 2014. The BIE is exploring flexibility scenarios and its flexibility proposal likely will feature an “Accountability Index” that runs from 0 to 100. BIE proposes the goal of having 100 percent of its schools achieve a score of 70 or higher on the Accountability Index.

The proposed BIE Accountability Index will consist of student participation in assessments; achievement in assessed subjects; student attendance, graduation, and drop-out rates; school improvement activities; school participation in professional development activities; and school compliance with federal mandates. These measures provide a clearer picture of school performance in educating their students. Because BIE’s proposed accountability system will reflect stakeholder input and tribal consultation, as well as Department of Education recommended changes, the measures outlined here will likely change to reflect the implementation of the program that replaces current AYP measures.

4) Performance Goals for FY 2013 are currently established at levels consistent with baseline performance.

All current projections of BIE performance in the current FY2012-13 Annual Performance Plan are based on “steady state” assumptions. These new initiatives could have a major impact on how performance goals and strategies are formulated for FY 2013 and beyond.

In FY 2011, major learning improvements were established with the new educational initiative. Although student performance at BIE schools across the board remains lower than national averages, some dramatic progress has been made in selected schools.

- The Northwest Evaluation Association (NWEA) developed a standardized assessment tool that can be used across all Indian schools to measure student progress.
- Using NWEA data currently utilized by 128 of 173 BIE funded schools, the following examples of significant changes in achievement scores can be cited.
 - In mathematics, NWEA assessment growth data from fall 2010 to spring 2011 indicated that students in 51 of the BIE schools exceeded growth expectations or outperformed other students with similar beginning scores.
 - One particularly successful Education Line Office [ELO], New Mexico Navajo North, 8 of 9 schools exceeded growth expectations or outperformed other students with similar scores at the beginning of the year in reading and math, based on NWEA assessment growth data.

The larger challenge is to raise the achievement scores of all schools and students so that they approach, and ideally exceed the national norms. In FY 2011 (SY 09-10), with the funding appropriated our primary funding goals were the following:

- 38% of BIE and tribal schools achieve Adequate Yearly Progress (AYP), in comparison to 32% in FY 2010
- 57 % of BIE schools not making AYP show improvement in reading
- 57 % of BIE schools not making AYP show improvement in math
- 56 % of students show proficiency in reading at BIE funded schools
- 47 % of students show proficiency in math at BIE funded schools

Actual performance in FY 2011 (SY 09-10) fell short of the targeted goal in each of these key areas:

- 29% of BIE and tribal schools achieved AYP, compared to the 38% target
- 54% of BIE schools not making AYP showed improvement in reading, compared to the 57% target
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- 40% of students showed proficiency in reading at BIE funded schools, compared to the 56% target
- 31% of students showed proficiency in math at BIE funded schools, compared to the 47% target

As noted in the Department of Education budget justification, a major reason for the lower than expected performance by most schools on No Child Left Behind [NCLB] goals, was the tightening of proficiency standards by all States. FY 2011 (School Year 2009-10) was the third year into the new state proficiency levels for reading and math. This trend was applicable to BIE and tribal schools as well.

In March 2011, the Secretary of Education estimated that no less than 82 percent of public schools would fail to make AYP in academic year 2010-11. Relative to this Nation-wide picture, and in light of tightening State standards, the consistent percentage of BIE and tribal schools making AYP over the past several years [30 to 32%] can be considered from a new perspective. Relative to recent national AYP results, BIE percentages fare well by comparison.

In FY 2012 BIE performance goals have been set at levels which are consistent with baseline performance. The following actions are being taken to enhance performance at both the BIE and tribally owned schools:

- Consult with Tribes to formulate strategies that will increase student achievement and identify additional measures that will track individual student achievement
- Expand use of the Northwest Evaluation Association diagnostic tool to assess students at the beginning of the year and then compare year end results with growth targets
- Use the results of data analysis to target specific teaching strategies aimed at particular areas of student weaknesses
- Conduct leadership institutes for teachers and principals in effective reading and math instruction
- Expand BIE Reads program in participating schools to all grade levels
- Expand Math Counts program at an additional ten schools

The implementation of **Executive Order 13592** will address the shortfalls referenced because it mandates a comprehensive approach to address the challenge of improving educational outcomes for American Indians and Alaska Natives. BIE will benefit from the collaboration between entities within the Department of Education, the Department of the Interior, and Tribal Leadership, as well as other representatives at the federal and State level. Furthermore, effective governance mechanisms and policy development will provide the means to bring BIE schools into alignment with standards at the national level in all areas.

Simpson Q3: Where do you want to go in FY13?

Answer:

Strategic Direction

At a high level perspective, Indian Affairs made a number of important policy accomplishments in FY 2011 and plans to continue those successes in FY 2012 and FY 2013. For example, the Administration released and began implementation of a new Consultation Policy which strives to engage Tribes with regular and meaningful collaboration in order to strengthen the government to government relationship. With specific regards to this policy and the budget, the Administration worked to fully incorporate recommendations from the Tribal Interior Budget Council into budget formulation decisions.

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other representatives at the federal and State level. Furthermore, effective governance mechanisms and policy development will provide the means to bring BIE schools into alignment with standards at the national level in all areas.

“Organizational Streamlining” (-\$19.7 million)

The BIA budget claims \$19.7 million in savings that it is calling “organizational streamlining”, and that the agency has not yet implemented, planned, or even consulted on with Tribes.

Simpson Q4: Are you not putting the cart before the horse, by claiming savings that you haven’t even realized yet?

Answer: The FY 2013 budget request identifies \$19.7 million in savings from streamlining and \$13.4 million from significantly reduced administrative costs associated with the wide range of services Indian Affairs delivers through its programs. Indian Affairs will engage in extensive consultation to identify strategies to ensure that tribal needs and priorities are addressed.

Indian Affairs is in the process of scheduling extensive consultation meetings with Tribes and believes the targeted savings can be realized by strategic position management, shared resources and potential program and office consolidation. In addition, Indian Affairs is considering requesting voluntary early retirement authority and the voluntary early separation incentive program to assist in meeting the targeted savings.

Simpson Q5: What assurances can you give us that this consolidation, and the associated loss of 192 FTE, will not negatively impact services for Indian Country?

Answer: No changes will be implemented that will negatively impact services for Indian Country. Any potential consolidation, which will affect the delivery of services to Tribes, will require the support and participation of the Tribes. The results and recommendations from the consultations will be included in implementing a plan for a streamlined and cost effective organization.

Simpson Q6: Was this cut supported by the Tribal/Interior Budget Council?

Answer: The Tribal/Interior Budget Council was aware that Indian Affairs would present an organizational streamlining effort in order to protect tribal base funding. While the TIBC recognizes the importance of meeting budget targets, TIBC consistently argues for the protection of the entire IA budget.

Simpson Q7: Reorganizations have to be approved by this Committee, so when do you plan on submitting a reorganization proposal?

Answer: Once the consultations have occurred, Indian Affairs will incorporate the results and recommendations into a plan for a streamlined and cost effective organization. If the plan requires reorganization, Indian Affairs will submit a proposal to the Committee for approval.

Administrative “Savings” (-\$13.2 million)

The BIA budget claims \$13.2 million in administrative “savings”. No other bureau in the department even comes close to that level.

Simpson Q8: Are these real savings?

Answer: Over the last two years, the Administration has implemented a series of management reforms to curb uncontrolled growth in contract spending, terminate poorly performing information technology projects, deploy state of the art fraud detection tools, focus agency leaders on achieving ambitious improvements in high priority areas, and open government to the public in order to increase accountability and accelerate innovation. In November 2011, President Obama issued an Executive Order reinforcing these performance and management reforms and the achievement of efficiencies and cost-cutting across the government. This Executive Order identifies specific savings, as part of the Administration’s Campaign to Cut Waste to achieve a 20 percent reduction in administrative spending from 2010 to 2013. The Department of the Interior’s goal is to reduce administrative spending by \$207 million from 2010 levels by the end of 2013. BIA proposes \$13.8 million in management efficiencies that would focus on the reduction of costs in printing, fleet management, and employee information technology devices.

Simpson Q9: Why is Indian Affairs the only bureau that is claiming these kinds of “savings”?

Answer: Indian Affairs is not the only DOI bureau impacted by the Administration’s Campaign to Cut Waste Initiative. BIA proposes \$13.8 million in management efficiencies that would focus on the reduction of costs in printing, fleet management, and employee information technology devices. Of this \$13.8 million, over two-thirds are attributed to the Presidential initiative to reduce waste within government. Indian Affairs, along with other bureaus, will achieve these savings through efforts to reduce travel and relocation expenses, limit employee mobile IT devices, and continue to consolidate the IT infrastructure by collaborating and consolidating with the Department.

The Department of the Interior’s goal is to reduce administrative spending by \$207 million from 2010 levels by the end of 2013. Over the last two years, the Administration has implemented a series of management reforms to curb uncontrolled growth in contract spending, terminate poorly performing information technology projects, deploy state of the art fraud detection tools, focus agency leaders on achieving ambitious improvements in high priority areas, and open government to the public in order to increase accountability and accelerate innovation. In November 2011, President Obama issued an Executive Order reinforcing these performance and management reforms and the achievement of efficiencies and cost-cutting across the government. This Executive Order identifies specific savings, as part of the Administration’s Campaign to Cut Waste, to achieve a 20 percent reduction in administrative spending from 2010 to 2013.

Guaranteed Loan Program (-\$2.1 million)

The Indian Guaranteed Loan Program is facing a \$2.1 million cut, “while the program undergoes an independent evaluation.”

Simpson Q10: Is that not a guilty-until-proven-innocent approach?

ANSWER: Indian Energy & Economic Development plans to conduct a strategic review of the Indian Affairs Loan Guarantee Program to review the effectiveness of the program and its results. The program evaluation will help strengthen the program's goal to improve access to capital opportunities for Native American businesses. Indian Affairs is reviewing the bid for proposals and will keep the Committee apprised of major milestones in the program evaluation process. The review will be initiated this year with a target completion date of early next calendar year.

Simpson Q11: What prompted the evaluation, and who is conducting it?

Answer: The Office of Indian Energy and Economic Development initiated the plan to conduct a strategic review of the Indian Affairs Loan Guarantee Program in order to review the effectiveness of the program and its results in Indian Country. IEED has not determined the independent program evaluation firm as it is still reviewing the proposal bid application. Indian Affairs will ensure that the Committee is kept abreast of the progress of the program evaluation process.

Simpson Q12: When will it be completed?

Answer: The program evaluation is anticipated to begin this year with a target completion date early in the next calendar year.

Replacement School Construction (-\$17.8 million)

There are 41,000 students attending 183 BIE-funded schools and dormitories which the Federal government is responsible for building, maintaining, and eventually replacing. If we were to only replace one school every year, we would be expecting each school to have a 183-year lifespan. Your budget proposes to replace no schools. The budget justifies this \$17.8 million cut by proposing to continue the facilities maintenance and repair program instead.

Simpson Q13: Wouldn't you say that a more balanced approach to the budget would be to include funding for both maintenance and replacement?

Answer: The American Recovery and Reinvestment Act invested a total of \$285 million into Indian schools and detention center facilities. Many of these projects are still under construction. In light of this investment, the Indian Affairs request is maximizing funding available for other vital Indian Affairs programs. The Indian Affairs budget proposal for FY 2013 continues \$48.5 million for maintenance, repair and improvements to existing education facilities. This strategy recognizes the importance of a quality school environment to best meet the learning needs of Indian students while working in a period of fiscal constraint. Beginning in FY 2012, the amount of funds for repairs and improvements was increased which resulted in improved facility conditions at multiple schools and this budget request continues that approach.

Simpson Q14: What is the average lifespan of a BIE school compared to surrounding schools?

Answer: Nationwide, the average lifespan of a school, including BIE schools, is forty years.

Simpson Q15: How many schools should we reasonably expect to replace each year, on average?

Answer: Indian Affairs sponsors 183 schools and dormitories. It is a real property standard that the life expectancy of buildings is 40 years; however, many buildings, including schools throughout the country, are still in use after this period of time. Indian Affairs cannot predict or determine the number of schools that need to be replaced annually as it is dependent on variable factors such as the conditions of the school facilities and Indian Affairs' ability to maintain the structures through annual maintenance and modernization improvements to minimize the need to replace a school.

Simpson Q16: When is a new replacement school construction list going to be published?

The current Replacement School Construction priority list was published in 2004. Of the fourteen school projects on the list, all but three have been completed or are under construction.

Indian Affairs has set up a committee to review the criteria for placing a school on the revised priority list. The committee has finished their recommendations, and it is expected that the criteria recommendations will be delivered to Congress and the Secretary of the Interior in the spring of 2012. Once the criteria is completed, Indian Affairs will be joined by a committee representing schools and Tribes to develop a recommended school construction priority list that will be submitted to the Assistant Secretary Indian Affairs. Once approved by the Assistant Secretary, the list will be published in the Federal Register and posted on the Bureau of Indian Affairs and Bureau of Indian Education's web sites.

Once the criteria recommendations have been delivered to Congress and the Secretary, the effort to establish the review committee, apply the criteria and prepare the preliminary list for approval by the Assistant Secretary will likely take 12 months to final publication.

Domestic Violence and Substance Abuse

Two years ago this subcommittee included considerable report language directing the Department to engage the Department of Justice, Tribes, States, and the Inspector General to better address the epidemic levels of sexual and domestic violence, substance abuse, and related criminal problems.

Simpson Q17: Please update the committee on progress made to date on that effort.

Answer: The BIA Office of Justice Services (OJS) has developed a partnership with the Federal Law Enforcement Training Center's (FLETC) Office of State and Local Training to host OJS Domestic Violence "Train-the-Trainer" instructor training programs aimed at BIA and tribal law enforcement officers.

The training is designed to enhance the officers' skills and effectiveness in working with victims suffering from the physical and emotional effects of domestic violence. The four programs trained 96 domestic violence subject matter experts who are able to return back to their police departments and provide the local training to their departments. This training includes: Dynamics of Domestic Violence; Documentation and Collection of Evidence; Report Writing Dynamics; Victim Impact Statements; Referral to Domestic Violence Shelter or Services; Referral to Victim Services; Referral to Victim Witness Advocate; Case Report; and Testimony in Tribal/Federal Court.

In addition, the instructors are encouraged to provide educational opportunities to the community and participate with local domestic violence and sexual assault victims programs. The trainings have been completed and more than 90 new domestic violence trainers are working in Indian Country.

OJS and DOJ are also partnering to hold multiple sexual assault seminars later in 2012 which will bring training to Indian Country law enforcement programs in areas specific to addressing investigation and prevention of sexual assaults.

OJS is also making sexual assault a key topic of OJS In-Service training for 2012; every OJS Special Agent will receive additional training in the investigation of sexual assault cases.

Further, the Office of Justice Services has just recently created a Department of Justice (DOJ) liaison position. This is an OJS funded position that is housed at the main Justice building and will serve as OJS primary point of contact with the Department of Justice on many shared issues to include working very closely with the Office on Violence Against Women.

Simpson Q18: What are some of the major obstacles you've encountered, and how have you overcome them?

Answer: The main obstacle to effectively dealing with these issues has been the availability of training for officers in Indian communities on being effective first responders to domestic violence calls. In partnership with the Federal Law Enforcement Training Center (FLETC), the design and schedule of comprehensive training is underway.

The BIA Office of Justice Services (OJS) and the FLETC's Office of State and Local Training are scheduled to host four Domestic Violence "Train-the-Trainer" instructor training programs aimed at BIA and tribal law enforcement officers.

The training is designed to enhance the officers' skills and effectiveness in working with victims suffering from the physical and emotional effects of domestic violence. In addition, the instructors are encouraged to provide educational opportunities to the community and participate with local domestic violence and sexual assault victims programs. The trainings have been completed and more than 90 new domestic violence trainers are working in Indian Country.

Public Safety and Justice (+\$7.7 million)

Please tell us about Interior's efforts over the past several years to reduce crime in Indian Country.

Simpson Q19: What goals did you set, what strategies did you put into action, and were you able to achieve your goals?

ANSWER: Since FY 2004, the Department of the Interior's budget request has prioritized significant increases for public safety and justice programs, with FY 2008 marking the first year of the Protecting Indian Country initiative. During this time, the BIA has focused on increasing the law enforcement presence in Indian communities while strengthening detention/corrections and tribal courts programs to foster comprehensive and effective justice systems for tribes.

With an overall goal of reducing violent crime in Indian country, Indian Affairs employed data gathering strategies to assemble and analyze crime statistics of all law enforcement programs to determine the areas of greatest need and of highest priority. In 2009, Indian Affairs focused its efforts on a pilot project with the goal of reducing local violent crime by five percent over a 24-month period through development and implementation of a community assessment and police improvement effort in coordination with the Tribes and several Federal partners.

In FY 2010 and FY 2011, the High Priority Performance Goal (HPPG) pilot project was implemented in four communities with excessive crime problems and began with a full assessment in an effort to determine the root causes for the excessive crime. The four communities were Mescalero Apache, Rocky Boys, Standing Rock, and Wind River. Using the information obtained in the assessment, BIA developed an action plan comprised of the best strategies and practices to implement sustained crime reduction in each community. The plan included customized community policing programs suitable to the community; strategic operational practices tailored to the community for stronger patrol and enforcement within current staffing levels; and establishment and mediation of any necessary partnerships with various Federal, State and local programs such as the Drug Enforcement Administration (DEA) or drug task forces, social services, and rehabilitation programs. As a result of the efforts in FY 2010 and FY 2011 on the four sites, violent crime was reduced by 35 percent from the overall baseline total established from the baseline years FY 2007 through FY 2009.

Simpson Q20: I see that you're proposing additional investments in '13 to expand upon past efforts. Would you say then that you've been successful?

ANSWER: The final results of the 24 month goal period are summarized in the FY 2013 President's Budget request. A detailed report is currently in the review process within Indian Affairs. The anticipated completion and distribution date of the detailed report is July 2012.

At the end of the goal period, the BIA Office of Justice Services achieved an overall 35 percent decrease in violent crime across all four Priority Goal sites. The following statistics are the results of each individual location:

- 68 percent reduction in violent crime at Mescalero
- 40 percent reduction in violent crime at Rocky Boy
- 27 percent reduction in violent crime at Standing Rock
- 7 percent increase in violent crime at Wind River.

Wind River was the only location showing an increase in violent crime over the 24 month period. The seven percent increase is attributable to multiple factors:

- The increase of sworn police officers that Wind River hired contributed to a huge improvement in public trust and thereby increased reporting.
- The violent crimes reported to law enforcement showed a 53 percent increase the first year. Reviewing the violent crime statistics, the rise of violent crime being reported was noticed at the time of the influx of sworn law enforcement staff.

Based upon the current violent crime statistics, Wind River law enforcement personnel have shown success reducing violent crime in the second year by implementing sound crime reduction strategies. The statistics show the program is trending in the right direction as a 30 percent decrease, or 43 fewer incidents than 2010, in violent crime was observed from 2010 to 2011 alone.

Based upon the current trend, OJS believes the crime reduction strategies and staffing levels are sufficient to achieve and maintain the reduction in violent crime as outlined in the HPPG initiative. In fact, the Wind River violent crime statistics for the three months following the end of the initiative (October, November, and December 2011), have shown an additional decrease of 17 violent crimes (68 percent) from the same three months of the previous year, and an 11 overall percent reduction since the beginning of the initiative.

Based on the success of the pilot project's first four locations, two additional reservations were identified for implementation in FY 2012 – FY 2013. The two include reservations are San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota.

Simpson Q21: What improvements can be made?

Answer: One area improvement is being made is in crime data verification. To ensure the Priority Goal crime statistics were accurate and the processes for Uniform Crime Reports (UCR) classification and scoring were standardized at these locations, the Office of Justice Services (OJS) put together a multidisciplinary team comprised of Indian Affairs, the Federal Bureau of Investigation (FBI) and DOJ Bureau of Justice Statistics (BJS) personnel to verify all crime data for FY 2009, FY 2010, and FY 2011.

Eight IA and three BJS personnel completed UCR training conducted by the FBI UCR program. From these trained personnel, four multi-disciplinary teams were created and assigned to complete the verification initiative at each of the four Priority Goal locations. During the crime data verification initiative, the FBI provided more than 20 UCR personnel from Clarksburg, West Virginia, including four of the most senior UCR auditors in the FBI. Each of the four teams was provided a single tool to ensure the consistency of documented offenses across the Priority Goal sites, and the teams communicated regularly to share information, challenges, and best practices.

The verification team initiative will continue to verify all crime data for the sites throughout the duration of this initiative. The lessons learned continue to shape the BIA's approach to crime reporting and implementation of the necessary changes to improve the accuracy and consistency of crime reporting in Indian Country.

Simpson Q22: How did you come to choose the San Carlos Apache Tribe in Arizona and the Rosebud Tribe in South Dakota as the two places to expand your efforts in '13?

ANSWER: The San Carlos Apache Tribe in Arizona and the Rosebud Sioux Tribe in South Dakota were selected from the ten reservations ranked highest in terms of crime rate and officer staffing need in FY 2011. Also key to the selection of these two reservations was the level of commitment of the tribal leadership. Tribal leadership and support was confirmed for the initiative during discussions with BIA Office of Justice Services (OJS) management in late September 2011. Both Tribes

accepted the corresponding responsibilities and welcomed the Priority Goal initiative on their reservations beginning in October 2011.

Simpson Q23: Will you continue to detail officers from other Department bureaus?

ANSWER: Indian Affairs will continue to leverage outside resources by partnering with other bureaus within the Department, as well as other Federal agencies to address near term critical officer shortages at the Priority Goal Indian communities.

Simpson Q24: Please explain the \$2.6 million decrease in BIA for law enforcement special initiatives.

ANSWER: The FY 2013 budget includes a number of reductions to ensure the most effective prioritization of available Indian Affairs (IA) resources to address core responsibilities to American Indians and Alaska Natives. Additionally, newly built detention centers were allocated an additional \$6.4 million in FY 2013 to ensure that they would be staffed and ready when construction is completed. In the area of public safety and justice, decreases totaling \$2.6 million are proposed.

This amount includes a decrease in funding of \$1.0 million in assistance to tribal law enforcement programs with jurisdictions that border on or near Mexico and represents a shift in emphasis from a geographic driven distribution of resources under this initiative to a methodology that allocates additional resources based on objective criteria such as crime statistics, land base, and resident population.

Also included in the request is a reduction of \$550,000 that will eliminate one Intelligence Analyst position located at the El-Paso Criminal Intelligence Center (EPIC) and two positions at drug enforcement field locations in Muskogee, OK and Phoenix, AZ. Through the remaining three intelligence Analyst positions, the BIA will continue to maintain real-time access to intelligence related to criminal enterprise and narcotics trafficking and distribution.

The final component is a reduction of \$1.0 million that the Incident Management Analysis and Reporting System (IMARS). The system is a Department sponsored project that was developed to ultimately provide all bureau justice service agencies with the ability to accurately report incidents and transmit those reports for inclusion in various state and Federal databases.

Regional Detention Centers

The FY10 and FY12 conference reports included language encouraging BIA to consider establishing regional detention centers at new or existing facilities.

Simpson Q25: Please update the committee on progress being made at Interior and Justice to address this as a possible solution to the building, operating, and maintaining of individual tribal detention centers.

Answer: The BIA Office of Justice Services and the DOJ Bureau of Justice Assistance (BJA) are making strides in their commitment to better coordinate the planning and construction of new jails in Indian Country as prescribed in the Tribal Law and Order Act (TLOA). In FY 2011, these

organizations implemented quarterly meetings to meet with the tribal grant recipients to track the planning, development, construction and opening of new facilities. The BIA's role in this planning is time sensitive given the two year lead time required by the Federal budgeting process. Mandating through the grant process that tribal grantees submit budget requests to BIA in time for proper budget planning was discussed as a method for improving coordination between BJA, OJS, and the Tribes.

The discussion included the possibility of BIA taking on a role as decision-maker where these facilities are to be built. Attempting to resolve these two challenges through further collaborative efforts continues in FY 2012 and represents significant progress in operating detention facilities in a cost effective and efficient manner for Indian Country public safety.

Public Safety and Justice Construction

Once again this year the Public Safety and Justice Construction activity doesn't budget for facility replacement and new construction, presumably because construction is now handled by the Department of Justice. As you know, there have been problems in the past with coordination, as the facilities built by Justice didn't always match with Interior's highest priorities, and as Interior was being handed the bill for operations when there wasn't money in the budget.

Simpson Q26: Please explain why the approach taken in this budget proposal is an improvement over the way we've funded safety & justice construction in previous years.

Answer: New construction under the Public Safety and Justice (PS&J) Construction program is excluded from the BIA budget to ensure there is no overlap with detention center construction in the Department of Justice (DOJ) budget. Rather than duplicate efforts among Federal agencies, the President's Budget incorporates a collaborative approach that aligns new construction under DOJ and operation and maintenance under Indian Affairs in terms of resources and responsibility. To ensure the activities of both Federal agencies produce the maximum possible benefit to Tribes on a nationwide basis, Indian Affairs is committed to close coordination and information sharing with DOJ.

Simpson Q27: Under Justice's competitive grant program, how do you ensure that the reservations with the greatest need are the ones getting new facilities?

Answer: The BIA Office of Justice Services (OJS) and the Department of Justice Bureau of Justice Assistance (BJA) are engaged in ongoing discussions to determine the role of BIA in selecting the location of tribal detention facilities. OJS and BJA are developing a criteria list to build facilities based on tribal needs. The BIA is providing the Department of Justice a priority list for consideration; however, this remains a competitive grant program, this collaboration represents significant progress in operating detention facilities in a cost effective and efficient manner for Indian Country public safety.

Simpson Q28: Can you assure this committee that those problems of the past aren't repeated?

Answer: The BIA remains committed to working closely with the Department of Justice to ensure appropriate coordination, planning, and construction of new detention facilities in Indian Country.

However, under the current process the final decision for the grant awards continues to be with the Department of Justice.

Education (+5.2 million)

I'm told that Tribal Grant Support Costs are like "Contract Support Costs" for education programs, and that there is a \$2 million increase in this proposed budget.

Simpson Q29: Is that the case, and, if so, why aren't they proposed for full funding in the same way that Contract Support Costs are proposed for full funding?

Answer: The FY 2013 Indian Affairs budget reflects a fiscally responsible balance of the priorities expressed by Tribes during consultation. By legislation and tribal litigation, Contract Support is paid at one hundred percent of the stated need.

Simpson Q30: What is the cost to fully fund Tribal Grant Support Costs?

ANSWER: In the 2012-2013, academic year, schools will receive approximately 62 percent of their stated need. The estimated percent of calculated need for FY 2013 with the proposed \$2.0 million increase in the 2013-2014 academic year, schools will receive an estimated 65 percent of the calculated need. Fully funding the estimated need for the 2013-2014 academic year would cost an additional \$25.98 million, for a total of \$74.24 million for Tribal Grant Support Costs.

Simpson Q31: What are the downsides to not fully funding Tribal Grant Support Costs?

Answer: The Tribal Grant Support Costs Program pays the administrative expenses incurred by Tribes and tribal organizations operating Bureau-funded elementary or secondary educational programs. These expenses are required by law and are prudent management practices. Tribes and tribal organizations are required by law to perform the following functions:

- (i) contract or grant (or other agreement) administration;
- (ii) executive, policy, and corporate leadership and decision-making;
- (iii) program planning, development, and management;
- (iv) fiscal, personnel, property, and procurement management;
- (v) related office services and insurance auditing, legal, safety and security services.

When Tribes and tribal organizations operating Bureau-funded elementary or secondary educational programs receive less than 100 percent of their Tribal Grant Support Costs Program needs, they are unable to satisfactorily perform the above requirements, resulting in reduced administrative oversight, poor program planning and management, and negative audit findings. In School Year 2011-2012, nineteen tribally operated schools received less than \$200,000, with six of the 19 schools receiving only \$127,600, to pay for the above functions.

Reduced funding also delays the transfer from Bureau operated to tribally operated schools as tribes and tribal organizations recognize they will receive less than 100 percent of need to administer their schools, and the addition of new tribally operated schools reduces the funding for all tribally operated schools.

Simpson Q32: Increases for Education are mostly offset by administrative reductions and a \$4.4 million reduction to the base. Tell us about this \$4.4 million reduction for ISEP (Indian Student Education Program) formula funds.

Why is the base being reduced?

Answer: The reduction is attributed to the small decline in enrollment from previous years and the constrained fiscal resources.

Simpson Q33: Does a declining student population automatically trigger a base reduction, or do you see an opportunity for real savings here?

Answer: A decline in enrollment does not automatically generate savings. However, reduced enrollment and other variables combined may allow for small reductions in funding. In recognition of constrained fiscal resources and the President's call for a more efficient government, schools will be asked to pursue cost-saving options, such as:

- a. Reducing non-student and non-mandatory travel by holding meetings on-site and through telephone conference calls and WebEx sessions;
- b. Reducing transportation expenses by combining training sessions, meetings and travel when possible;
- c. Using more fuel efficient vehicles and return limited use or surplus vehicles (and other equipment) to the leasing companies when allowable;
- d. Reducing staff overtime and purchases to only essential needs;
- e. Consolidating purchases within schools and with other schools when vendors provide reduced prices for bulk purchases and services;
- f. Purchasing from vendors that provide free or reduced shipping; and
- g. Sharing resources and services with other schools to reduce duplication.

Simpson Q34: The budget notes that enrollment at tribal colleges and universities is on the rise, and that an additional \$2.5 million is proposed to help accommodate the increase.

Is the \$2.5 million proportional to the student increase, or is it the best you could do with a limited budget?

Answer: Learning beyond high school is also critical to a successful life and career; 80 percent of new jobs in the competitive global economy require post-secondary education such as a college degree or vocational training. To address this need, BIE administers operating grants to 27 tribal colleges and universities. The increase will help accommodate some of the increased enrollment at the existing Tribal Colleges and Universities and the addition of the Keweenaw Bay Ojibwa Community College.

Energy (-\$239,000)

In November 2011, you announced the reform of Federal surface leasing regulations for American Indian lands. The reforms are intended to streamline the approval process for home ownership, expedite economic development, and jump start renewable energy development in Indian Country. The proposed rules include enforceable timelines for BIA to review leases including a 30-day limit for residential leases and a 60-day limit for commercial or industrial development.

Simpson Q35: Don't these proposed rules create additional demands on the bureau, and, if so, how are you going to pay for it?

Answer: The BIA Real Estate Services Program has developed new automation capability in the TAAMS system of record that is expected to significantly streamline the processes for the approval of residential leases and business leases, which should allow us to implement these new regulations utilizing existing staff. This new TAAMS module was implemented in the fall of 2011 and is currently in use at all locations across the country. BIA is also developing web-based training for our existing staff to allow them to become familiar with the new regulations without a significant travel expense. If in the future it is determined that these measures are not enough to sustain the possible increased workload, the BIA Real Estate Services program will evaluate the actual need and request the required funding to ensure proper processing of leases under the new regulations.

Simpson Q36: Two weeks ago, Indian leaders testified before Congress that the Federal government remains an impediment to developing resources on tribal lands. Tribes want more energy production on tribal lands, from developing solar and wind power to refining oil. They say that Federal offices at the local level are "understaffed, underfunded, and underqualified".

Does the bureau embrace an "all-of-the-above" policy of energy production on tribal lands, and, if so, how does this budget reflect that?

Answer: The BIA with the support of the Office of Indian Energy and Economic Development is working closely with numerous tribal nations to explore and develop conventional energy resources on Indian Trust lands. Together, the Office and Tribes are further defining, quantifying, and developing their energy resources for industrial scale energy production. These projects help spur job creation and economic activity on reservations by assisting Tribes to develop their energy and mineral resources. Energy and mineral development on Indian lands in recent years had an estimated economic impact of over \$12.3 billion or 85 percent of Indian Country's trust resources.

Further, this economic activity has produced an estimated 120,000 jobs related to trust resources. In the last three years, the Office of Indian Energy and Economic Development has assisted Indian mineral owners in the negotiation of 48 leases for oil, gas, renewable energy, and aggregate materials development on approximately 2.8 million acres. This office has achieved quality work on behalf of Tribes and is not underfunded or under-qualified.

The 2013 budget request includes \$2.5 million for conventional energy and audit compliance, the same as the 2012 enacted level, to support leasing activities on the Fort Berthold Reservation. At the request of the Tribes, IEED has evaluated the oil and gas potential for the Tribes. From 2005 to

2008, the Office of Indian Energy and Economic Development assisted the Tribes in the negotiation of lease agreements with oil and gas companies.

Increased focus from Indian Affairs to approve leases in a timely fashion and a hands-on approach to technical assistance helped to stimulate oil and gas development in the area. In 2011, over 200 drilling permits and associated rights-of-ways were approved in the area. It is expected over 300 drilling permits and associated rights-of-ways permits will be approved in 2012. Drilling activity is expected to increase through 2013, with the development rate leveling off to 100 wells per year over the next five years. Approximately 1,000 wells are expected to be drilled to initially develop the Bakken Formation with an additional 1,000 wells drilled to complete full development of the Bakken and Three Forks Formations over the next ten to 20 years. In order to provide better coordination and collaboration among interagency staff to respond to increased demand for oil and gas permits in certain regions, Indian Affairs is developing strike teams to provide technical staff to assist as demand increases. The teams include expert specialists in realty services and environmental compliance, as well as petroleum engineers; and leverage subject matter experts from various bureaus within the Department. The first team created is already working on the Fort Berthold Reservation and has provided a solution to the increased workload. This concept will be used at other reservations where IEED is observing an increase in energy development activity.

The budget provides \$6.0 million, the same as the 2012 level, for renewable energy projects. This program supports development of renewable energy projects to provide a reliable renewable energy resource for use in manufacturing and industrial processes on Indian Trust lands. Renewable energy development on Indian lands has the advantage of attracting outside investment, enabling Native American business ownership, and spurring job creation on reservations that often have double the unemployment rate compared to the rest of the United States.

Simpson Q37: Tribal leaders have testified that high fees imposed by the BLM scare off potential business partners.

What is your response to that, and are you working with the BLM to try and address the fee issue?

Answer: The current BLM fee of \$6,500 for processing an application for permit to drill (APD) applies to companies' developing oil and gas resources on federal and Tribal lands. The Administration has proposed an additional tiered fee structure for oil and gas inspections that BLM conducts to ensure that companies are conducting operations in safe and environmentally responsible ways and that they are properly paying production royalties owed to the Federal government, Tribes, and individual Indian mineral owners. Both of these fees are cost recovery fees, intended to reimburse the Federal government for the costs it incurs to properly oversee oil and gas development from which private companies directly benefit. In total, the combined fees (APD and inspection fees) that developers would pay under the Administration's proposal represent a very small share – usually far less than 1 percent – of the revenue developers can expect to receive from this oil and gas development.

Rights Protection

Over the past couple of years we have appropriated significant increases for Rights Protection programs, and we included language directing the BIA to distribute the increase provided for rights

protection using a merit-based process, in accordance with language included in the President's FY10 budget. This is an area of the budget that both Mr. Dicks and I feel strongly about, and I think we were looking forward to the development and rationale of such a merit-based process. To date we have not seen it, and the allocation of increases appears to have been largely pro rata with a few minor changes.

Simpson Q38: Is a merit-based process in place?

Answer: The distribution of recent increases has been based upon formula driven distribution to tribally operated programs within Rights Protection Implementation (RPI). Historically, the share percentages have fluctuated between the two regions depending on projects being undertaken in that year.

Tribally operated programs in RPI, such as larger tribal fish and wildlife commissions, serve several Tribes, are able to outline the successful outcomes accomplished with annual funding under the formula distribution and receive a higher level of base funding. For example, the Chippewa-Ottawa Resource Authority (CORA) presented success stories of how the Authority utilizes Federal funding to accomplish their mission to the tribes that they serve and the results achieved. With this new information, as well as a well structured plan for use of additional funding in support of their inland consent decree, it was justifiable to distribute a larger percentage of necessary funding to their program.

Simpson Q39: How do you plan to distribute the \$3.5 million increase in FY13 if it is appropriated?

Answer: The FY 2013 funding is proposed to be distributed as follows: A total of \$1.6 million of the requested increase will be distributed to the Chippewa-Ottawa Resource Authority (CORA). Of this increase, \$1.5 million will allow the beneficiary Tribes to implement Inland Consent Decree activities as a result of *U.S. v. Michigan* decision. These rights, obligations, and responsibilities are derived directly from the 1836 Treaty. The proposed increase will allow the Authority and its member Tribes to begin to cover the 14 million acres of inland bodies of water and land that the Consent Decree mandated. The remaining \$100,000 provided to CORA will restore the funding base for treaty waters fishery sharing to FY 2010 levels.

An additional \$1.6 million will be applied to the other inter-tribal organizations: Northwest Indian Fisheries Commission, Great Lakes Indian Fish & Wildlife Commission, Columbia River Intertribal Fisheries Commission, U.S./Canada Pacific Salmon Treaty, and Washington State Timber-Fish-Wildlife Project to return their funding base to the previous FY 2010 levels to allow them to properly implement their programs. Finally, \$200,000 will be provided for implementation of the 1854 Authority and \$68,000 will be provided to the Salmon Marking project to assist them in continuing their natural resource preservation efforts.

Climate Change (+\$800,000)

The BIA budget includes \$1 million for "Cooperative Landscape Conservation", which used to be called "Climate Change". Also, \$500,000 is included in the USGS budget to "understand the impacts of climate change on tribal lands." This is a sore spot with tribes and one that we continue to hear about. Interior has invested millions on predicting the impacts of climate change on fish and wildlife

and the greater biological systems, in part to determine where to conserve land so that plants and animals can move and adapt to the changing environment. But what about the people who are tied to their land both culturally and economically? Let's face it: This country has established reservations on some of the harshest lands in the West. And water models show that the West is only going to continue to get drier. The relatively small amount of money that Interior has spent studying climate change on tribal lands misses the point; it isn't about the plants and animals so much as it is about the people.

Simpson Q40: How is Interior going to meet its trust responsibilities to American Indians and Alaska Natives in the face of a changing climate?

Answer: Adaptive management is a technique being used to ensure trust responsibilities are being met. Land management is strengthened through Integrated Resource Management Planning and other more specific land management plans such as forestry. This allows resource management decisions to address climate related issues as they appear.

The 2013 request provides an \$800,000 increase over the 2012 enacted level. This proposed increase will allow the Bureau to create a Cooperative Landscape Conservation Tribal Grant Program in which funding will be made available to Tribes and inter-tribal organizations through a competitive grant program. This funding will allow tribal participation and representation in the many climate change related activities occurring around the country. The funds will also help Tribes develop and implement adaptation/mitigation projects and strategies to benefit tribal resources and communities. The request also provides for regional office participation in Landscape Conservation Cooperatives. This participation will allow for collaborative planning and coordination across the Department.

Charter Schools

Last year on the House floor we considered an amendment by Representative Gosar that would have lifted the ban on establishing charter schools. Since that time we have begun to hear similar support from others, and so it is something that I think we should at least continue to consider.

Simpson Q41: Why does your budget propose to continue the bill language prohibiting the establishment of charter schools?

Answer: Since 1999, the Appropriations Committee has included an administrative provision that prohibits the addition of any new charter schools on a BIE operated or Tribal grant school campus after September 1, 1999. At that time, the Bureau of Indian Education (BIE) had around 15 charter schools sharing bureau-funded school campuses. In reviewing these campuses, BIE found little standardization of use permits for the facilities. BIE also experienced difficulty in being reimbursed by the charter school for use of the campus facilities. Overall, these bureau-funded school campuses were assuming a considerable amount of liability in the cooperative use of their campuses. Hence, the language was inserted into the appropriations act to control the situation.

For school year 2011-12, eight of the original 15 charter schools remain in operation. Seven charter schools operated on tribal grant campuses and one operated on a BIE school campus. Currently, the administrative provision allows a charter school at a bureau-funded school facility if the charter school:

- Meets the definition of a charter school,
- The charter school pays the bureau a pro rata share of funds to reimburse the bureau for the use of the real and personal property (including buses and vans),
- The funds of the charter school are kept separate and apart from bureau funds,
- The bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding, and
- Employees of bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

The Gosar amendment proposed during markup of the FY 2012 appropriations bill would have allowed the addition of new charter schools into the BIE school system, which may conflict with other administrative provisions regarding expanding grades for any school beyond the structure in place as of October 1, 1995 and increase the level of liability at bureau-funded school campuses. The Gosar amendment raises possible conflict with other administrative provisions enacted by Congress, including:

- A provision that makes funds available only to schools in the bureau schools system as of September 1, 1996, and
- A provision prohibiting the use of funds to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995.

These provisions could be problematic if the charter schools are operated by or sponsored by bureau-funded schools and existing facilities, programs and other resources such as administrative oversight, transportation, food services, utilities, telecommunications, and computer networks are shared. The BIE would have limited administrative oversight of charters schools operated by a Public Law 100-297 and Public Law 93-638 tribally operated school to insure adherence to the conditions of the administrative provision.

Since the prohibition has been in place, the BIE has received very few inquiries regarding new charter schools and is not aware of any significant support for new charter schools. The BIE continues to support the language prohibiting new charter schools until such time as the Congress removes the prohibition and identifies all necessary conditions under which new charter schools would be established on bureau-funded school campuses. The BIE is committed to working with the Congress to identify all necessary conditions and stipulations.

Questions for the Record from Mr. Calvert

BIE School Safety

A February 2010 OIG report on BIE school health and safety made some startling discoveries related to drugs, violence and other safety issues within BIE operated schools.

Calvert Q1: Can you please update us on the actions the BIE has taken to address the issues raised in this report and improve safety for students in Indian schools?

Answer: In FY 2009, the BIE established a Safe Schools Planning Guide which is available for all schools on the BIE website. The BIE established School Safety Specialists at each of its regional offices in Minnesota, Arizona and New Mexico are headed by an Associate Deputy Director. The School Safety Specialists work with schools in the East, West and Navajo region to provide technical assistance on their Emergency Preparedness Plans, Continuity of Operations Plans, school policies, answer questions or address concerns, and conduct Safe School Audits. All BIE schools will have been personally visited and will have received a Safe School Audit by May 1, 2012, as part of the BIE response to the OIG report.

In the summer of 2011, the BIE also established a Suicide Prevention Policy for all of the BIE schools throughout the country and has recommended that all grant schools adopt a similar policy. Additionally, training in the handling of suspected child abuse and neglect is required of all BIE employees, annually.

Calvert Q2: Among the recommendations made by the OIG is that the BIA should establish a uniform set of safety policies across all of their schools.

Can you please give us a status update on your implementation of a uniform set of health and safety policies?

ANSWER: BIE has mandated that all bureau-funded schools undergo a Safe School Audit concerning their Emergency Management Plans and Continuity of Operations Plans. These audits will focus on the plans' accuracy and whether or not the school requires assistance to improve their plans. These audits will be completed in May 2012. Technical assistance has been provided to many BIE-funded schools and professional in-service presentations on school safety have been shared at the National BIE Summer Institute, Family and Children Education Conference, and at individual schools.

The School Safety Specialists will continue to provide technical assistance on a variety of topics including inhalants, bullying prevention, school safety, and Suicide Recognition, Intervention, and Prevention. Additionally, *Let's Move! in Indian Country* was developed to encourage healthy and active lifestyles for students attending Bureau-funded schools.

Calvert Q3: What is being done to address the specific health and safety challenges facing BIE operated boarding school?

Answer: Our residential programs continue to be an area of concern for the BIE. With student safety as a top priority, the uniqueness of our residential programs presents unusual issues. The School Safety Specialists are performing the Safe School Audit on these residential programs, which is part of the BIE response to the OIG report. The School Safety Specialists have also provided technical assistance and training to the residential program staff members.

Facilities funding has been used to improve the safety and security of many of our residential programs specifically in the areas of lighting and fencing. The off-reservation boarding schools have developed close working relationships with local health and law enforcement agencies to provide needed services for BIE students.

Charitable Giving to BIE Schools

As public school districts across the nation cope with budget shortfalls and decreased revenues, school across the nation have had to begin to raise some of their own funds to make up for decreased tax revenue and maintain the quality of their services. In many cases, administration and faculty are encouraged to actively participate in fundraising for the school site or for specific clubs or programs, including approaching potential donors.

Calvert Q4: To what extent may BIE faculty and staff solicit donations from the community to their school sites or on-campus programs?

Answer: Sec. 115 (b) and (c) of the Consolidated Appropriations Act, 2012 provides the authority for Bureau of Indian Education employees to participate in fundraising activities that will benefit bureau-operated schools. The bureau is in the process of writing specific regulations that will address fundraising activities that bureau staff may participate in.

Calvert Q5: To what extent may faculty participate in fundraising for their school, or if their involvement is somehow limited, what are the limiting factors (law or regulation)?

Answer: In addition to the provisions provided in Sec. 115 (b) and (c) of the Consolidated Appropriations Act, 2012, the Bureau of Indian Education is in the process of writing specific regulations that will address the extent and the nature of the fundraising activities that bureau staff may participate in to benefit their school.

Calvert Q6: Would the BIA support legislation that would free up BIE employees to more actively and fully work to support their schools through fundraisers or by soliciting community support?

Answer: Sec. 115 (b) and (c) of the Consolidated Appropriations Act, 2012 provides the necessary authority for Bureau of Indian Education employees to participate in fundraising activities that will benefit Bureau-operated schools.

Questions for the Record from Mr. Cole

Cole Q1: In your opinion does your FY 2013 budget request provide for adequate law enforcement programs on Tribal lands?

Answer: The request incorporates input from Tribes and the Administration in a manner designed to ensure the most effective prioritization of available Indian Affairs' resources to address core responsibilities to American Indians and Alaska Natives. The Tribes and the Administration agree that public safety and justice in Indian Country is a key area in need of additional resources in FY 2013 and prioritized funding increases totaling \$11.0 million under the Protecting Indian Country initiative accordingly. Of this amount, \$3.0 million will be used to add law enforcement officer positions in Indian communities; \$500,000 is proposed to fund permanent Conservation Law Enforcement Officers; and \$6.5 million is requested to help meet staffing needs at newly constructed detention facilities scheduled to become operational during FY 2013. Also included to ensure a balanced enhancement to tribal justice systems is the addition of \$1.0 million to assist Tribes in strengthening their tribal court operations. A total of \$42.1 million is included for Tribal courts from all sources including Self-Governance Compacts and the Consolidated Tribal Government Program.

Cole Q2: How does the Carcieri decision affect the effectiveness of law enforcement programs on Tribal lands?

Answer: To date, no clear trend has been identified with regard to how the Carcieri decision affects the effectiveness of law enforcement programs on Tribal lands.

Questions for the Record from Ms. McCollum

Responding to Juvenile Delinquency among Tribal Youth

Tribal youth are the most disproportionately represented group in the juvenile justice system. Many of these youth are placed in detention facilities outside of their communities with no tribal input or oversight. I would like to know how the BIA supports increased tribal capacity for juvenile justice and efforts to support these troubled youth within their own communities.

McCollum Q1: What BIA funds are directed to the building and/or operating of juvenile detention and correctional facilities on Native American reservations, such as the Standing Rock Juvenile Detention Center? What are the criteria for determining the necessary number of FTEs to staff these centers? Are there adequate funds for these purposes, or does the Bureau have a backlog of requests from tribes?

Answer: New construction for detention centers under the Public Safety and Justice (PS&J) Construction program is excluded from the BIA budget to ensure there is no overlap with detention center construction in the Department of Justice (DOJ) budget. Rather than duplicate efforts among Federal agencies, the President's Budget incorporates a collaborative approach that aligns new construction under DOJ and operation and maintenance under Indian Affairs in terms of resources and responsibility. To ensure the activities of both Federal agencies produce the maximum possible benefit to Tribes on a nationwide basis, Indian Affairs is committed to close coordination and information sharing with DOJ.

The FY 2013 request includes \$4.4 million in Facilities Improvement and Repair that primarily focuses on improvements and repairs or renovation of Indian Affairs' (IA)-owned juvenile and adult detention centers and law enforcement facilities. Projects funded under this program are generally prioritized by the degree to which they correct critical health and safety deficiencies and/or environmental hazardous material concerns. In addition, the budget includes \$13.8 million to fund the facility operation and maintenance needs of IA or tribally owned juvenile and adult detention centers and law enforcement facilities that meet IA facility and program requirements.

The Detention/Corrections program, which includes an increase of \$6.5 million, requests a total of \$88.2 million for FY 2013 to fund 93 existing detention programs, including 26 juvenile programs that are currently operational. It is this program that funds staff and other non-facility operational costs related to detention and corrections and the staffing needs are determined in accordance with the National Institute of Corrections (NIC) standards. The primary criteria driving the NIC standards include the facility layout and number of inmate beds.

The BIA and the DOJ Bureau of Justice Assistance (BJA) are making strides in their commitment to better coordinate the planning and construction of new jails in Indian Country as prescribed in the Tribal Law and Order Act (TLOA). In FY 2011, the organizations implemented quarterly meetings where they met with the tribal grant recipients to track planning, development, construction and opening of new facilities, including juvenile facilities. The BIA's role in this planning and tracking is critical given the two year lead time required by the Federal budgeting process. This collaboration

and proactive outreach to tribal grantees continues to guide the formulation of BIA's budget and assist in preventing a backlog of tribal requests for detention resources.

McCollum Q2: What community alternatives to these expensive projects have been considered to respond to juvenile delinquency on tribal lands? Are efforts to keep youth in their tribal communities and invest in more alternatives to detention priorities for the BIA?

Answer: The FY 2013 budget request includes funding for 16 School Resource Officer (SRO) positions that have been placed at BIE-funded schools throughout Indian Country. The primary role of these officers is to provide a continuous law enforcement presence for the Indian youth at these schools, build relationships with them as they mature, and educate them on the dangers of drug use, gang involvement and other illegal activities. These officers are in a unique position to identify and proactively reach out to the students or groups exhibiting the highest risk behaviors.

The BIA Office of Justice Services is working to expand the options available to Tribes for alternative sentencing, but ultimately the tribal courts control sentencing decisions. New elements contained in the Tribal Law and Order Act include more stringent licensing and training requirements for defense attorneys, prosecutors, and judges, including a specific requirement for access to training in alcohol and substance abuse prevention regarding both adults and juveniles. In order to address these needs and provide sentencing options to tribal courts, the FY 2013 budget adds funding to initiate pilot training and technical assistance programs that will include alternative sentencing such as ankle bracelet monitoring and home confinement devices, which could allow more tribal youth offenders to remain in their communities.

Interventions for Tribal Youth

We know the rate of suicide among tribal youth is 3.5 times higher than the national average, and they are also at a greater risk for drug and alcohol use.

McCollum Q3: Does the BIA have programs (e.g., mentoring services, gang prevention, community interventions, or criminal deterrents) designed to reach out to Indian Youth and address these crises? What program funding goes to promote well-being and prevent risky behaviors?

Answer: The FY 2013 budget request includes funding for 16 School Resource Officer (SRO) positions that have been placed at BIE-funded schools throughout Indian Country. The primary role of these officers is to provide a continuous law enforcement presence for the Indian youth at these schools, build relationships with them as they mature, and educate them on the dangers of drug use, gang involvement and other illegal activities. These officers are in a unique position to identify and proactively reach out to the students or groups exhibiting the highest risk behaviors.

McCollum Q4: Additionally, does the BIA invest resources for community-based care to reach especially high-risk youth – those who need more intensive and individualized services to help them address their needs? Does the BIA coordinate with Indian Health Services on their treatment centers, with the Department of Justice on their Tribal Youth Programs, or do you have any similar culturally competent programs in-house to serve the neediest tribal youth?

Answer: Within the existing framework of legislative authorities, the School Resource Officer program represents the primary means by which the BIA reaches out to high-risk youth. The primary role of these officers is to provide a continuous law enforcement presence for the Indian youth at these schools, build relationships with them as they mature, and educate them on the dangers of drug use, gang involvement and other illegal activities. These officers are in a unique position to identify and proactively reach out to the students or groups exhibiting the highest risk behaviors.

In light of the President's call for a more efficient government, Indian Affairs and the Indian Health Service endeavor to coordinate their functions closely to ensure there is minimal duplication of efforts or overlapping responsibilities as these programs deliver services to Indian communities, especially the youth. The shared goal is for Indian Country to serve as the model of efficient, responsible government collaboration.

WEDNESDAY, FEBRUARY 29, 2012.

**U.S. ENVIRONMENTAL PROTECTION AGENCY 2013
BUDGET REQUEST**

WITNESSES

LISA P. JACKSON, ADMINISTRATOR

BARBARA J. BENNETT, CHIEF FINANCIAL OFFICER

Mr. SIMPSON. The Committee will come to order.

Good afternoon, and welcome to the fiscal year 2013 budget hearing for the Environmental Protection Agency, the fifth of 16 budget hearings planned for the Interior Subcommittee review of the President's budget.

Administrator Jackson, thank you for being here today to testify on your 2013 budget proposal. I understand you had a budget hearing yesterday and another one tomorrow. I am not sure that I envy you, but thank you for being here. Clearly, our budget is of great interest to a number of committees, no more so than the Appropriations Committee.

When we met last year in this room to discuss the 2012 proposal, I noted that we were at a critical juncture, as we had not yet finished our work on the fiscal year 2011 budget. Since then, the Appropriations Committee has had a productive year and passed spending bills for both fiscal year 2011 and 2012. In doing so, we reduced discretionary spending in the Interior and Environment bill by over \$3 billion; 1.85 billion of that came from the EPA budget. This amounts to an 18 percent cut in EPA's budget in one calendar year. While some view these spending reductions as draconian, it is important to remember that these reductions come on the heels of unprecedented and historic increases. Between 2009 and 2010, the Interior bill increased by 4.6 billion and EPA's budget increased by 2.65 billion. This was a 35 percent increase in EPA's budget in one year alone. Therefore, even with the targeted reductions to the Agency's budget last year, some would say that we have yet to break even.

As you know, the level of federal spending has consumed much of the debate over the past year. There is opportunity for reasoned and rational discussion about the direction our country is headed and what our priorities should be. Budgets prove to be a reflection of priorities and outline a path forward. I am pleased to see the message for reducing spending has been received at the EPA as the Agency has set forth a budget with reductions from the fiscal year 2012 level.

With a proposed budget of 8.34 billion, or 105 million below the fiscal year 2012 enacted level, the EPA budget would decline for the third year in a row. The Agency has never faced declining budgets for three consecutive years. However, if enacted at this

level, the budget would still provide EPA with 700 million above the fiscal year 2009 level and its fifth highest appropriation ever. I highlight this point to provide context for the discussion we are having here today.

I appreciate that you have targeted several unnecessary or redundant programs for termination, including the Environmental Education Program. The fiscal year 2012 House bill had similarly proposed to eliminate this program, which outlived its authorization and has difficulty demonstrating results. I hope we can work together to see this proposal to the end.

At the same time, the proposal is not the budget I would write for the EPA. It still shifts funding away from state grant programs and back into the EPA's operating programs for enforcement and regulatory purposes. The budget proposal includes a 32.8 million increase for greenhouse gas activities while cutting 33 million from the cleanup of toxic Superfund sites.

I am pleased to see an increased commitment to tribes via a \$28.7 million increase in the Tribal General Assistance Program, or GAP grants. As you may know, each year our subcommittee holds public witness hearings on issues pertaining specifically to Indian Country. We routinely hear support for the GAP grants and the SRF grants throughout public witness testimony. I strongly believe in our commitment to working with tribes in order to improve the health and environmental conditions on tribal lands. However, in this budget climate, it may prove to be a challenge to find the 42 percent increase for this line item.

I also have questions I would like to discuss with you about the ultimate goals of this program. Since these grants were first authorized in 1992, at what point have we built sufficient capacity in Indian Country such that tribes are ready to assume responsibilities for their environmental programs?

Further, the 2013 budget proposes to reduce diesel emission grants, otherwise known as DERA grants, by 15 million. This is one of the few EPA programs that has been reauthorized and enjoys broad bipartisan support, and I am disappointed to see funding restored to the Community Action for Renewed Environment, or CARE program. We eliminated this program in fiscal year 2012 on a bipartisan basis as another example of the need to tighten our belts and eliminate nice-to-have programs that lack a statutory mandate. So again, Administrator Jackson, I look forward to working with you on the details and to keep the lines of communication open.

Finally, I would be remiss if I did not highlight a few of the recent interactions I have had with your staff. Last month, I met with Gina McCarthy to discuss the definition of a "small refiner" as it applied to the EPA rulemaking. I appreciated her depth of knowledge on the issue and her commitment to explore options to find a resolution. I am aware the EPA held a conference call with several interested parties on February 15 to discuss options for relief and proposed a very reasonable approach moving forward. I appreciate the expediency with which Gina and Lori Stewart worked with industry to identify a commonsense, long-term solution that addresses the majority of stakeholders' needs. If only all of government worked that well.

In addition, I believe I speak for everyone on both sides of the aisle when I say that our subcommittee could not do its work without Ed Walsh on your staff. He is a true professional and has a unique window into both of our worlds.

And with that, I know all members are interested in discussing various issues with you today, so I will save additional remarks for the period following your testimony. I am pleased to yield now to our distinguished ranking member, Mr. Moran.

Mr. MORAN. Thanks very much, Mr. Chairman. And thank you for your leadership on this bill. And welcome back, Administrator Jackson and Chief Financial Officer Bennett. I share your views about the EPA staff as well, and Ed Walsh is a heck of a competent person. We do not want to single one out of course because she has got a lot of very good people working with her.

But as the chairman said in his opening statement, EPA's budget request, if it is approved at this level, would be the third year of a steady and unsustainable decline in agency spending. The fiscal year 2013 budget request is \$105 million reduction below the current fiscal year. While it is disappointing to see the reduction of \$359 million to the State Revolving Funds, I understand that it is nearly impossible to keep these programs intact and stay under the limits established by the Budget Control Act. I did not vote for that legislation, but I believe for stability's sake that we should live within the parameters that most of my colleagues did vote for and what is now the law.

I am pleased, though, that the increase of \$66 million is provided for the State and Local Air Quality Grants and \$27 million for the Water Pollution Control Program. If the States are to remain our partners in improving air and water quality, we need to ensure that they have the resources to run permitting and enforcement programs.

I also want to commend Chairman Simpson for protecting these categorical grants to States, tribes, and local governments in the last two appropriation bills. Mr. Chairman, I hope to work with you as we develop the 2013 bill to find some middle ground on EPA's core regulatory compliance and enforcement programs. The Fiscal 2012 conferences agreement showed real compromise on both sides of the aisle and between the House and Senate. It showed that this committee can still act as the constructive example for the rest of the Congress on how to put ideology aside and fulfill our responsibilities.

And I do not know if Chairman Rogers is here, but boy, Mr. Rogers, you stood tall as the chairman of the full committee and got it done, and I know there were a lot of compromises that you did not particularly want to accept but you knew were necessary to get a bill done. And you got these appropriation bills done. And this environment, particularly with EPA, it is a good time to give credit where credit is due. So thank you, Mr. Rogers and Mr. Dicks, the ranking member. The Appropriations Committee really showed its stuff. I do think it set an example for the rest of the Congress and I would hope it would.

Anyway, so back to the script here, Administrator Jackson, your agency is being attacked from all sides. You cannot pick up a paper without reading about a lawsuit from industry groups, the Amer-

ican Farm Bureau on one side and conservation groups on the other. Environmental policy is being set in courtrooms across the country because this institution has been unable to find the consensus to update our environmental laws. And quite frankly, the fault lies with the authorizing committees, not the Appropriations Committees. As I just said, the Appropriations Committee did its job, but it should not be—and I will use that term again; I know you are so fond of it, Mr. Chairman—a dump truck for all of these pieces of legislation and regulations that have not been resolved where they should be resolved in the authorizing committee.

As we learned last year, this committee and its annual appropriation bill, if the authorizing committees do not do their job, it is going to be the focal point for all these efforts at updating our environmental laws. The idea that after all the work that Chairman Simpson and Chairman Rogers put into bringing a bill to the Floor and then to have 100 amendments offered to try to change it. I think there were, there were about 100 amendments on each side. Well, I think on your side there were 100, which we do not count the ones we proposed. Let the record show that Mr. Dicks suggested our amendments are good government amendments. I trust that last year's lesson, though, has been learned. If the authorizers want to change the law, then they ought to do it within their committee. This subcommittee should not be the de facto dumping ground for the authorizers' work or their inability to do their work.

Now, I have a special request from Mr. Simpson. He does not like me to end without some quote. This quote is not quite as relevant to EPA programs. It has more general applicability, but it is a good, salient quote. It is attributed to Chief Seattle. And he said, "humankind has not woven the web of life. We are but one thread within it. Whatever we do to the web, we do to ourselves. All things are bound together. All things connect." Obviously, the point is that the quality of our air and water and our natural resources are important to this generation and generations to come.

Administrator Jackson, I want to thank you and your staff and the entire agency for all the good work you are doing.

And thank you, Mr. Chairman.

Mr. SIMPSON. Thank you. I am going to go to Barnes and Noble and get Bartlett's Quotations tonight just so I can keep up with you.

Mr. MORAN. That is the spirit.

Mr. SIMPSON. We are joined today by chairman of the full committee, full Appropriations Committee Chairman Rogers, and I thank him for taking the time to contribute to this important conversation. I know I cannot Google. I do not know how to do that.

So would you like to make a few opening remarks, Mr. Rogers?

Mr. ROGERS. Thank you, Mr. Chairman.

Well, to Mr. Moran, thanks for those nice words. I was reaching for my Kleenex.

Madam Administrator, welcome here.

As I have already told Secretaries Salazar and Chu during their respective testimonies before this committee, I have deep concerns about the impact of the President's budget request on our energy and economic security. Despite our Nation being the Saudi Arabia

of coal and enjoying the rapid expansion of recoverable natural gas and oil revenues, the DOE is cutting investment in conventional energy technology. Meanwhile, in spite of the rising cost of gas to a nearly \$5 a gallon, the Department of the Interior is limiting offshore drilling while pursuing administrative mergers that threaten mining across the country.

For its part, over the last three years, the EPA has unveiled a litany of questionable regulations and legally dubious guidance that threaten our energy security and our troubled economy. Your agency has locked up coal mining permits, stood in the way of domestic energy development, and sought to block the expansion of hydraulic fracturing. The Utility MACT rule, which by EPA's own forecast will be the most expensive in history, threatens to shutter power stations and eliminate tens of thousands of jobs at a time when we are already facing rising energy costs and high unemployment.

The logical conclusion? This is a coordinated, methodical White House assault on carbon energy from extraction, to generation, to the eventual delivery of power to consumers, factories, and working families. While the Administration has suggested an "all-of-the-above" approach in the press, the actions of DOE, Interior, EPA, and others suggest a "select-few-of-the-above" approach. Meanwhile, the House of Representatives has been loud and clear—roll back regulations; expand access to our vast conventional energy resources; invest in American energy jobs; and cease playing political favorites with our energy security.

If EPA regulatory actions are not enough proof of this orchestrated anti-carbon effort, EPA's \$8.2 billion budget request for fiscal year 2013 certainly is. Despite a decrease of 1.2 percent from '12, this request remains the Agency's fifth largest, prioritizing regulation over job creation.

You have requested the largest regulatory enforcement budget in history at \$400 million and explicitly declared your intentions to regulate greenhouse gases. While state grants get hacked by 7 percent, sector-specific grants for Administration pet projects are up 14 percent, and funding for climate change research is up 19 percent reflecting a centralization of funding for the Administration's favored projects. Your agency has also received significant criticism for justifying new regulations using assumptions and models that are not open to public scrutiny.

With that in mind, I want to know why your Agency should receive greater funding for conducting these nontransparent studies to support the implementation of rules that have been arbitrarily enforced, would be harmful to job creation, and that are tremendously unpopular with just about everyone.

The 112th Congress has been solely focused on reining in out-of-control spending, getting our economy back on track, and putting Americans back to work. This Committee in particular is charged with the constitutional responsibility to ensure that federal funds are spent wisely and effectively and in a way that actually benefits taxpayers and our national security. As you can surmise, I have trouble believing that this year's budget request truly meets those standards. I look forward to an explanation.

I yield back.

[The statement of Hal Rogers follows:]

OPENING REMARKS – EPA Administrator Jackson

Mr. Chairman, thank you for yielding. Administrator Jackson, thank you for being here today.

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Mr. SIMPSON. Thank you, Chairman.

Ranking member of the full committee and former chairman of this subcommittee, Chairman Dicks, is also here today. I know these issues remain of great interest to him. Do you have an opening statement, Mr. Dicks?

Mr. DICKS. I want to welcome Administrator Lisa Jackson and Barbara Bennett, EPA's chief financial officer, to the Appropriations Committee to testify about the fiscal year 2013 budget request. Having had a major role in crafting the 2010 appropriations bill that provided EPA with the largest budget in its history, I am disappointed that we now are considering the third budget in a row that contains less spending than the previous year's funding level. My biggest concern is that we are shifting the problems of today for bigger problems tomorrow.

We talk about saddling our children with debt, and that concerns me greatly. But by cutting these important environment infrastructure programs like the Drinking Water and Wastewater Revolving Funds, we are saddling future generations with deferred maintenance cost and a crumbling infrastructure that will cost more to fix than if we did it now. And the major point is—according to a former administrator—we have a \$688 billion backlog in work that needs to be done. We could put a lot of people back to work. And austerity is not going to get the job done. We need a little growth program in the short-term.

It is important to remember that a cut to EPA also puts a tremendous burden on state and local governments. I need people to understand that EPA's budget is largely assistance to state and local governments to help meet pollution control mandates. In this budget request for fiscal year 2013, the State and Tribal Assistance Grants are around 40 percent of EPA's total proposed spending. There is a lot of talk around here about unfunded mandates, but in the case of EPA's budget, the various programs aimed at improving health through cleaner air and water, are in fact funded mandates.

That being said, I understand that we are operating under spending caps that the Congress agreed to to impose on the appropriations process. And I do think Administrator Jackson submitted a reasonable budget request considering the budget environment we face that will allow essential environmental cleanup and monitoring to continue.

I am pleased that the request continues language started by this committee that allows for loan forgiveness and other affordability tools for the Clean Water State Revolving Fund, options that the drinking water SRF already had. But I am concerned about the proposal to eliminate the minimum amount of SRFs that must be dedicated to affordability.

In the fiscal year 2012 appropriation bill, there was the requirement that at least 20 percent but not more than 30 percent of the SRFs be targeted towards lower-income communities through the use of the affordability tools. Your budget request eliminates the 20 percent floor and I worry that this proposal would hurt poor communities struggling to provide safe drinking water and effective wastewater treatment.

This subcommittee has had a special interest in protecting the Nation's great water bodies, including the Great Lakes and environmentally sensitive estuaries like Puget Sound and the Chesapeake Bay. But once again, I am disappointed that the Puget Sound budget request pales in comparison to the robust amounts proposed for the Chesapeake and the Great Lakes. Now, we know that there are advocates for those here. And in the Administrator's statement, she does not even give a shout-out for Puget Sound. Now, there is a West Coast out there, and the people out there care about Puget Sound and I am their representative. So I am just upset—my tears—I want to get Mr. Roger's handkerchief.

Mr. MORAN. You are drinking water from the Chesapeake Bay watershed.

Mr. DICKS. Well, we are worried about that too, after all the things you have told us about it.

In closing, I want to repeat my strong encouragement to you from last year. Keep doing your job. You are good at it and the health of the American people demands it. There are a lot of accusations hurled at the EPA, and I trust that you are more than capable of defending your record and the record of the EPA.

Thank you.

Mr. SIMPSON. Thank you, Mr. Dicks.

And again, thank you for being here today. We are ready for your comments.

Ms. JACKSON. Thank you for having me back, Mr. Chairman and Mr. Chairman. Thank you, Ranking Member Moran.

I am happy to testify on the President's fiscal year 2013 budget for EPA. I am joined by the Agency's chief financial officer, Barbara Bennett.

EPA's budget request of \$8.344 billion focuses on fulfilling EPA's core mission: that is protecting public health and the environment while making the sacrifices and tough decisions that Americans across the country are making every day. EPA's budget request fully reflects the President's commitment to reducing government spending and finding cost savings in a responsible manner while supporting clean air, clean water and the innovative safeguards that are essential to an America that is built to last.

In some cases we have had to take a step back from programs. This budget reflects a savings of \$50 million through the elimination of several EPA programs and activities that have either met their goals, or can be achieved at the state or local level or by other federal agencies.

Let me spend a moment discussing major elements of EPA's budget request. This budget recognizes the importance of our partners at the state, local, and tribal level. As you know, they are at the frontlines of implementing our environmental laws like the Clean Water Act, and the Clean Air Act. In fact, the largest portion—40 percent of EPA's funding request—is directed to the State and Tribal Assistance Grants appropriation to support their efforts. Specifically, this budget proposes that \$1.2 billion—nearly 15 percent of our overall budget request—be allocated back to the States and tribes through categorical grants. This includes funding for State and Local Air Quality Management grants, Pollution Control grants and the Tribal General Assistance Program.

The budget also proposes that a combined 2 billion—another 25 percent of EPA's budget request—also goes directly to the States for the Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient system-wide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure—projects that can reduce pollution efficiently and less expensively than traditional grey infrastructure.

Additionally, EPA's budget request would fund the protection of the Nation's land and water in local communities. Reflecting the President's commitment to restoring and protecting the Great Lakes, this budget requests that Congress maintain the current funding level of \$300 million for the Great Lakes Restoration Initiative—not to say we do not love the Puget Sound. This support will continue to be used for collaborative work with partners at the state, local, and tribal level, and also with nonprofit and municipal groups.

The budget also requests support for protection of the Chesapeake Bay and several other treasured and economically significant water bodies like the Puget Sound. The budget reflects the importance of cleaning up contaminated land in our communities by requesting \$755 million for continued support of the Superfund clean-up programs and maintains the Agency's emergency preparedness and response capabilities.

EPA's budget request makes major investments in its science and technology account of \$807 million, or almost 10 percent of the total request. This request includes \$576 million for research, including \$81 million in research grants and fellowships to scientists and universities throughout the country for targeted research as part of the Science to Achieve Results—or STAR—program. That includes topics like children's health, endocrine disruption, and air monitoring research. Also, as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing.

As I have mentioned before, natural gas is an important resource which is abundant in the United States, but we must make sure that the ways we extract it do not risk the safety of public water supplies. So this budget continues EPA's ongoing congressionally directed hydraulic fracturing study, which we have taken great steps to ensure is independent, peer-reviewed and based on strong and scientifically defensible data.

Building on these ongoing efforts, this budget requests \$14 million in total to work collaboratively with the United States Geological Survey, the Department of Energy, and other partners to assess questions regarding hydraulic fracturing. Strong science means finding the answers to tough questions, and EPA's request supports that work.

We are making investments to support standards for clean energy and energy efficiency in this budget. Specifically, this budget supports EPA's efforts to introduce cleaner vehicles and fuels and to expand the use of homegrown renewable fuels. This includes funding for EPA's Federal Vehicle and Fuel Standards and Certification program to support certification and compliance testing for all emissions standards. This also includes implementation of the

President's historic agreement with the auto industry for carbon pollution and fuel economy standards through 2025 for cars and light-duty vehicles, including testing support for NHTSA's fuel economy standards. Taken together, the Administration's standards for cars and light trucks are projected to result in \$1.7 trillion dollars of fuel savings, and 12 billion fewer barrels of oil consumed. This funding will also help support implementation of the first-ever carbon pollution and fuel economy standards for heavy-duty trucks.

Mr. Chairman, thank you for the opportunity to testify. While my testimony reflects only some of the highlights of our budget request, I look forward answering all your questions.

[The statement of Lisa P. Jackson follows:]

TESTIMONY OF
LISA P. JACKSON
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE
COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND
RELATED AGENCIES

UNITED STATES HOUSE OF REPRESENTATIVES

February 29, 2012

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Mr. Chairman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward answering your questions.



Administrator Lisa P. Jackson leads EPA's efforts to protect the health and environment for all Americans. She and a staff of more than 17,000 professionals are working across the nation to usher in a green economy, address health threats from toxins and pollution, and renew public trust in EPA's work.

As Administrator, Jackson has pledged to focus on core issues of protecting air and water quality, preventing exposure to toxic contamination in our communities, and reducing greenhouse gases. She has promised that all of EPA's efforts will follow the best science, adhere to the rule of law, and be implemented with unparalleled transparency.

Jackson is the first African-American to serve as EPA Administrator. She has made it a priority to focus on vulnerable groups including children, the elderly, and low-income communities that are particularly susceptible to environmental and health threats. In addressing these and other issues, she has promised all stakeholders a place at the decision-making table.

Before becoming EPA's Administrator, Jackson served as Chief of Staff to New Jersey Governor Jon S. Corzine and Commissioner of the state's Department of Environmental Protection (DEP). Prior to joining DEP, she worked for 16 years as an employee of the U.S. EPA.

Jackson is a summa cum laude graduate of Tulane University and earned a master's degree in chemical engineering from Princeton University. She was born in Pennsylvania and grew up a proud resident of New Orleans, Louisiana. Jackson now resides in Washington D.C..

She is married to Kenny Jackson and is the proud mother of two sons, Marcus and Brian.



Barbara J. Bennett
Chief Financial Officer
Environmental Protection Agency

Barbara J. Bennett was nominated by President Barack Obama on September 3, 2009 to serve as Chief Financial Officer for the Environmental Protection Agency (EPA). She was confirmed by the Senate on November 6, 2009. Ms. Bennett's responsibilities include oversight of EPA's annual planning and budget formulation, budget execution and financial management, performance and financial reporting, as well as strategic planning for the Agency. Ms. Bennett is a global business executive with over 25 years of experience. Prior to joining EPA, Ms. Bennett served as Senior Executive

Vice President and Chief Financial Officer of Discovery Communications, Inc. From 1990 to 2007, Bennett was a key member of the team that built the parent company of the Discovery Channel into one of the world's most extensive media enterprises, with more than 100 channels telecast in 170 countries, in over 30 languages to over one billion subscribers. As CFO, she was responsible for the worldwide financial functions and strategies of the company including accounting, treasury, budgeting, reporting, audit, tax activities, and evaluation of new growth opportunities, and leading a multi-cultural, multi-lingual team located in the five leading international hub offices in addition to corporate headquarters. From 2007 to 2009, Bennett was an independent consultant working with companies and non-profit organizations with interests in media, hospitality, tourism, and professional sports. She earned her bachelor's degree from Vanderbilt University and completed executive programs at Harvard Business School and Yale University.

Mr. SIMPSON. Thank you. I appreciate your testimony and your pandering to the Puget Sound.

Ms. JACKSON. I do not think I had a choice.

Mr. SIMPSON. Mr. Chairman, Chairman Rogers.

SECTION 404 COALMINE PERMITS

Mr. ROGERS. Madam, here we are again. Last year at this hearing and in conversations since, I have told you about what I consider to be violations of the Administrative Procedures Act in your guidance for Appalachian Surface mining, which has practically shut down coal-mining in my district and all of Appalachia. Earlier this month, 500 constituents of mine got pink slips from one mine. Mines are closing, and an impoverished area is getting more impoverished thanks to your action.

The difference between now and last year, however, is the U.S. Federal Court for the District of Columbia ruled on October 6 in *NMA v. Jackson* that the EPA's enhanced coordination procedures unlawfully changed the permitting process for Section 404 coalmine permits under the Clean Water Act; and also, that it is incumbent upon the Corps of Engineers to ensure that 404 permits are issued in a timely manner and without impermissible interference from EPA, essentially reaffirming the Corps' role as the lead permitting agency, which we have maintained all along. That is currently the law of the land and yet EPA continues to impermissibly interfere—in the words of the Court—in holding up 130 permit applications. You cannot get a permit to mine coal because of your agency and the court says you are in violation. When can we expect these permits to gain a lawful approval so that EPA might avoid the ramifications that can come from that court ruling?

Ms. JACKSON. Thank you, Chairman. The court did indeed rule on October 6 and it is a decision about the enhanced coordination process, something that we put in place with the U.S. Army Corps of Engineers to try to resolve concerns we had about water quality from mountaintop mining permits primarily. We have worked through the enhanced coordination process until the court told us to stop, of course. We are in compliance with the court's order because they did not believe the ECP process had been properly noticed.

Their decision does not change EPA's clearly defined authorities under the Clean Water Act. EPA has authority and obligation to review applications under Sections 404 and 402. I would note that many of the objections to permits are under 402 of the Clean Water Act, and there have been, as far as I understand, 37 objections that have been raised by EPA remain. We have not taken our eye off the ball. We have met with the individual companies—Synergy, Mad Company, Martin Country Coal, Valley—I have a whole list here—to resolve objections and we focused on reducing pollution, metals and other pollutants that are impacting water quality.

Mr. ROGERS. But the second part of that court ruling says that it is incumbent upon the Corps of Engineers to ensure that those permits are issued in a timely manner and without impermissible interference from the EPA. And to me that is contemptible in a court of law. Do you consider that you perhaps could be held in

contempt of the federal court for denying any of these applications in a timely manner?

Ms. JACKSON. No, Chairman Rogers, I do not, and I would not act in a way that I believed put me in contempt of a federal court.

Mr. ROGERS. Well, how do you explain away, then, the second part of the court's ruling?

Ms. JACKSON. The court ruled that the Corps cannot—as I understand it, sir, and we can certainly get legal opinions—but my understanding is that it ruled that we cannot use the enhanced coordination process to unduly change the process by which the Corps might review those permits. That does not change EPA's authority to review permits or object to them as we—

Mr. ROGERS. But it says that the Corps ensures that these permits are issued in a timely manner. Now, how can you say that denial of 130 permits for months upon months—

Ms. JACKSON. Well, we have not denied 130 permits, Mr. Chairman. There are 37 objections to 402 permits that I understand to be still outstanding. Those objections are based on peer-reviewed science that says that the pollution that would come from the waters from those mountaintop mining activities and valley fills—

Mr. ROGERS. Well, by your own admission in a letter to Congressman Gibbs, you said there are still 130 individual and general permits pending with only 21 of those in the "final review stage."

Ms. JACKSON. Yes, sir.

Mr. ROGERS. Do you agree with that?

Ms. JACKSON. Yes, but I think we are talking about two different universes. There are many permits in the process. They are in different areas in terms of whether they are being reviewed. EPA has not objected to all. The ones that we were working through, especially under 402 and continue to work with the State on, I am aware of 37. I do not dispute, sir, that there may be many more that have been filed and that are being reviewed in various stages.

Mr. ROGERS. There has not been one approved. Do you know when the last one was approved?

Ms. JACKSON. I do not know sitting here, sir, but I am certainly happy to get you that information.

Mr. ROGERS. I do not think anybody knows. It has been forever. And I have got people with pink slips all over the landscape because you will not process any of these permits on a timely basis as the court ordered you to do. I find that contemptible that a public servant would utilize the practices you have by not making a decision.

Ms. JACKSON. Sir, over the past year, many permits have indeed been issued and mining projects are—

Mr. ROGERS. Not since you have been administrator.

Ms. JACKSON. No, that is not true, sir. That is not a fair statement.

Mr. ROGERS. How many?

Ms. JACKSON. I do not have the number but—

Mr. ROGERS. Can you say there has been a lot?

Ms. JACKSON. Because my notes here say it is worth noting that many projects are still proceeding, although over the past year

many permits have been issued either as individual permits or as authorizations under Kentucky's—

Mr. ROGERS. Name me one permit you have approved since you have been Administrator. Just name one and when it was issued.

Ms. JACKSON. You know, I—

Mr. ROGERS. Your staff is there. They can help you with this. I am waiting.

Ms. JACKSON. This is Hobet 45.

Mr. ROGERS. What?

Ms. JACKSON. Hobet 45.

Mr. ROGERS. What is that?

Ms. JACKSON. I do not know.

Mr. ROGERS. What is it? Holbeck?

Ms. JACKSON. Hobet.

Mr. ROGERS. Hobet.

Ms. JACKSON. Well, why don't we—

Mr. ROGERS. Spell it.

Ms. JACKSON. H-o-b-e-t.

Mr. ROGERS. When was it?

Ms. JACKSON. I do not know, sir. Why don't instead of me giving you a list that would not be accurate, I will give you a list of permits that have one?

Mr. ROGERS. No, I want to know now.

Ms. JACKSON. Well, I cannot give it to you now, sir.

Mr. ROGERS. I know you cannot because there have not been any. And I have got people looking for work, out of work, and I cannot understand how you would sit there and not know details of this magnitude relating to a whole section of the country. It is all of Appalachia; it is not just Kentucky. It is all of Appalachia. It is not Colorado, it is not Wyoming, it is not western coal; it is just Appalachian coal. Now, what is wrong with us? Why can't we be treated like everybody else?

[The information follows:]

Coal mine permits:

When was the last permit approved? Provide accurate list of permits approved since Lisa P. Jackson has been Administrator

We have been advised by the U.S. Army Corps of Engineers that at least 110 Section 404 permits have been issued by the Corps for coal mining operations in Appalachia since 2009. We have asked the U.S. Army Corps of Engineers, who is the lead federal agency for issuing these permits, to provide a permit status update and additional details about issued permits, including the name of the mine and the location, and the date when the last one was approved. The U.S. Army Corps of Engineers has promised to provide these details as soon as possible, but it may take several weeks. Attached are the names and locations of 36 404 permits for which the EPA has additional information. Please note this is only a portion of the 404 permits that we believe have been issued since 2009.

Since January of 2009, with EPA oversight, Kentucky has permitted over 1,000 existing and new mining projects under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) permitting program. The vast majority of coal mining and processing in eastern Kentucky continues today under an approved Coal General Permit - 805 new coal mining projects were authorized by the Kentucky via the General Permit since August 1, 2009. These 805 new authorizations are in addition to 1,697 existing coal mines and preparation facilities that were granted coverage upon issuance of the general permit. Thus, 2,492 coal mining operations in Kentucky are currently authorized by covered by the General Permit.

In addition to the hundreds of coal mines and coal facilities authorized by Kentucky's Coal General Permit, Kentucky has issued at least 115 individual permits to coal mines and preparation plants since January of 2009. (87 individual permits to surface mines and 28 individual permits to underground mines and coal preparation plants). EPA has unresolved specific objections on 37 individual permits, which represent less than 1.5 % of the total number of coal related NPDES permit authorizations issued by Kentucky since January 1, 2009). EPA Region 4 will continue to work with Kentucky and permit applicants in an effort to resolve EPA's objections and to enable permits to be issued that protect water quality consistent with the Clean Water Act.

Appalachian surface coal mining activities on which EPA Regions have provided comments since June 2009 which have been issued a CWA 404 permit by the Corps

STATE	PERMITTED
KY	Armstrong Coal; LRL-2010-0523
	Czar Coal; LRL-2008-0226
	ICG Knott Co, LLC; Lige Hollow Auburgy Deep Mine; LRL-2009-0075
OH	Sapphire Coal; Smoot Creek; LRL-2009-0849
	Oxford Mining Company, LLC.; Shuman Mining Area; LRH-2008-00979-MUS
	Oxford Mining Company, LLC.; Long Sears Adj; LRH-2005-723-MUS
	Buckeye Industrial Mineral Company, Inc.; Mapleton Facility; LRH-2004-1589
	Waterloo Coal Company, Inc.; Layne Area Mine; LRH-2009-671
	Oxford Mining Company, LLC.; Peabody III; LRH-2005-421-1
	Oxford Mining Company, LLC.; New Lexington North 3; LRH-2008-645
	Oxford Mining Company, LLC.; Ellis (revised); LRP-2007-1180
	Oxford Mining Company, LLC.; Pole Cat Road Area Mine; LRP-2010-558
	Ohio American Energy, Inc.; Salt Run North (expansion) 09-45A; LRP-2007-0323
	B&N Coal; Mantel II; LRH-2009-701
	Penn Ohio Coal dba Kimble Clay and Limestone; Hunt Mine (revised); LRH-2005-478-UT
	Ohio American Energy; Starbuck Facility; LRP-2009-1375
	Buckingham Coal; Buckingham Wash Plant; LRH-2004-1152
	Oxford Mining Company, LLC.; Halls Knob; LRH-2005-1385
Oxford Mining Company, LLC.; Kaiser Mathias; LRH-2007-1021	
Rosebud Mining Company, Wilson-1, LRH 2009-465	
Oxford Mining Company, LLC, Daron Consol, LRH 2004-1249	
PA	Consol Pennsylvania Coal Company; Enlow Fork Mine Oak Spring Slope and Supply Yard; LRP-2008-1782

STATE	PERMITTED
	Consol Pennsylvania Coal Company; Enlow Fork Mine Overland Conveyor; LRP-2008-2212
TN	DRC Coal, LLC.; White Oak Surface Mine; LRN-2007-0345
	Premium Coal; Area 19; LRN-2004-0062
VA	Paramont Coal Company Virginia; Dry Fork Surface Mine; NAO-2009-0815
	Clintwood Elkhorn Mining Company; Elswick Fork Surface Mine; NAO-2009-2381
	Maggard Branch Coal; Osaka Wilson Underground Mine; NAO-2010-0272
	Paramont Coal Company Virginia; Deep Mine No.41; NAO-2008-0068
WV	Argus Energy Inc.; Wiley Branch Surface Mine; LRH-2007-0089-OHR
	Hobet Mining Surface Mine No. 45; LRH-2008-0791
	Coal-Mac, Inc. Pine Creek Surface Mine; LRH-2008-0830
	Consol of Kentucky Spring Branch No. 3 Deep Mine; LRH-2009-0428
	Consol of KY; Peg Fork Surface Mine; LRH-2006-2294-TUG
	Highland Mining Company; Reylas Surface Mine; LRH-2007-0099
	CORESCO, LLC; Coarse Coal Refuse Pile and Disposal Area #4; LRP-2008-2386

Ms. JACKSON. Sir, your water should be protected like everyone else.

Mr. ROGERS. There is water everywhere, ma'am.

Ms. JACKSON. Well, water should be protected.

Mr. ROGERS. I live in these hills.

Ms. JACKSON. I understand that, sir.

Mr. ROGERS. I live in these hills. What you call navigable water, is a mountainside gully. It had water in it one time in eight years or runoff from the mountainside. To call that a navigable stream under your jurisdiction is absolutely ridiculous, and yet here you go. And the court says you cannot do it and you go ahead anyway. Now, what are we to do in Congress?

Ms. JACKSON. Sir, I respectfully disagree with your characterization, but we will get you additional information.

Mr. ROGERS. I rest my case.

Mr. SIMPSON. Jim, did you want to go next?

Mr. MORAN. Yeah, I can go next. That is fine. Ms. Young was just showing me that there were two permits issued. She is conferring with the staff, but I doubt that there were in Kentucky, Mr. Chairman. I think there were two in West Virginia that were announced in January. But I am not going to get into that.

CHESAPEAKE BAY

Let me talk about the Chesapeake Bay because I know we all recognize the priority that the Chesapeake Bay should be and the President does as well, and as a result cleaning up the Chesapeake Bay in this budget has a \$15 million increase above 2012 and of course \$300 million for the Great Lakes. And I actually do agree with Mr. Dicks that Puget Sound needs to be a high priority, too. I think this subcommittee has shown that priority at its markup. But with scarce resources and an overall decrease at EPA that increase for the Chesapeake Bay is a clear signal that this Administration is serious about cleaning up our major watersheds.

The biggest impediment, though, to the cleanup in my opinion is the recalcitrance of the farm lobby. Recently, the American Farm Bureau asked a judge for a summary judgment in their case to prove that EPA has no right to set pollution limits in the Bay. I wish the American Farm Bureau would put its money to helping farmers establish sustainable farming practices rather than litigating. But this is where we are. I understand you are working with the U.S. Department of Agriculture on conservation plans for farmers. That is what the problem is. That is where the pollution is coming from. That is why we have these massive dead zones in the Chesapeake Bay. The fertilizer is washing down. It is putting the vegetation on the bottom of the bay on steroids, and then of course when the vegetation decomposes, it consumes all the oxygen in the water and everything dies. And that is why we have these massive dead zones.

So could you tell us what the USDA is doing to work with you? I know we have given out these conservation grants to farmers in Virginia and the other Chesapeake Bay States but have any been actually tied to performance in accomplishing what they are supposed to accomplish? Do they have any requirement to reduce the

total maximum daily load of toxics that are getting into the Chesapeake?

Ms. JACKSON. Thank you, Mr. Moran.

The USDA under the President's executive order on the Bay has been committed to focusing resources in priority watersheds are priority in order to reach the TMDLs. They have provided extensive financial and technical support in the Chesapeake Bay Watershed and, through many Farm Bill programs, which are partnered with us through our Nonpoint Source Pollution programs. I think it would be fair to say that as the States put together their pollution diets—each State has one—they are fully expected to rely on and quantify and verify reductions that come from money spent through conservation programs, whether they be our Nonpoint Source money or USDA conservation money, sir.

Mr. MORAN. Okay. Well, it would be nice to see that USDA is on board. If they are giving out these conservation grants, they should be for a purpose and that purpose should be consistent with the Federal Government's objective of cleaning up the Bay to reduce all this stuff washes into it.

NUTRIENT-MANAGEMENT

You have got a \$15 million separate program for States that commit to strengthening their nutrient-management efforts. What are the criteria for that program that you are administering?

Ms. JACKSON. Well, for the Chesapeake Bay that is the pollution diet. The States are putting in place watershed implementation plans and report on progress on an annual basis—I think actually every other year, but we have interim reports as well. And so the States are on the frontline of dealing—

Mr. MORAN. Yeah.

Ms. JACKSON [continuing]. Especially with row crops. EPA has some regulatory authority over large animal feeding operations. And so they all work together. We give them the overall TMDL, which is their diet, and then they respond with an implementation plan which the EPA reviews and determines whether, based on modeling and past performance, we believe will rightfully get us to—

Mr. MORAN. Well, I would like to see whether Virginia particularly is doing anything to merit any of that money.

SELENIUM IN IDAHO WATER

Let me just raise one other issue. I know we are going to have to come back. But recently the New York Times highlighted an example of endocrine disruptors as it pertains to selenium in water in Idaho and its effects on trout. This J.R. Simplot Company is participating in the Superfund program to clean up around this phosphate mine to alleviate years of selenium pollution. The issue is that the company's own studies shows that trout in nearby creeks in Southern Idaho have two heads, facial, fin, and egg deformities. Even so, the company's report concluded that it would be safe to allow selenium to remain in area creeks of higher levels than are now permitted. My understanding is that EPA will have to eventually weigh in on this request to allow higher levels of selenium to remain present in those Idaho waters. And if you rule, then that

will probably set the standard for selenium levels in States beyond Idaho, for all of the States I would assume.

EPA'S SELENIUM GUIDELINES

EPA's selenium guidelines date back to 2004. Are you planning on updating them? And if you allow this company to exceed current levels, will that be the new de facto national level for selenium in water?

Ms. JACKSON. Well, you know, EPA will indeed be reviewing Simplot's scientific study. I know the study itself was advocating site-specific criteria, and the U.S. Fish and Wildlife report on that study was less than enthusiastic about those criteria.

In terms of the national selenium criteria, it could certainly be affected by information that we get from our review certainly working with our partners at Fish and Wildlife. As the findings of that study can be used in calculation of criteria, fish tissue, base criteria. So it is impossible to say sitting here as we begin another review what the national impact will be, but certainly the door is not closed on that, sir.

Mr. MORAN. Okay. Well, you know these endocrine disrupting chemicals affect juvenile, adult diabetes, juvenile cancer, autism, autoimmune diseases, osteoporosis, Parkinson's, Alzheimer's, ADHD, asthma, and on and on. So I would hope we would accelerate the pace of this EDC research. And I was a little troubled to see the EPA fail to achieve its goal of getting test orders out for another set of chemicals last year. Could you just update us? We have 67 test orders that have been issued. When are you going to issue the next set? Where do things stand with validating the Tier 2 assays? Can you explain how advancements in research such as computational toxicology enable the current pace of research and screening to move more quickly? And how is it affecting humans? In other words, tell us something about what you are doing endocrine disruptors and then I will let the rest of the questions go.

Ms. JACKSON. Okay, sir. Well, I am happy to get you some detailed information on the next round of test orders, but let me just say in answer to your last question that I do think that computational toxicology, the investments EPA has made over the year do enable us to be more efficient in assessing endocrine-disruptor toxicology and potential human health impacts and ecological impacts. And so although the budget makes some tough choices and shows some decrease in endocrine disruption, it is mainly related to scientists' view that the increases and advancements in computational toxicology can more than make up for it. So it is an efficiency in the program where we can save some amount of money.

I will get you information on the next round if that is okay with you.

[The information follows]

When are you going to issue the next set of test orders?

Orders for 25 chemicals are anticipated to be issued in FY2013, dependent on the availability of an approved Information Collection Request.

Where do things stand with validating the Tier 2 assays?

To address the wide range of potentially affected taxa, the current Tier 2 assays include state of the science, multigenerational reproductive studies on rats, fish, frogs, birds and invertebrates. EPA currently accepts a 2-generation rat reproductive study and an alternative extended 1-generation rat reproduction study as valid

for Tier 2 studies and those are ready for use. To address potential effects on wildlife, the current Tier 2 validation efforts are focused on 4 assays that address the remaining taxa. The Agency is currently completing interlaboratory validation of these 4 assays with subsequent external scientific peer review in approximately 15 months and development of finalized test guidelines and standard evaluation procedures for each assay in approximately 6 months after external peer review. Accounting for the interlaboratory validation effort, external peer review, development of test guidelines and standard evaluation procedures, the tier 2 assays are projected to be ready for use in Fiscal Year 2014. Current with the state of the science, the Agency will continue to evaluate EDSP assays with a focus towards improving efficiency, use of more rapid processes, and use of fewer animals and resources, which continuing to maintain the same if not greater scientific ability in identifying potential adverse human health and ecological effects associated with chemicals that may perturb the endocrine system.

Mr. MORAN. I just want to know what progress we are making? Because a lot of it has to fall under EPA.

Ms. JACKSON. Yeah, it is an important issue.

Mr. MORAN. Yeah.

Thank you, Mr. Chairman.

Mr. SIMPSON. Thank you, Mr. Moran, and thanks for bringing that up and being concerned about Idaho waters. I am sure that will not be affected in the Chesapeake Bay at all in the future.

Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman.

Secretary Jackson, Ms. Bennett, appreciate your being here. Maybe the lightest side of questioning you might have during this session coming from this member from Southern California.

AIR QUALITY

For it was not that long ago for those of us who live in the territory in the Southland where Ken Calvert and I lived that you could drive along Interstate 10 and most days of the year, 250 plus at least days of the year, you could not see the mountains that surround the valley in spite of the fact that the mountains are thousands of feet tall. In that circumstance, major effort was made to try to change that and impact Detroit, et cetera. We talked often about the fact that there was great danger at just pointing at the smokestacks and presuming they are the only source. You can deal with that source, 95 percent of it very easily. But indeed dealing with the automobile is an entirely different question.

California has had a history of being pretty tough in terms of its regulatory development, so I would like to know how EPA feels about individual States' ability to exercise authorities beyond what might be federal standards.

Ms. JACKSON. Well, sir, I ran a state program, so California of course is considered as one of the national leaders in terms of dealing with air quality because it had to, as you so well noted in your questioning. You know, part of the reason that we have insisted that state funding for categorical grants for air pollution go up year to year is because we know in tough budget times, the States are being pinched, and that is where the bulk of the environmental protection happens. That is where permitting happens, so that is key to economic growth. That is where enforcement happens so that there is a level playing field and people do not profit at the expense of another company's competitiveness or health.

In terms of going beyond that, that is certainly within the purview of States. Many States have more strict or regulations that come on line before the Federal Government catches up to them. California is certainly no exception. Most recently, when we did the mercury rule, 18 States already had rules to deal with mercury from power plants before the Federal Government got there. So that is not unusual and in fact I think it is part of the beauty of a democracy.

DIESEL EMISSION REDUCTIONS PROGRAM

Mr. LEWIS. A little different tack, Diesel Emission Reduction Grants, had mixed reviews within this committee. Last year, EPA budgeted zero for DERA grants despite considerable bipartisan support within the Committee. Congress restored the money and funded the program about \$30 million. This year's request cuts that figure in half. You know, I am glad to see the Administration reconsidered its position from fiscal year 2012, but I am wondering about the funding for fiscal year 2013. I am somewhat confused about why such a well performing, widely supported program seems to remain a target for reductions.

Ms. JACKSON. Thank you, sir. Well, first, obviously nothing is sacrosanct in this budget. The DERA program covers existing engines, and so as EPA standards and state standards in many cases—in your State's case—require new engines to be cleaner and cleaner. What we know is that there is not turnover in the diesel fleet, the heavy-duty fleet, as often as there is in cars and light-duty vehicles. And so the idea of the DERA program retrofitting and replacing diesel engines. The 15 million reflects the Administration's recognition that it is indeed a popular program, but it is also meant to be a transition to a low-cost revolving loan program rather than a grant program. The new approach would allow the funds to be targeted and set up funding structures to hopefully leverage federal funds to keep these programs going.

And the second component of the program would allocate funds towards financing programs to help entire fleets reduce diesel emissions and so therefore making it available potentially for private fleets rather than the public fleet that the DERA grants were going to previously.

Mr. LEWIS. I can ask a lot more if you like.

Mr. SIMPSON. No, that is okay.

We have a vote going on right now, which we have three minutes left in and there are two five-minute votes following that and we will be right back after that and resume the hearing, okay?

[Recess.]

Mr. SIMPSON. This hearing will be back in order.

Thank you for waiting for us.

Mr. Dick.

CHESAPEAKE BAY AND GREAT LAKES

Mr. DICKS. Since, you know, we started increasing funding for the Chesapeake Bay and the Great Lakes, how would you say we are doing on those two programs? EPA put a person in charge. You have an EPA person in charge of the Chesapeake?

Ms. JACKSON. That is right and in fact in both. I appointed a senior advisor to me because there are substantial sums of money and it is all about results. In both cases in the cases of the Chesapeake, we have met the requirements of the President's executive order. That is we have put in place the pollution diet, the TMDL for the Bay. The States have met their requirements of turning in implementation plans to meet the reductions called for by the TMDLs. EPA has judged and reviewed those plans and in some cases there has been additional reductions in commitments by the States. We have fought and been successful in continuing to fund the Bay.

Mr. DICKS. Do you think they have a scientifically credible plan for restoring the Chesapeake Bay—

Ms. JACKSON. The Chesapeake Bay?

Mr. DICKS [continuing]. In place?

Ms. JACKSON. I do, sir. I think the TMDLs—

Mr. DICKS. Has that been independently looked at?

Ms. JACKSON. The modeling has been I believe independently reviewed on which we base our decision-making.

Mr. DICKS. One of the reasons I have been optimistic about the Puget Sound restoration is because we have an action agenda that we think is scientifically credible. That is why we think we should get a higher level of funding. Now, I realize that I think we had \$425 million for the Great Lakes and then it has come back down to \$300 million. So how would you rate the effectiveness of the Great Lakes program?

Ms. JACKSON. I believe the Great Lakes program is beginning to yield results. There had been a scientific plan done before the Administration started and that had gone through multiple review and public comment and we based our work on that. The only additional constriction we put on that money, as you know, the \$475 million the first year and then 300 million this year we are proposing—

Mr. DICKS. Have they been able to obligate all that money?

Ms. JACKSON. In the first year they were slow in obligating funds and that is also because they have not been able to get the money on time because of delays in the budgeting process. And so part of the reason why we did not worry too much about not being able to give them \$475 million each year was that there had been money that had not been able to be obligated because of delays in the process.

COAL MINING PERMITS

Mr. DICKS. Since we last met here earlier—and I wish Mr. Rogers were here—but have you had a chance to see if on these permits whether any have been granted?

Ms. JACKSON. Yes, sir, we have. We have a list—now I have to find it—of six that were granted recently. So there are indeed permits as I stated and we have a list.

Mr. DICKS. Okay. Mr. Chairman, can we put that in the record? We will give a copy to Mr. Rogers, too.

Ms. JACKSON. Okay. It is—

Mr. DICKS. Thank you.

Ms. JACKSON [continuing]. Handwritten. If you would like it now, we can give it to you now, sir.

Mr. DICKS. Well, whenever.
 Ms. JACKSON. Okay. Thank you.

WOOD STOVES

Mr. DICKS. Okay. Now, one of the issues that we are facing out in our State is we have a lot of people—this is hard for me to believe—who still are relying on woodstoves and use wood for heating and there are literally thousands of them. And this is causing an air pollution problem in Pierce County, an urban area which is partly in my district. Is this an issue nationwide? I mean are there people who rely on woodstoves nationwide?

Ms. JACKSON. Certainly in areas where wood is available to them, yes. I mean even in a State as urbanized as New Jersey that I came from—of course there are parts of that State where woodstoves are used regularly. The challenge is in trying to, within budget, move people—especially in residential use—to move them to cleaner stoves. There are cleaner and more efficient stoves that do not pollute the air, do not pose a health threat, do not pose in some cases a nuisance for neighbors. EPA has been working on new source performance standards for new woodstove manufacturing to try to address this pollution. But it also requires state and local work as well.

Mr. DICKS. All right. Thank you, Mr. Chairman.

Mr. SIMPSON. Thank you.

Mr. Flake.

Mr. FLAKE. Thank you, Mr. Chairman.

NAVAJO GENERATING STATION

And thank you for testifying. With regard to the Navajo Generating Station, let me touch on the EPA's forthcoming BART determination for the NGS. We understand this is a high priority for EPA and we appreciate that Assistant Administrator Gina McCarthy took a recent trip to Arizona to look at this. In the Arizona delegation we have emphasized the importance of the plant and the EPA's pending BART determination. In both a 2009 letter to you and in addition you were copied on a letter that we sent to the President just last week, the plant and a mine and the coal that is mined for the plant provides jobs for about 1,000 people, 80 percent of whom are Navajo. And it is critical to the regional economy; also it provides 95 percent of the power that is used by the Central Arizona Project, about half of which the water is designated for use by the native tribes, agricultural uses and many other things.

As you know, we are coming up on the end of a lease in 2019. The six owners of the plant have to determine whether or not to extend that. And so this is extremely important, this determination coming out. Can you shed some light on where you are coming from on this and when this rule is going to be made and if you have taken into account some of the things that we mentioned in the letter with regard to the tribes? I know the Department of Interior has trust obligations there, is working on this as well. Can you just shed some light on where you are?

Ms. JACKSON. Thank you, sir. We do understand the importance of that generating station and the fact that the issues that they are facing are complex, that it is more than about power; it is about

water, it is about economy. Thank you for recognizing that Gina McCarthy, the Assistant Administrator, went out to take a look around to get a better understanding of the situation there, as well as to be able to make some proposals about where we might be able to find ways to meet the challenges and find some win-win solutions quite frankly.

I just recently sent a letter to Secretaries Salazar and Chu to ensure that all the agencies are working together to address this situation because it really does involve all three of us in different ways. And I believe that we are going to be getting together shortly to discuss that and hopefully find a path forward.

Mr. FLAKE. You cannot give me any dates as to when you might be coming—I mean that is the next meeting but when might we see some kind of resolution here? Frankly, in Arizona it is scaring us to death. ASU studied it; they said that over a period of 2017 to 2044, if this plant does not go beyond 2019, if they do not renew the lease, that is about 3,400 jobs, it is about \$18 billion, and there is a huge impact on groundwater as well. If these rates skyrocket, which they will without that plant, rates for CAP water, then it puts additional pressure on groundwater and all the environmental implications that come from that as well aside from the cost.

Ms. JACKSON. Excuse me, sir—we would be looking to propose a determination in late summer of this year. So we have a bit of time to try to work through those complex issues. But we are mindful that a lot of folks are watching.

CLEAN AIR ACT—COST OF COMPLIANCE

Mr. FLAKE. All right. Also I know that you are required under the Clean Air Act to take into consideration cost of compliance, and I assume you are here as well. That has been estimated about \$1.2 billion, and I mean all of the owners simply say that would shutter the plant. If these requirements are made, it would shutter the plant. And then with all these ancillary problems that we have mentioned on groundwater and cost and the impact on the tribes and everything else, I just hope that all these things are being taken into account. That is why we brought it up with Secretary Salazar and have written to the President and everything. But you can assure me that those things are being taken into account?

Ms. JACKSON. I will, sir, absolutely.

EXTRAORDINARY EVENTS

Mr. FLAKE. Thank you. Second issue, extraordinary events. We in Maricopa County obviously have a problem with PM10 exceedances. Just in the past year I believe Maricopa County had 100 exceedances of PM10 standard last year, all but one being from an exceptional event. And let me get a visual here just to let everybody see what this exceptional event looks like. This is what is referred to by some as a haboob, but this is a big dust storm. That obviously is nature, not something that was created by man. But as I mention, 100 exceedances of the air standard, all but one having to do with exceptional events like this. And yet, when you look at what we have to do in Maricopa County to actually say this was an exceptional event is this. This is what it took for just events that happened July 2 through July 8, 2011. All of this in the San

Joaquin Valley, the other area where you have a lot of these, I think it was estimated that each wind exceptional event like this, high wind exceptional event takes more than 400 staff hours to prepare. We all know what that is, yet we cannot get out of the EPA some guidance or something that allows our local agencies to forego doing this and spending—I think Maricopa County it was estimated spent more than \$1 million last year just to comply and just to convince the EPA of something that nobody needs to be convinced of. Where are we on this guidance? When will we finally have something real that we can go back and imply some kind of commonsense principles here?

Ms. JACKSON. We have indeed been working with staff in ADEQ and Maricopa County, the Maricopa County Association of Governments, to develop a package that addresses places like Maricopa County that are going to have numerous exceptional events and therefore exceedances of the particle standards, the health-based standards for particles. We have gotten comments from state and local and tribal stakeholders to come up with a new document. It is meant to be responsive to concerns such as what you reference. I do not have a date by which we will be putting out the response-to-comments document. That is the way we have to work under the APA. Although this is a guidance, we have committed to doing full comment and opening this up to being as transparent as we would if it were a rule. And then when we issue the guidance documents, we will do that again because we get lots of concerns from folks that they want to make sure we are doing this under full public scrutiny. So we are working. I am happy to get you a date for when we will put out those two documents, but it has been really a process of getting in the comments and doing it in a public and transparent way.

Mr. FLAKE. Okay. So soon you will be able to get a document that will tell me when documents are coming or what are—

Ms. JACKSON. No, we—

Mr. FLAKE [continuing]. We going to get?

Ms. JACKSON [continuing]. Have to do a response-to-comments document. This is a change in guidance and so we have asked people for comments on the guidance development process. It is a rule but we are changing the guidance that implements the Exceptional Events Rule, and then we will have to draft new guidance documents and put those out for public comment as well.

Mr. FLAKE. Are we talking a year? Are we talking 6 months? Can I get some kind of idea? We are going to go through another season here and there are going to be another 100 events; we all know it and we are all going to have to do this just because we cannot issue guidance. Can you give me any—

Ms. JACKSON. Well, some of your colleagues do not like when we issue guidance so we have to do it in a way, sir, that is transparent and subject to public comment. And as you mentioned, it is an issue that affects several areas. I do not have on my facts sheet here a date so I do not want to commit to one here, but I am happy to get you one.

[The information follows]

EXCEPTIONAL EVENTS

EPA has made progress on developing guidance and other tools to streamline implementation of the Exceptional Events Rule. About 30 sets of comments from state, local, and tribal stakeholders on our three May 2011 draft guidance documents have been fully considered, and we are completing revisions to incorporate approved changes. EPA intends to provide a response to comments document to the original commenters in April 2012. After the Agency provides the responses to comments, we plan to release a revised draft guidance document for broader 30-day public review and comment via a Notice of Data Availability in the Federal Register. After this public comment period the Agency will finalize the guidance documents and determine next steps regarding potential rule changes by summer 2012.

Mr. FLAKE. Is there anything that you need from us in Congress to speed it along or from the Arizona officials, ADEQ or others?

Ms. JACKSON. No, I believe they are fully involved in working with us. I have not heard that there has been any problem whatsoever, sir.

Mr. FLAKE. Thank you.

Mr. SIMPSON. Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Thank you, Administrator Jackson, so much. I want to thank your staff for all the work you do to make sure that the EPA is protecting our public health and our environment.

Just in my office this week was our Lieutenant Governor, a State Senator from Minnesota, some college students, community organizers and environmental groups. They all came to see me and they were sharing stories about how the EPA's work on the Great Lakes Restoration Initiative, restoring our Clean Water Act protections, and reducing toxic mercury emissions and greenhouse gases was really making a difference improving life quality in Minnesota. So I strongly support your mission to enforce our Nation's laws so that we can breathe cleaner air and drink safer water.

MERCURY

During these tough fiscal times, I believe the budget choices we make should not put basic public health of Americans at risk, so I want to discuss a little bit about a new study that came out this month from the Department of Minnesota Health Researchers. This is the first study I believe to ever really look at mercury in the blood of U.S. infants. And what they found in the study and what I read was very deeply disturbing. Ten percent of the babies along Minnesota's North Shore, which is around Lake Superior, have unhealthy levels of mercury in their bodies. This provides hard evidence that toxic mercury is getting into our children's bodies right from the womb. This impacts their brain, their nervous system development, and it can lead to disabilities and even cancer.

Besides impacting our infants and children, mercury in our lakes and our rivers also harms jobs and economic opportunity as millions of dollars go into tourism and in fishing in Minnesota. In Minnesota, we have always worked together in a bipartisan basis to protect our air and water quality. In fact, we passed a legacy amendment to our constitution where we taxed ourselves, so that we could have the dollars to do this type of research and to look for strategic interventions to make our air and water healthier.

Republican Governor Tim Pawlenty signed into law the Minnesota Mercury Emission Reduction Act in 2006, which called on our largest power producers to reduce their emergency emissions by 90 percent. Our utilities are well on their way to meeting that standard. Contrary to naysayers who were trying to stop the EPA's important work on this, the lights are still turned on in Minnesota and consumers have not seen their electric bill skyrocket. And many of our large energy producers are willing partners and enthusiastic at the table about to see what more they can do.

We have made important investments together for the health of future generations. But here comes the problem: 90 percent of the mercury that is poisoning our air and our drinking water comes from out of state. So I want to thank you for finally issuing, 20 years after it was due, the EPA rules that say all power plants need to abide by our Minnesota standards. Our companies have stepped up to the plate because they want to protect their consumers, but they cannot be at an economic disadvantage, with rules that are ignored. So could you tell me a little bit more about what you are working on, or what are some of the obstacles, or what we can do together to help prevent public health impacts if this rule is delayed or overturned, either by the courts or Congress? I want to understand the impact of the Utility Mercury Rule, what it is going to mean for the health of our children and the overall health of Americans. Because in Minnesota, it is something bipartisan that we have come together, both public and the private sector, to do something about. And we are waiting for the rest of the country.

Ms. JACKSON. Thank you. Well, thank you for providing that information.

We should not just make it about mercury; there are other harmful emissions as well—arsenic, cadmium, nickel, acid gases. We know that they have impacts on our health. So when we cut them, when we put sensible controls in place that are, as you said, available now, we can have real benefits for our health and our environment. We also have benefits for our economy and for clean technology as well.

American communities stand to gain billions of dollars in avoided healthcare costs. You mentioned mercury, which may be one of the hardest things to price and we heard some discussion of our cost estimates. You know, what price do you put on lost IQ points? Because that is the impact of mercury in a child's development. It impacts development of the brain and the nervous system. And so we are under some criticism now that we have not properly priced that but the science really does not have a way for us to do it. What we do know is that by controlling mercury you get more than just mercury; you get co-benefits like reductions in fine particles, very fine particles, much finer than we saw in that picture by the way. And those fine particles are a direct cause of premature death across our society. And that is 4,200 to 11,000 avoided premature deaths each year once these standards are in place in 2016.

You also control the chemical pollutants that cause smog to form in our atmosphere, especially on a hot summer day. That is 130,000 avoided asthma attacks each year. That goes along as a happy benefit along with mercury. So I did read some of that study

when it came out in popular media and I just thought how it must feel to be a mom in Minnesota or maybe somebody who thought maybe that one day they wanted to be a mom because there are unknowns in terms of pricing what it means. But we know the solution and it is available to us now. It is reasonable and the health benefits are up to 10 times the cost of this rule.

Ms. MCCOLLUM. Thank you.

GREAT LAKES INITIATIVE

Mr. Chair, just a quick comment about the Great Lakes Initiative. The budget being delayed and implemented did mean people were not able to really plan forward the way that they wanted to on some of the projects and then when some of the money came forward, as those of us from the northern tier states know, sometimes weather can impact whether or not you are ready to move along on a project. So we look forward to working with the administrator and with the chair to come up with the appropriate funding for the Great Lakes Initiative. And I am dying to learn more about Puget Sound. I really am. I look forward to it.

Ms. JACKSON. It is a beautiful wonderful place.

I do believe, Ms. McCollum, just for the record that we are caught up. As far as fiscal year 2011 money, I think we are about 99 percent of that Great Lakes money has been obligated. So it is out there and obviously we are in the middle of the fiscal year 2012 push, but it is a little bit of an abundance of riches. There is no shortage of projects, whether it is cleaning up legacy contamination or habitat restoration to be done there.

Ms. MCCOLLUM. Well, I know there has been some discussions of taking money from the Great Lakes Initiative—and I do not know if Mr. LaTourette has heard this yet—and using it for Asian carp. We need to do something about invasive species, but, that is not what that fund was designed for. So thank you.

Mr. SIMPSON. Mr. LaTourette?

Mr. LATOURETTE. Well, thank you, Mr. Chairman. Madam Administrator, nice to see you again.

Ms. JACKSON. How are you?

ASIAN CARP

Mr. LATOURETTE. I am good. Thank you. Just following up on that, I had not heard that, but I would be happy to look into it. It actually ties into a series of questions on the Great Lakes Restoration Initiative. USGS indicates they are about ready to deploy their biobullet, which is apparently birth control for Asian carp, and I think that that is a much better use. They also advertise it as even if the carp should jump the barriers, that after, God forbid they get in the lakes, they can dispose of them once they are there. So I think that USGS is heading in the right direction.

GREAT LAKES

I also came because—I am sorry I was not here at the first part of the hearing, but I heard that Moran and Dicks were attempting to divide up the Great Lakes money and spend it around the

Chesapeake and Puget Sound, so I need to protect our interests and make sure Ms. McCollum was not alone on that.

Mr. MORAN. We were not trying to divide it up; we were just trying to get the same amount.

Mr. LATOURETTE. Right.

Mr. DICKS. But now that you mention it, it is not a bad idea.

Mr. LATOURETTE. Yeah, but there are five Great Lakes and there is a reason they are called Great Lakes.

Ms. MCCOLLUM. And four of us on the Committee.

Mr. LATOURETTE. I am sure your stuff is good, but it is not great.

Mr. DICKS. What about the orcas and the salmon? I mean, come on.

Mr. LATOURETTE. Please.

I want to thank you, Cam Davis, in particular for working with us on the Great Lakes Initiative and also your recent call on the CELCP program. We also just had the Buffalo Corps in, and they are looking forward to the next round of funding so they can move forward on many important projects in the Great Lakes.

BALLAST WATER REGULATION

There are two issues that I did want to chat with you about in my part of the world and one is, thankfully, last week the State of New York, thanks to Governor Cuomo's leadership in his administration, sort of pulled back on this extreme ballast water regulation that they put into place. Now we are all sort of breathlessly waiting for your agency and the Coast Guard to come forth with your rules and just wondering where you think you are going to be, one. Then two, the second issue on fracking, and what we need is a standard. The worst thing that could happen in this thing that leads to lawsuits and fights and States fighting with each other is if you come up with something and they come up with something. I assume you are working together with the Coast Guard, and if you are not, I would encourage you to do it because, again, once people know what the rules are, they can follow them. But if you have sets of competing rules, it creates this sort of difficulty. So where is your agency on the ballast water?

Ms. JACKSON. Mr. LaTourette, I believe we have proposed but I do not have a date. I think public comment may have closed on the proposed rules so I will get you a date for when we plan to finalize. Let me just say that the cooperation with the Coast Guard is very good. Let me also say that the review of the ballast water standard that we proposed was I believe by the National Academy of Sciences. And so it is very much a technology standard. I think there is not anyone who loves the Great Lakes or any of their local water bodies who would want any invasive species coming in.

Mr. LATOURETTE. Right.

Ms. JACKSON. But, you know, the issue is balancing what we can do reasonably with understanding that international shipping is part of—

Mr. LATOURETTE. Right.

Ms. JACKSON [continuing]. The economy. And so we believe that the standard does allow for looking forward to continue to watch as we hope and anticipate even better technology to evolve.

Mr. LATOURETTE. I appreciate that. Mr. Moran in last year's hearing I think, quoted the figure that a new invasive species comes into the Great Lakes every 28 weeks, and while that is true, they have not come in through ballast water in six years. That has been documented by both the Canadian Government and our own. So I look forward to your regulations and we will see what happens.

And then on the issue of fracking. I mentioned—

Ms. JACKSON. Could you repeat that? You look forward to—no, I am just kidding.

Mr. LATOURETTE. I do look forward to it as long as you do not follow the guys and gals in New York. I very much look forward to it.

HYDRAULIC FRACKING

And then on the issue of fracking, the Secretary was here maybe three weeks ago and talked about the fact that on public lands he has tasked BLM to look at hydraulic fracturing. Likewise, when USGS was in—I think they said that you were kind enough to protect about \$37 million in funding for this next fiscal year so that they could also go out and engage in an in-depth study of the 144,000 wells that exist or are proposed.

Then the same type of issue that I would hope—and I expressed this to the Secretary—that USGS, BLM, and if you all are going to do some work, too, that you come up with one set of data so that people again follow the rules. We have a lot of urban legends springing up already over hydraulic fracturing. And I made this comment to the Secretary, and I got some hate mail from Youngstown, but there was an earthquake in Youngstown and people were saying it was because of hydraulic fracturing. Now, that is either true or not true but the only way you figure it out is if everybody comes forward with the science-based analysis and we can sort it out. They got mad at me because I said if you had been to Youngstown, it is tough to know that there has been earthquake, but that is a different story. So I hope you coordinate on that as well and I would appreciate it very much.

BED BUGS

I want to move real quickly to bedbugs and in honor of Mr. Moran who always is kind enough to educate us with a variety of quotes from famous people, I have a quote from Robert Frost, the noted American poet. The quote is, "people are inexterminable—like flies and bedbugs. There will always be some that survive in cracks and crevices." So on the issue of bedbugs, I know that you have received a—

Mr. MORAN. That is another fine quote.

Mr. LATOURETTE. Well, Moran, I really would not brag on some of the quotes you have given. They have all been lovely.

In 2009, the Ohio Department of Agriculture submitted a Section 18 Emergency Exemption Request of EPA to authorize the use of propoxur as a restricted-use pesticide. That was denied in June of 2010. It is my understanding that the Agency may be looking at revising that denial. I will ask two questions at once so we can get it out of the way. The EPA has not decided to apply the same

standards that you are using for some chemicals to the 25(b) exempt, or minimum risk pesticides. I do not know if anybody else has a bedbug problem, but they are all down in Cincinnati at the moment, but they are probably walking up the turnpike.

These things are advertised on the radio all day long and they either do not kill anything, or they kill them if you see a bedbug and you squirt the whole bottle on them. It is really ripping off the consumer. Then there is an article that I would like to submit for the record—in Cincinnati where all the bedbugs are currently living—that some people were using isopropyl alcohol, which is a home sort of old wives' type remedy, and they set the place on fire. So four kids and husband and wife were displaced.

I am going to ask you, where are you on propoxur, and would you consider extending the same restrictions on these what I think is snake oil in a lot of cases, these 25(b) exemption things, how you are feeling about that?

Ms. JACKSON. So the last time I was briefed on bedbugs, and it was a while, the staff in our programs were working in the staff in Agriculture to see if there were some limited uses for Propoxur. You know, the concern is that it is not without some amount of modeled and believed harm especially to children. So there may be some applications. We do not believe that it is going to be a silver bullet because you are weighing use of something in a home, especially that might have toxicity to children versus the horrible nuisance of bed bugs, which I understand.

I will look at the 25(b) exemption standards to see if there is anything we can do there. What I would say is that one of the questions may be, they may not work, but are they bad, which is, the question for Propoxur is a little different. It may work, offer some relief, but it does have some toxicity that we know of.

[The information follows]

Where is the EPA on propoxur and bed bugs?

EPA's role is to carry out the Congressional mandate in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to ensure that pesticides are safe and available. We carry out that responsibility through rigorous scientific screening of pesticides and imposing limits on the use of registered pesticides to ensure that they do not harm people or the environment when used according to the product label.

The State of Ohio submitted to EPA under section 18 of FIFRA a request for emergency use of products containing the pesticide active ingredient propoxur against bed bugs. FIFRA Section 18 authorizes EPA to allow an unregistered use of a pesticide for a limited time if EPA determines that an emergency condition exists. EPA conducted an assessment of Ohio's request for the use of propoxur against bed bugs and concluded that the use could not be granted. EPA found it could not adequately protect the public and ensure safety if the emergency exemption was granted. A particular concern was identified for children who might be exposed to propoxur in and around rooms treated for bed bugs.

Would EPA consider extending the restrictions that currently apply to propoxur to the 25(b) bed bug products?

When EPA evaluated uses of propoxur for registration, we placed restrictions on how products can be used in order to limit exposure of the user and ensure that the product can be used safely. Pesticides containing propoxur do not qualify as 'minimum risk' products under section 25(b).

Under FIFRA section 25(b), "minimum risk" pesticides are a special class of pesticides that are not subject to federal registration because EPA has determined that the ingredients are demonstrably safe for use. Therefore, no use restrictions are needed for 25(b) pesticide products. Some examples of 25(b) ingredients are corn oil, cinnamon and cinnamon oil, cedar oil, and citronella. More information about 25(b) pesticides is available on EPA's website: http://www.epa.gov/oppbppd1/biopes-ticides/regtoos/25b_list.htm.

Further, EPA expects all pesticides meeting the requirements of 25(b) to be effective against pests identified on the product labels. If the product does not control the pest(s), the product is considered to bear false and misleading labeling statements about the effectiveness of the product, and sale or distribution of the product would be a violation of FIFRA.

Mr. LATOURETTE. Two quick observations. Your apartment burning down is worse than a bad result, so I would hope you would look at the limited uses. The second thing is, we talked last year about your proposed regulation in 2010, which would change what people who make grass seed could call their product. If you are going to get into the Trade Commission or Consumer Protection business, it seems to me that you would have a vested interest in helping to curb these things that just do not work.

Ms. JACKSON. Well, our pesticide program absolutely should be dealing with labeling enforcement to the extent we can, working with the State on things that do not work. So I am happy to take a look at it.

Mr. LATOURETTE. Thank you so much.

Ms. JACKSON. Thank you.

Mr. SIMPSON. Mr. Hinchey, I think Norm has a question he would like to ask.

PEBBLE MINE PROJECTS

Mr. DICKS. Have you heard about the Pebble Mine up in Alaska?

Ms. JACKSON. Yes, sir. On my one trip to Alaska, I met with a community and with representatives from the State to discuss the matter.

Mr. DICKS. Is it correct that EPA may decide on the 404(c) status of the Pebble Mine project? Is that a possibility?

Ms. JACKSON. Yes, sir. We have been petitioned under a seldom-used part of the Clean Water Act 404(c) to make a determination as to whether or not the mine project should be forestalled before it is significantly developed.

BRISTOL BAY

Mr. DICKS. Well, you know, this is proximate to one of the most important fishing areas in the country. This is right near Bristol Bay which is home for sockeye, Chinook salmon and other fish. And I think the concern here is we want to make sure if they do go forward with this, that they have a discharge system that it will not threaten the salmon. So there is a great deal of concern about it. And my State of Washington, a lot of people go up and fish up there, so they are quite concerned about it.

Ms. JACKSON. Yes, it is quite beautiful. EPA, because this is an unprecedented request, we entered into, and I think it has been about a year, maybe a year-and-a-half, of collecting data to determine the extent of this mine, the extent of the resources and try to understand how to respond and what might be the appropriate response to the petition we received.

Mr. DICKS. All right. Thank you very much. Thank you, Mr. Hinchey.

Mr. SIMPSON. Mr. Hinchey.

Mr. HINCHEY. Thank you, Mr. Chairman. Administrator Jackson and Chief Bennett, thank you very, very much. I very much appreciate your being here with us today.

Administrator Jackson, I want to begin by commending you and EPA for all you have done over the course of the last 3 years, all the effectiveness, all the creative activity that has been engaged in over this last 3 years. It is really amazing what you have accomplished, and I think this is something that is very, very strong and very, very effective, and we deeply, deeply appreciate it.

AGING INFRASTRUCTURE

In my State of New York, for example, we are an aging infrastructure. It is a major problem over the last 3 years. EPA has invested very substantially to upgrade our water and drinking water systems. This has made a huge impact in terms of jobs and financial relief for local communities. Frankly, we need to be doing much more in this area, and I certainly hope that this Subcommittee will work to increase funding for the State Revolving Fund. That would be a very positive thing, and it would be very helpful.

HUDSON RIVER PCB CLEAN UP

Another great example of EPA's work is the Hudson River PCB Clean Up. After more than 30 years of delays, GE has begun the final phase to clean up more than 1 million pounds of PCBs that it dumped into the Hudson River. That is going to make a huge difference in restoring the health of that river. It is a very important river, and it is going to make a big, positive difference.

I also strongly support EPA's mercury and air toxic standard, its cross-state pollution rule and especially its efforts to cut greenhouse gas emissions. These protections and others are going to have enormously positive health and economic benefits, and again, I just applaud you for your courage and determination in seeing these things through and carrying them through effectively.

HYDRAULIC FRACTURING

I would like to talk a little bit about hydraulic fracturing, and I would like to ask about hydraulic fracturing and shale gas drilling. As advancements in high-volume hydraulic fracturing and horizontal drilling have allowed gas companies to access previously unavailable gas reserves, I believe that we have played and we are still playing catch-up in trying to understand the risks that this process poses to the environment and public health. Today's hydraulic fracturing operations are much different than what was being used 40 years ago, even 20 years ago. The public needs more scientifically credible information about what is going on with regard to this situation.

EPA study and research, and I am very, very pleased that EPA's budget includes funds for additional scientific research on hydraulic fracturing. Aside from EPA's own research, this topic, which really began in earnest over the last few years, how would you describe the body of independent research into the impact high-volume hydraulic fracturing on water, air and human health? Are you aware of any major independent scientific research projects?

Ms. JACKSON. Well, sir, thank you for acknowledging the work EPA is already doing which is a congressionally mandated study. We are requesting a total of \$14 million. That includes work to continue the study on drinking water but then adds things like air quality and ecosystem impacts. All told as we heard earlier, that is a \$45 million investment across EPA, DOI, primarily USGS and Department of Energy. So those studies are ongoing.

Several academic institutions are now doing studies in what I will call fracking country around places where fracking has begun, and I imagine we will be seeing results of those over time as well.

Mr. HINCHEY. Okay. Well, can you talk about what this new research will entail, how it complements EPA's ongoing study into fracking and the effect of water?

Ms. JACKSON. Well, to answer your question but also to Mr. LaTourette's point, the White House in investing in the science, which we believe is very important, would see a coordinated effort. So we are beginning to have meetings with the agencies to scope out coordinated studies that are not repetitive to deal with issues around ecosystems which one could easily see EPA but certainly DOI having a particular interest in water quality. Clearly, EPA is doing one study, but there could be some other concerns around disposal of fracking water. That has come up. And then of course, air quality. EPA has some regulations on oil and gas development that have been proposed, but there have been concerns about air quality. And I think scientific inquiry and study can only help that process.

PAVILION, WYOMING STUDY

Mr. HINCHEY. Yes, okay. Just let me mention a little bit about Pavilion, the Wyoming study. Continuing on the research path, in December the EPA released a draft study report into ground waste contamination complaints near Pavilion, Wyoming. The Agency drilled its own deep water monitoring wells that detected benzene concentrations well above the Safe Drinking Water Act standards, high methane levels and synthetic chemicals like glycols and alcohols consistent with gas production and hydraulic fracturing fluids.

There have been a lot of criticisms of this study from the industry and its supporters, but a Cornell University review of this EPA research found, and I quote what they have said, "The study provides compelling evidence to support the conclusion that ground water contamination from natural gas drilling operations has occurred in several locations." So the Cornell paper also found that despite clear differences in drilling in Wyoming versus other parts of the country, several issues raised by the US EPA study are important with respect to drilling that might happen anywhere.

So can you talk about the scientific process that has been used to develop this draft study? Are you going to have an outside peer review of the report? And given that this is just a draft, when does the Agency plan to issue a final report?

Ms. JACKSON. Thank you, sir. I am happy to talk a little bit and explain a little bit more about Pavilion, Wyoming.

EPA did a Phase I and II study which essentially sampled home wells, domestic wells and livestock watering wells, public supply wells and shallow monitoring wells. So we started with drinking

water. We then moved to Phases III and IV, and that is the subject of the report you mentioned during which time two deeper monitoring wells and selected drinking water wells were sampled.

It is important to note that the wells that showed some elevated levels of certain contaminants were not domestic wells. They were wells that were slightly deeper than the shallower of the two wells we drilled. So when we read that we say the drinking water there is contaminated, it is not the case, although the State has certainly been working with that community on their drinking water.

Going forward, we have agreed that additional sampling can and should be done. The State is interested in doing a more fulsome investigation. They have been, as have we been, interested in including USGS and their expertise, and so we have agreed to partner with them as well as with the State on another round of sampling. That sampling is going to happen this spring.

So in terms of the report, it will most certainly be peer reviewed. We have agreed to that. We have agreed to an open process. We have agreed to treat it as though it is a highly influential scientific assessment which is the highest standard of peer review that the Agency does on a document, and let me just close by saying something that I say that does not often get picked up in the first two lines of the story which is Pavilion is one place in Wyoming. We were very clear in the report that you cannot draw conclusions about the rest of Wyoming, much less East Coast geology. Very, very different in terms of the depths we are dealing with, also different in terms of the fact that there are very large used water lagoons that the State has been investigating for quite some time as a potential source.

So it is a complex issue. It is one place, but because people have been concerned, we will continue to work with the State. There are tribal interests there as well as we move forward, and it will be peer reviewed. I cannot give you a date on the study, but we should be releasing a date quite soon.

Mr. HINCHEY. Well, thank you very much, Administrator. My time is up.

Ms. JACKSON. Thank you.

Mr. SIMPSON. Ms. Lummis, from Wyoming.

Mrs. LUMMIS. Thank you, Mr. Chairman. Yeah, I would like to talk about Wyoming, too. Thank you for being here, Administrator Jackson.

And my first topic is the one that was just discussed by a gentleman who lives 2,000 miles away. I would point out that in Wyoming, in that area, the Indians named the creeks around there Bad Water Creek, Poison Creek and it was only non-Indians that converted their language for those names for those creeks into English. They had their Arapaho and Shoshone names prior to that, but they meant the same thing. They meant Bad Water Creek, they meant Poison Creek, and that is because the water in the area around Pavilion is bad water.

FRACKING FLUID—WYOMING

So I want some yes or no answers to my first few questions, and I want to reiterate some of the caveats that you provided to the

previous questioner. Did you find fracking fluid in the drinking water?

Ms. JACKSON. No, not to my knowledge.

Mrs. LUMMIS. Are you sure that you found fracking fluid in the ground water?

Ms. JACKSON. Yes, based on multiple reviews and a weight of evidence proposal, but that is subject to peer review, and I have agreed to that. So saying sure, I would like to leave the door open to say that we will do a full peer review on that.

Mrs. LUMMIS. Did not your own report say fracking may be responsible for ground water contamination? So now you are sure and in the report it was may?

Ms. JACKSON. Okay, so I would say no, we are not absolutely, 100 percent sure, but the report, based on weight of evidence and investigation, asserted that and that will be subject to peer review.

Mrs. LUMMIS. Okay, this one is yes or no because I did not understand what you just said to the previous questioner. So I am going to ask it this way. Will you commit to subjecting your draft report on groundwater contamination in Pavilion, Wyoming, to OMB guidelines for highly influential scientific assessments?

Ms. JACKSON. Yes, we have, although it is not classified as an HISA. We are using—

Mrs. LUMMIS. So really it is not. So your answer is no.

Ms. JACKSON. No, we are treating it as though it is. But we are committing to doing it.

Mrs. LUMMIS. What is happening? Is it a peer review or—

Ms. JACKSON. Yes, ma'am.

Mrs. LUMMIS. Well, but that is different, I think you are telling me, from using OMB guidelines for—

Ms. JACKSON. No, ma'am.

Mrs. LUMMIS [continuing]. Highly influential scientific assessment.

Ms. JACKSON. We will use the guidelines. Yes, we will.

Mrs. LUMMIS. Okay. You are going to use those guidelines, the OMB guidelines?

Ms. JACKSON. We are using the guidelines that are for a highly influential scientific assessment.

Mrs. LUMMIS. Will you commit to use reviewers other than the three experts you used prior to releasing your draft, each of which had been linked previously to anti-fracking papers and studies? Will you commit to using as reviewers experts other than those that you used before that were linked to anti-fracking papers?

Ms. JACKSON. I believe that the peer review requirements under OMB are going to require that all reviewers are selected by a contractor to be free of any conflict of interest. So my belief is that they are going to drop out of that process. I do not personally pick them. That is part of the OMB circular.

FUNDING FOR FRACKING STUDY

Mrs. LUMMIS. Thank you very much. So, you are adding funding to study fracking. As I understand it, if you cross agencies, the Administration is looking at about \$45 million for a coordinated expanded study including Department of Energy, Department of the Interior. And is this going to expand beyond fracking because you

mentioned air qualities? I mean, are you going into the entire process of unconventional shale drilling, not just fracking itself?

Ms. JACKSON. Well, it looks at unconventional drilling and operations associated with it. So for—

Mrs. LUMMIS. Though does not that already happen in state and federal permitting processes?

Ms. JACKSON. It certainly does, but there are some questions about the amount. For example, there has been a study just came out maybe a couple of days ago saying how much is unknown about how much methane leaks during gas production. And so those are the kinds of questions that will be asking. And the \$45 million just to clarify is not all in EPA's budget. I think you said that. It is a total of \$14 million in EPA's budget including the amount that is for the study that is ongoing.

Mrs. LUMMIS. Well, and I hope you will recall that methane leaks naturally, leaks in the ocean around Santa Barbara. Santa Barbara is just like bubbles coming up. I have a photograph of a 24/7 creek in Wyoming that burns. Here is the creek, and here is the fire on top of it. It is a natural methane seep through the creek. I mean, these things just occur naturally. Yes, of course, we want the OMB review according to OMB standards. But it has been enormously frustrating since December when the draft non-peer reviewed report was issued to see how many people have jumped to conclusions.

So I do appreciate that when you were speaking with the previous questioner that you shared the caveats, that it was not drinking water that was contaminated. It was ground water that you investigated. There is contaminated drinking water there. We do not know if it came from fracking. It might have come from Bad Creek or Poison Creek and that our State that cares deeply about its citizens and its environment is working very, very hard to get clean drinking water, right now, even as we speak, to the people in Pavilion, Wyoming.

HAZE PROGRAMS

Now, I want to shift over to haze issues. The Clean Air Act requires states to develop plans that are called state implementation plans. Now, you have been moving down a path to reject, at least in part, most western states' state implementation plans and putting in place a federal implementation plan that federalizes regional haze programs. So that requires retrofitting of coal-fired plants with extremely expensive selective catalytic reductions. So I have got these letters, and they are signed by—and we are concerned about it in the West. And just to show you that our colleagues in the majority party, meaning the majority party in Washington, your party, including Jared Polis, Diana DeGette, Max Bachus, Jon Tester, Mark Udall, Ken Conrad, Michael Bennett, Tim Johnson, Jim Matheson and Ed Pastor, all Democrats, were gracious enough to allow their Republican colleagues to join them on a letter to you expressing our deep concern about the fact that you plan to propose regional haze federal implementation plans in our States. How are you implementing the required fiscal year 2012 appropriations bill that the EPA work in cooperation with the States on developing the regional haze programs?

Ms. JACKSON. Well, I am not sure it is accurate to say that we made a decision with respect to Wyoming SIP submittals. We are under a consent decree that specifies that we have to sign an action on the regional haze SIP by May 15 of this year and sign a final action by October 15. We have met numerous times with Wyoming DQ about this issue. We will continue to consult closely with them as we work throughout statutorily mandated responsibilities to review these regional haze—

Mrs. LUMMIS. Well, I might remind you, Oklahoma and New Mexico have already been FIPped. Their SIPs were rejected. You are FIPping them. And Oklahoma filed suit against EPA over the issue. North Dakota is likely to be FIPped today or tomorrow.

Ms. JACKSON. But I think that rather than us speculate on what is going to happen with North Dakota, we should allow that process to continue because discussions there continue. I do not think it is accurate to say that most states have been FIPped. Certainly in reviewing these plans—

Mrs. LUMMIS. Has Oklahoma been FIPped?

Ms. JACKSON. Yes, it has.

Mrs. LUMMIS. Has New Mexico?

Ms. JACKSON. I do believe so.

Mrs. LUMMIS. Is North Dakota going to be FIPped?

Ms. JACKSON. As I said, that decision, I think, is due tomorrow or Friday, and it will be out and we will all be able to discuss it then.

CATALYTIC REDUCTIONS

Mrs. LUMMIS. Is it the EPA's policy that the use of selective catalytic reductions must be used despite the flexibility granted to you in the Clean Air Act and despite the fact that in many cases the use of these catalytic reductions do not even impact visibility?

Ms. JACKSON. It is EPA's policy that best available retrofit control technologies be used. That does not necessarily mean that SCR be used, as SNCR is an option as well.

Mrs. LUMMIS. Okay. Mr. Chairman, one more question?

Mr. SIMPSON. A quick one.

TIER 3

Mrs. LUMMIS. Okay. Tier 3. I am hearing conflicting reports. Can you tell me if your proposed Tier 3 regulations include changes to the vapor pressure regulatory structure—

Ms. JACKSON. We do not—

Mrs. LUMMIS [continuing]. Or is it just sulfur?

Ms. JACKSON. Oh, excuse me, Ms. Lummis. We have not proposed Tier 3 regulations. Those regulations are probably a year away from being final at the earliest. But to answer your question, no. The EPA has not been reviewing changes to the Reid vapor pressure as part of the Tier 3 rules.

Mrs. LUMMIS. Mr. Chairman, thank you. And thank you very much, Mrs. Jackson. I yield back. Thank you very much.

PCB CONTAMINATION IN NYC SCHOOLS

Mr. SIMPSON. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman. Thank you, and thank you Ms. Jackson for your work, Administrator Jackson, and for your willingness to always be accessible to folks in every community in this country.

Last year we spoke about the ongoing issues with PCB contamination in New York City Schools and also in aging school buildings around the Nation. I would like to resume briefly that conversation and see where we are with that difficult issue.

To be totally clear, since those preliminary tests, we have found that this toxic carcinogen is leaking in every New York City public school building that has had its lighting inspected to date, and there have also been found in the window caulking of numerous school buildings across the city.

I have learned a little about the specific remediation procedures the education department submitted to the EPA for review and comments last month. I have to say that what I learned about them makes the plans sound inadequate. From what I understand, the lighting ballast replacement is based on a visual inspection which has been proven to miss the vast majority of leaking PCBs. The caulk remediation revolves around repairing broken caulk but leaving the unbroken PCB-laden caulk in place and simply opening windows or upgrading the air system to increase air flow and lower the levels of PCBs in the air.

As described to me, these plans are seriously deficient, and when combined with the overly long timeline leave our children in serious dangers of exposure to these terrible chemicals.

So if you would please explain what the EPA is doing to ensure that these chemicals are safely and quickly taken out of the schools in New York City, I would appreciate it. Will you be issuing further guidance on these plans? I am sure that you agree that we need to treat this as an urgent problem that demands a fast, effective and comprehensive solution.

Ms. JACKSON. Thank you, Mr. Serrano. Thank you for noting that EPA has been involved over the year since we last spoke about it. As you know, over the past year EPA itself inspected New York City schools to look for the ballast issue to determine if they have leaked in the past or are leaking. The inspections did find numerous leaking ballasts with PCBs concentrations above the regulatory limit, including some with levels exceeding 600,000 parts per million. Now, that is from the ballasts themselves. New York City announced its plan in 2011 to replace all lighting ballasts in 772 schools and has allocated capital in its budget. My understanding is over 10 years, EPA has commented that we believe that accelerating the pace to 5 years was more reasonable. EPA did indeed as a result of what it learned issue national guidance to recommend that schools across the country take steps to reduce potential exposures to PCBs from older fixtures, and New York City has certainly addressed those leaking ballasts that EPA at the schools inspected or sampled. They have completed removal at 64 schools, and they have I think put on fast track or prioritized 138 additional schools that they know have leaking ballasts right now.

Caulk is certainly a separate issue. We actually started this, worrying more about caulk, if you recall, and then it came to realize that the leaking ballasts were perhaps a more urgent issue. Less

is known I think about the contribution of caulk versus ballasts, but as you heard from the number 600,000 parts per million, I think the city's focus and our focus has been primarily on the ballasts where we know that we have pretty high concentrations of PCBs.

Mr. SERRANO. Now, I am one of those Members of Congress who has great trust in your abilities and your vision and your determination to something that is going right or going wrong. So my question to you is are you satisfied, are you comfortable with the direction that New York City is taking in this particular issue in dealing with this problem?

Ms. JACKSON. I think our office—

Mr. SERRANO. Or are there things that you are trying to push them on that you could say in public?

Ms. JACKSON. Well, no, I just said publically the one place where I think we have had the most discussion, which is whether or not there is an opportunity to accelerate addressing the lighting issues, and that comes up often and I think that Judith Enck and her staff in the Manhattan office have gone the extra mile to be responsive and point out and look for, even physically inspecting and sampling this situation. The only other thing I would say is that there is some measure of additional information that we will learn as we go. One thing that the city did last year, as you recall, is agree to study and understand as it did sampling put together a report so that other school districts could learn from work they had done as well. And so it is a difficult problem because of funding, but I do think that their focus on ballasts is right, and I do think that for caulk, one of the scientific questions that would be good to know the answer, and I do not believe we know it, is what is the relative contribution from caulk compared to this huge source we know we have when you have a leaking ballast, sir.

Mr. SERRANO. Right, and I would hope you continue to try to convince New York City to move on this quickly, and secondly just to remind you that we first started out looking at what effect this has on children. Mr. Chairman, we later found out that of course it had an effect on teachers. But then recently we found out the effect that it would have on female teachers—just to inform you—

Mr. SIMPSON. Okay.

Mr. SERRANO [continuing]. Of child-bearing age. And that became even a more difficult situation to lose. So I hope you stay on this and do not let them just deviate from this issue.

Ms. JACKSON. Thank you. We have obligation under law, but we are also, I think the region has been willing to go the extra mile and thank you.

Mr. SERRANO. Mr. Chairman, with your permission, I have another question that I probably will submit for the record.

I want to take one minute here to tell you a very quick story and something that I need to do because this is the EPA hearing and we will not have another EPA hearing this year.

Thirty-eight years ago I was elected to the State Assembly, and when I walked in for orientation in December of 1974, I met a young man who I quickly became friends with. And this young man quickly began to tell us about environmental issues. And being from the Bronx, New York, I knew very little about environmental

issues. I quickly learned, and he became our leader, and then he became Chairman of the Environmental Protection Committee in the State Assembly. And that young man has decided not to run for reelection.

In the Bronx these days I have a reputation of being some sort of an environmentalist. I would not know 1/10 of what I know had I not paid attention to him starting in December and all of the years that we have served together. And I want to say to you, Maurice Hinchey, your impact on our State, on this country and on me has been tremendous. And we will have many times to say thank you to you before the year ends, but this is the hearing where you introduced me to these issues 38 years ago. I do not dye my hair, I must tell you, just in case you are wondering. But you and I have been together for a long time, and you have been special and I know we are going to miss you in this Congress. Thank you, Mr. Chairman.

Mr. HINCHEY. Thank you.

Mr. SIMPSON. Let me echo that congratulations and thanks to Mr. Hinchey. I was not there 38 years ago. I was barely born then. But you have been a tremendous asset to this committee. We have agreed sometimes and disagreed sometimes. That is kind of the way it works. You have always been a gentleman, and I have always enjoyed working with you on the issues.

WETLANDS GUIDANCE

Anyway, let me ask a couple questions if I could. First of all, the EPA last week sent its so-called wetlands guidance to OMB for final review. Not only has Congress pointedly rejected similar efforts to statutorily expand the scope of the Clean Water Act, the majority of the Supreme Court justices concluded that the Government was exceeding its regulatory authority in how it regulated our waters.

Questions: How does the Administration's policy as articulated in the guidance differ from the overreach that was overturned by the Court? Is the EPA working on rulemaking to address the same issues, and if so, why is the guidance necessary? What I hear, and I realize that I hear all sorts of things, is that the Administration issued the guidance because it cannot be litigated. And so if the rule making gets tied up in court or elsewhere, the guidance will still be there as fallback in order to achieve many of the same things that could not be done through the formal regulatory process.

Ms. JACKSON. Thank you, Mr. Chairman. First, the guidance that is over now that we submitted to OMB for interagency review, replaces guidance, that was issued to clarify clean water jurisdiction in the wake of two Supreme Court decisions that I usually say muddied the water, but that is a terribly bad pun, but clearly leaves a lot to be desired in terms of predictability, consistency and scientific support for Clean Water Act permitting. What we have right now, frankly, is guidance. And so this guidance which was put out in draft which went through public comment and which we are endeavoring to finalize is aimed at increasing certainty and predictability in the permit process. We worked together with the U.S. Army Corps of Engineers, and one of the reasons that we did

so is that we heard from staff, not just our staff but Corps staff, that the determination of jurisdiction on waters was taking an inordinate amount of time and leaving waters unprotected that might need to be protected. And that did not seem to be where we want to be putting our resources, determining if water is water. Just a few clarifications. The guidance preserves the current exemptions for those agriculture activities that are already exempted. It is meant to provide some greater level of certainty and has been—I think clamor might be a strong word, but the conservation community has been saying for quite some time that we need to have a better definition of what waters are protected under our Clean Water Act.

NAVIGABLE WATERS

Mr. SIMPSON. I realize that, and many of them want the EPA to control all the waters of the United States. Obviously, many of us in the West feel that navigable waters is a good definition and that when you say leaving waters unprotected, there is state regulation that protects those waters. It is just a matter of who does it, the state or the Federal Government. And that is the debate that we have in Idaho. Do we want the Federal Government overtaking the control of many of the non-navigable, as defined today, non-navigable waters that the state controls? And that is the concern we have. It is not a matter of protecting them or not protecting them, it is who protects them.

So anyway, how does the guidance that you issued, differ from the rules that were overturned by the court?

Ms. JACKSON. Well, in general it addresses the issue of tributaries and basically tells officials how to judge whether a tributary to a navigable waterway is indeed also regulated. As you know, you can protect the waterway, but if you do not protect the tributaries to that waterway, the water quality will most certainly degrade. And sir—

Mr. SIMPSON. But by that argument, you would go all the way to rain.

Ms. JACKSON. Well, but we do not. The guidance does not do that. We are happy to give you a full briefing. But what it does is use science to determine where, scientifically, one could make a reasonable determination of nexus in terms of water quality, which is one of the key terms that was in one of those Supreme Court decisions that causes so much uncertainty. So you end up litigating nexus, whether or not there is actually a connection.

Again, I just want to say that what we are talking about in many cases, and certainly in parts of the West it is very true, you have a different world, you have ephemeral water bodies and intermittent water bodies. But in wetland loss, whether it is the value of wetlands for controlling flooding, whether it is the value of wetlands as they are Mother Nature's filter in terms of water quality. They are also our nursery in terms of so many species. Those are often not jurisdictions. I happen to work in a state that had jurisdictions over wetlands. We had our own wetlands standards. But many states do indeed look to the federal definitions to determine whether or not their own state statutes are applicable. So there will be states that when EPA clarifies what is jurisdictional will

also get clarification for their own implementation of their water programs, and the Army Corps implements wetlands programs in many, many states in the absence of state law.

TECHNICAL ASSISTANCE

Mr. SIMPSON. Okay. In the 2012 budget, we included \$15 million to establish a competitive grant program wherein entities that provide technical assistance to small and rural localities or private well owners have an opportunity to compete for these funds to assist these communities with understanding and complying with EPA water regulations. I am dismayed that the EPA has not included the funding in the President's FY13 budget for rural water technical assistance. I suspect part of that answer is that tough choices had to be made in this budget, but why is it not a priority for the Administration to fund these technical assistance programs that help communities keep up with and understand the impacts and requirements of the EPA water regulations?

Ms. JACKSON. It is indeed tough choices, sir. There are a couple of options for those communities. First, states may set aside 2 percent of their drinking water fund to provide technical assistance to small systems. So there is a small system technical assistant set-aside within the SRF, and most states now use it.

The second is also looking at maximizing opportunities with our friends over at the USDA. USDA does a decent amount of work in rural water quality and rural assistance on water issues and so in trying to make tough choices about where funding could be spared, and they are tough. This was one of those programs.

FOREST ROADS

Mr. SIMPSON. On another subject, as you know the Supreme Court is now considering whether to review the Ninth Circuit Court of Appeals' decisions stating for the first time in the history of the Clean Water Act that forest roads are a point source of water pollution under the Clean Water Act.

Last year we worked on a bipartisan basis with the Administration to include language in the Omnibus Appropriation Act on this issue, and we appreciate the Administration's cooperation on this important issue. In addition to our efforts, 30 bipartisan State Attorneys General from around the country have sought Supreme Court review of the Ninth Circuit decision as have 76 bipartisan members of the House and Senate. Governors from both parties, including Governor Kitzhaber of Oregon who leads the appeal to the Supreme Court and numerous other elected officials around the country support preserving the EPA's historic position on forest roads as a non-point source.

Given all that is at stake and the bipartisan effort of so many to defend the EPA's position, could you update us on the efforts of the EPA and the Administration to defend your existing regulations and preserve the non-point status of those forest roads?

Ms. JACKSON. Thank you, sir. Mr. Chairman, EPA has not in the past required any operator to obtain permit coverage for storm water discharges from logging roads. That is the subject of the court case. The Department of Justice is obviously reviewing the petition to the Supreme Court by the plaintiffs and will provide a

united Federal Government position. As you might imagine, there are EPA equities but also Department of Interior equities and USDA forestry equities as well.

No one disagrees that logging roads could, if they were totally unregulated, degrade forest streams and rivers. But these discharges can be controlled through best management practices like grading and seeding, designing road drainage structures and others.

So we do believe that under the Clean Water Act EPA has options to ensure working with our partners that these practices are implemented with minimal administrative burden to the logging road industry. I would probably not be at liberty to say more as the Department of Justice prepares its papers.

Mr. SIMPSON. Are you currently working with the forest industries to maintain or ensure that they know about and implement those best practices on forest roads? Do you give them advice and—

Ms. JACKSON. Yeah, to be honest I do think it is fair to say that often the front line of that is USDA programs, although EPA works in concert with them to endure. We are on the water quality end, so we are more on the receiving end. But I would not be surprised to know that we do do it already, and that is why I believe as we look at our authorities under the Clean Water Act, permitting is one way to do it, but there are certainly other options.

SUPERFUND PROGRAM REDUCTION

Mr. SIMPSON. The 2012 budget proposes \$1.176 billion for the Superfund program, a \$37 million reduction from the 2012 levels. 90 percent of the reduction, or \$33 million, would be taken from the Superfund remedial line item—the line item responsible for cleaning up sites on the national priority list. One concern that I raised last year about the Superfund budget is that only two out of every three appropriated dollars from the fund is used for clean-up activities. That third dollar largely ends up funding administrative overhead activities with some exceptions for research and apportionment. When large reductions are proposed as was the case in 2012 and again is the case this year, disproportionate reductions are applied to the cleanup program rather than derived from the bloated overhead and administrative activities as one might expect. We included report language in 2012 that said we expected future budget requests to propose a higher percentage of cleanup funding as a part of the total request. I am sorry to say that it still appears that the direction was not followed. In fact, total Superfund cleanup funding has been reduced by \$40 million across the budget, which means that money was added back to those administrative and overhead positions of the Superfund budget in order for the top line to net out at only a \$37 million reduction. Can you please explain why the budget again proposes essentially to defy congressional intent?

Ms. JACKSON. No, sir, we are not trying to defy, but if you would not mind, I would like to explain a little bit more in detail. I worked in that for a long, long time.

Mr. SIMPSON. Okay.

Ms. JACKSON. You know, there is a need, and I think it is fair to ask that EPA constantly look to maximize cleanup dollars and maximize the return and the amount of cleanup we can purchase with our dollars. And we have had several efforts, and they are ongoing and I think we have made some progress in finding ways to squeeze every shovel full if you will out of remedial dollars spent.

But the budge requires several things. First is the emergency response which, you know, you need it when you need it, and when you do not need it, we try to make sure that we use those staff to help on smaller cleanup and investigations. But we have cut that, but we believe we have to keep readiness and capacity and ability to respond as we did to several issues this year.

There is a need for staff for cost recovery. It is a fund that is meant to be supporting, and so those cases as you most certainly know, can be quite contentious, and we are often called to explain and defend how much money we are putting on cost recovery to try to replenish the funds so that the polluter pays principal remains in effect since it is at the heart of the Superfund.

And then there is money needed for what I will generally call science and investigation. We are looking at new sites in response to concerns. We responded to some concerns right now in the community where we do not quite know whether it is Superfund site related, but it is sort of an unknown situation where across the country there are several of them going on right now where we use funding so that we can be responsive, especially in cases where the states may not have the expertise or the funds to be able to respond as well.

And so I can assure you that we will continue to try to heed the spirit of the call which is to maximize funding to actually do cleanups. No one likes to be put in the position we are in which is to say that with the funding levels we are looking at, we would have to stop new starts. We can sometimes find some savings and reobligate money to a new start, but at the levels we are looking at, we would not be able to start new cleanups. We would be able to continue a pace with the cleanups in the system.

Mr. SIMPSON. So we would be adding sites to the priority list?

Ms. JACKSON. There is still funding for the investigation and assessment of sites. We have added several this year. I do not believe we are talking about absolutely forbidding it, although certainly the pace of additions is not what it once was.

DRINKING WATER STATE REVOLVING FUNDS

Mr. SIMPSON. In the 2013 budget, EPA proposes to reinstate the green infrastructure reserve for the Drinking Water State Revolving Fund. We eliminated this requirement in the 2012 bill because most of the so-called green projects eligible for funding via the Drinking Water State Revolving Fund are really energy efficiency upgrades for more efficient water pumps et cetera. One would expect the states and utilities would invest in these types of projects on their own if they make economic sense. They would not need a mandate to do so. Further, by carving out 10 percent of the drinking water funds for green infrastructure projects, you are reducing the amount of funds available to address human health concerns and projects that could improve the quality of drinking water.

Therefore, Administrator, why are you proposing to require that the states and utilities prioritize energy efficiency projects over projects that would improve drinking water quality?

Ms. JACKSON. This is only on the drinking water fund, sir?

Mr. SIMPSON. Yes.

Ms. JACKSON. Okay. I was about to give you a wastewater answer, that is why I am clarifying, get you mad at me. The drinking water side I think we saw during the Recovery Act where there was that set aside, that communities welcomed the opportunity to invest in efficiency because for many communities, the provision of drinking water, if it is a public supply, is a huge energy usage. And the SRF funding for many communities is the only opportunity that they have to invest in their systems. So if they can invest and make the system more energy efficient, they actually can then use the money they save to do capital investments over time. That is the thinking, and I think it is a good one when you consider that for most municipalities, their number one energy use, if it is a municipal system, is moving water, water and drinking water.

Mr. SIMPSON. You are setting 10 percent of it aside to do it.

Ms. JACKSON. Yes, sir. There is a set aside proposed in the SRF.

Mr. SIMPSON. Are the requests, are the demands for more than 10 percent?

Ms. JACKSON. We had no trouble meeting the, I think, 20 percent set aside in the Recovery Act. So this is a lower number. We had no problem meeting the 20 percent investments.

You did not ask about wastewater, but if you would just give me 1 second to wax philosophical there. On the wastewater side, it is a little bit different. On the wastewater side we have many, many municipalities across the country, medium and large cities especially but some small, that are endeavoring to meet Clean Water Act requirements to deal with raw sewage and other issues. It is a long-term investment.

There is pretty good science and wonderful work happening in some of those cities that show that green infrastructure, and here, it really is what it sounds like, allowing more wastewater to—ripping up pavement when you can on a brown fill site and allowing infiltration of water back in can actually help reduce the amount you have to spend on the really expensive gray infrastructure. And so many municipalities are coming back in and looking for opportunities to make those investments. There we see as much, if not more, of an opportunity for green infrastructure to actually be a boom to those communities.

OVERREGULATED AMERICA ARTICLE

Mr. SIMPSON. Okay. I have got one other subject. I suspect you have read the article, "Overregulated America," that talks about all sorts of reservations—

Ms. JACKSON. Double article, yeah.

Mr. SIMPSON. Yeah, it says tangled up in green and they are talking mostly about the EPA, and as I read that, the one thing I came away with is, and you have mentioned this several times, that you want to do something in public and transparent. And what this article kind of directs us at or suggests, in fact, it does not suggest, it states, that a lot of cost-benefit analysis done by the

EPA and so forth is not done in public. It is not transparent. We do not know how they come up with the numbers that they come up with. In fact, the recommendation in here or the suggestion is that you need an independent, outside body to actually do the cost-benefit analysis because just like industry overestimates the cost and underestimates the benefit, regulators always underestimate the cost and overestimate the benefit. And it is generally somewhere in between those two extremes. The regulatory agenda for the Administration lists 175 planned rule makings for the EPA, of which 112 regulations are in the proposed rule-making stage, another 62 regulations are in the final stage. A little over half of these regulations are air related. According to the EPA's congressional justification, there are approximately 70 stationary sources or air toxic rules due for review and promulgation between 2012 and 2013 alone. What I want to know is will the Administration and the EPA keep this committee informed and meet with us on your regulatory agenda so that we know as we are putting a budget together what it is going to require in terms of your appropriations and so forth?

Ms. JACKSON. Mr. Chairman, we are happy to continue to update you on our regulatory agenda. We publish it. That is the source of the information they are using.

Mr. SIMPSON. Right.

Ms. JACKSON. But as Chairman and someone with your years of experience, I know you also know that not everything on the agenda is top priority. And so as we work, we prioritize based on resources, those that we believe are most important or are required by law and subject to lawsuit if we do not do our job on time. We are happy to continue to update. Let me just say that the work that is up and public is our regulatory agenda as we see it. The prioritization of our rules moves in somewhat different fashion, and of course, the rule-making process itself, I take issue with several things in the article. There is actually—

Mr. SIMPSON. Sure, I understand that.

Ms. JACKSON [continuing]. Another article in that same magazine that takes issue with several of their contentions as well, I believe. But I will say this. I think EPA's National Center for Environmental Economics, which I did not found, is as thoughtful and has as much expertise as some of those who would claim to be experts. History shows that EPA generally overestimates the cost of its regulations, and that is because the American innovator usually finds a way to meet, engineers and scientists and technicians, find solutions that turn out to be cheaper when they are put in place, cheaper than we might have thought. So while we always want to do better, I would not necessarily agree with the contention that we have not spent an awful lot of time getting better and better at estimated cost benefits, and we have added job impact analysis as well.

COST BENEFIT ANALYSIS

Mr. SIMPSON. Well, I have talked about this last year. I have talked about putting together a hearing or just a briefing on how we come up with cost-benefit analysis because that has been a question, and I wonder how there can be such a widespread diver-

sity in what the cost-benefit analysis is on any given thing. I expect some differences, and that is okay.

RECOMMENDATION TO EPA

One other thing I would recommend to you is that I think the EPA needs to get on top of the rumors and accusations that occur more quickly than you do. As an example, we discussed last year in this hearing the rumor that EPA was going to regulate spilled milk. And I can tell you that that spread like wildfire throughout the farming communities, that every dairy was going to have to draft a spilled oil plan. And it was never clearly stated by the EPA, no, that is not what we intend. Another one is the dust particle rule or the particle rule that deals with farm dust. I can tell you that some in the agriculture industry believe that you are going to come out and try to regulate farm dust, and I heard you say one day, no, that is not what we intend. Somehow that needs to be made clearer quicker because when that starts to spread, I tell you, it is hard to put out. And I think that creates some problems for the EPA. So I think you need to get on top of those accusations that Mr. Dicks talked about that abound quicker and let the public know what your intention is, because we are always going to fear the worst, and I think we would be better served if we got the truth out there.

Ms. JACKSON. Thank you.

Mr. SIMPSON. So just my recommendation. I thank you for working with me and my staff on some issues, and we have I think come up with some good results and I appreciate that, and thank you for being here today.

Ms. JACKSON. Thank you, sir.

Mr. SIMPSON. You bet.

The Subcommittee notes that the QFR responses from the Agency did not arrive in enough time to inform the FY 13 Appropriations bill. The Environmental Protection Agency received questions from the Subcommittee on April 17th and, as of June 20th, has still not submitted a full set of OMB-cleared responses to the Subcommittee.

EPA REGULATORY AGENDA

On January 20, 2012, OMB released the latest regulatory agenda for the Administration. That document lists 175 planned rulemakings for the EPA, of which 112 regulations are in the proposed rulemaking stage, and another 62 regulations are in the final stage. A little over half of these regulations are Air related. According to EPA's Congressional Justification, there are approximately 70 stationary source, or air toxics rules, due for review and promulgation between 2012 and 2013 alone.

On February 12, 2012 the Washington Post published an article entitled "Obama's stalled environmental regulations". The article highlighted several rulemakings including:

1. The "Tier 3" or next generation of new vehicle and fuel standards
2. The latest round on the Clean Water Act wetlands guidance that would define what is a "navigable waterway".
3. The rulemaking on fine particulate matter, otherwise known as the "farm dust" rule
4. The coal ash rule that could potentially define recyclable coal ash as hazardous waste and hinder the beneficial reuse of the material.

As of February 29, 2012 EPA had 26 regulations under review at OMB, including the Clean Water Act guidance that defines navigable waters. This guidance was sent over on Tuesday, February 21st. Clearly this guidance is not stalled as reported.

Also, "Step 3" of the Tailoring Rule for greenhouse gases was cleared by OMB on Friday, February 24, 2012.

Furthermore, EPA recently published the greenhouse gas NSPS rule for new stationary sources.

Each year, numerous interest groups request meetings to discuss various EPA rules with the Committee. These groups provide the Committee with valuable insight into the real-world implications of EPA rules. In addition, many of these groups have an agenda and would like to see a rule move forward or halted based on their viewpoint. Therefore, it is imperative that the Committee continue to maintain an open line of communication with the Agency in order to be able to discuss proposals and discern fact from fiction on all fronts. Thank you for the commitment at the hearing to continue to brief the Committee on the Agency's regulatory agenda.

Question 1: For the record, please provide the Committee with cost estimates to propose or finalize each of the 175 rules listed on the Fall 2011 regulatory agenda.

Answer: EPA uses a multi-disciplinary approach to proposing and finalizing its rules that engages scientists, risk assessors, economists, lawyers and policy experts throughout its program

and regional staff. With this approach, many EPA employees are involved in some capacity in the regulatory development process. Participation may include, for example, involvement as a workgroup member, work on supporting analyses, or drafting or review of the regulatory or preamble text. This approach enables EPA to develop the regulations that Congress has authorized, however it also makes it extremely difficult to project a specific cost estimate to support each individual rule. Additionally, rules are routinely in multiple stages of the development process at any given time and the time needed to develop rules also varies based on the complexity of each rule.

Question 2: Please provide a table of rules scheduled to be proposed or finalized in fiscal year 2013 by EPA office, including the proposed funding in the 2013 budget for work on each rule and the program project area in which that funding resides.

Answer: EPA is currently updating its regulatory agenda and the Spring 2012 agenda should be available within the next few months. The Agency does its best to plan its rulemaking development efforts and communicates this to the Congress and the public twice annually. However, from a practical standpoint, the context for many rulemakings vary across time depending on availability of data, analysis, policy priorities and related legal proceedings. As stated above, EPA's multi-disciplinary approach to the regulatory development process and the complexity of rulemaking makes it extremely difficult to project a specific cost estimate to support each rule.

Economist Article: “Rule-making is being made to look more beneficial under Barack Obama” and Utility MACT

On February 18, 2012 *The Economist* published an article with the headline: “Rule-making is being made to look more beneficial under Barack Obama”

The article highlights EPA’s Utility MACT rule, otherwise known as the MATS rule (for Mercury Air Toxics Standards), as one of EPA’s most costly rules ever. EPA, the White House and the President have routinely pointed to large health benefits in order to justify imposing the cost. However, the Economist article contends that EPA is inflating the environmental benefits of individual rules based on “co-benefits” assumed from other types of pollutant reductions. The article highlights that the benefits claimed for EPA’s Utility MACT rule assume that many of the associated health benefits are from the reduction of fine particulate matter, not Mercury.

The article states that the health benefits associated with the proposed mercury reductions account for one-one hundredth of one percent (0.01%) of the stated benefits. EPA is really using the Mercury rule to regulate particulate matter.

Question 3: How does the agency respond to the criticisms offered in the Economist article with respect to how EPA develops its cost-benefit analyses?

Answer: EPA will provide a response as soon as possible.

Question 4: More broadly to the point of the article, the lack of transparency with EPA’s cost-benefit analysis is troubling. What steps has EPA taken under this Administration, and what steps does the Agency intend to take to increase transparency in rulemaking at EPA?

Answer: EPA will provide a response as soon as possible.

Question 5: During the hearing discussion Administrator Jackson noted that “EPA generally overestimates the cost of its regulations, and that is because the American innovator usually finds...solutions that turn out to be cheap and when they are put into place, cheaper than we might have thought.” Please provide 3-5 examples for the record in support of this statement.

Answer: EPA will provide a response as soon as possible.

Navigable Waters – Guidance at OMB

On February 21, 2012, EPA sent its wetlands Guidance to OMB for final review. Not only has Congress pointedly rejected similar efforts to statutorily expand the scope of the Clean Water Act, a majority of Supreme Court justices concluded in *Rapanos and SWANCC* that the government was exceeding its regulatory authority in how it regulated our waters.

Question 6: How does the Administration’s policy, as articulated in the guidance, differ from the overreach that was overturned by the Supreme Court?

Answer: EPA will provide a response as soon as possible.

Question 7: EPA is working on a rulemaking to address the same issues addressed in the guidance. Why then is the guidance necessary?

Answer: EPA will provide a response as soon as possible.

Question 8: Some are arguing that the Administration issued the guidance because it cannot be litigated, so if the rulemaking gets tied up in court or elsewhere, the guidance will still be there as a fallback in order to achieve many of the same things that could not be done through legislation or formal regulations. How does the Agency respond to that assertion?

Answer: EPA will provide a response as soon as possible.

Climate Change Budget

The fiscal year 2013 budget again proposes over \$200 million for climate change programs. Specifically, the budget includes \$201.5 million in climate change funding, an increase of \$32.8 million, or 19.5 percent, from the 2012 enacted level. However, funding for EPA climate change programs was reduced by \$8.6 million in the fiscal year 2012 bill enacted in December. Similarly, EPA climate change funding was also reduced by \$15.1 million in the fiscal year 2011 bill. Therefore, EPA's climate change funding was reduced by \$23.7 million during the last calendar year.

Question 9: Please explain why the Administration continues to propose to increase climate funding when the direction from Congress, in a bi-partisan manner, is to reduce funding in this area?

Answer: Responding to the threat of climate change is one of the Agency's top priorities. The EPA's strategy to address climate change supports the President's greenhouse gas reduction goals. Climate change poses risks to public health, the environment, cultural resources, the economy, and quality of life. Many impacts of climate change are already evident and some will persist into the future. Climate change impacts include increased temperatures and associated stagnant air masses that make it more challenging to achieve air quality standards for smog. This adversely affects public health if areas cannot attain or maintain clean air and increases the costs to local communities.

The Agency will work with partners and stakeholders to provide tools and information related to greenhouse gas emissions and impacts and will reduce emissions domestically and internationally through cost-effective, voluntary programs while pursuing additional regulatory actions as needed. In FY 2013, the Agency will focus on core program activities, expand some existing strategies, and discontinue others, including:

- Continuing to implement the harmonized DOT and EPA fuel economy and greenhouse gas (GHG) emission standards for light-duty vehicles (model years 2012-2016) and heavy-duty vehicles (model years 2014-2018). Among other activities, implementation of these rules requires the EPA to verify manufacturers' compliance by spot-testing light-duty and heavy-duty engines at EPA's laboratory facilities in Ann Arbor, Michigan.
- In FY 2013 the EPA will begin developing a second phase of GHG regulations for heavy-duty vehicles. The EPA also must consider nine petitions asking the Agency to develop GHG emission standards for a wide range of non-road equipment, including locomotives, marine craft, and aircraft.
- Continuing to promote cost-effective corporate GHG management practices and provide recognition for superior efforts through a joint award program with non-government organizations. As of 2010, the EPA's voluntary, public private partnerships helped businesses, industry and transportation avoid 533 million metric tons of carbon equivalent emissions.
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- Focusing on GHG supply chain management, which will primarily be implemented through the ongoing cooperative pilot with the General Services Administration to assist small federal suppliers in developing their GHG inventories.
- Continuing to implement the Greenhouse Gas Reporting Rule. Activities in FY 2013 will include expanding the database management systems for new sectors, verifying reported data, providing guidance and training to reporters, and sharing data with the public, within the federal government, with state and local governments, and with reporting entities.

The increase in resources -- over the FY 2012 Enacted budget for climate protection -- will allow the Agency to support the full range of approaches to reducing GHGs and the risks its effects pose to human health and the environment and to property. The FY 2013 President's Budget request for Climate Change programs is critical for the Agency's efforts to address the impacts of climate change.

Increasing Enforcement Budget, and *Sackett v EPA* case

As with climate change funding, Congress has provided clear direction to reduce funding in the enforcement budget. The fiscal year 2012 bill reduced funding for the OECA budget by over \$11 million. At \$616 million, the FY2013 request again proposes the highest enforcement budget ever. The request provides a \$33.5 million increase for the Office of Enforcement and Compliance Assurance (OECA). At the same time the budget proposes to fund 45 fewer FTE. With over 19% of the EPA workforce situated in the Office of Enforcement this is a payroll intensive account, and as payroll needs increase, so too will the budgets.

Question 10: Please explain why in the light of reducing FTE, the OECA budget has requested such a large increase?

Answer: EPA will provide a response as soon as possible.

The Supreme Court decision in *Sackett v EPA* affirmed a property owner's right to challenge EPA's administrative orders under the Clean Water Act in a court of law. At issue is EPA's ability to work with property owners on compliance issues. EPA cannot, and should not be the judge, jury and executioner with respect to issuing compliance orders and collecting fines from property owners. That is not a government that serves the people. EPA should be working with the Sacketts and others to resolve issues rather than promoting a situation of unending non-compliance.

Question 11: Following the Supreme Court's decision, what steps does EPA plan to take to review the approach under the Clean Water Act to address compliance issues and mitigate the need for future lawsuits?

Answer: EPA will provide a response as soon as possible.

Navigable Waters – Enforcement actions under the Clean Water Act

On October 15, 2009, the Administration issued a wide-ranging policy statement on the status of CWA compliance nationwide through the EPA’s Office of Enforcement and Compliance Assurance (OECA). In particular, the EPA noted that:

“The regulated universe [under the CWA] has expanded from the roughly 100,000 traditional point sources to nearly 1,000,000 far more dispersed sources such as animal feeding operations and storm water runoff. . . . To address these challenges, we must revamp federal and state enforcement *to tackle sources posing the biggest threats to water quality* while we intensify vigorous civil and criminal enforcement against traditional end-of-pipe pollution.”

While recognizing the need to focus on the most important threat to water quality, the EPA acknowledged it has finite resources to accomplish that task:

“In these tough economic times, it is especially important to protect responsible businesses that invest in complying with the law by taking enforcement against violators. . . . We need to ensure *that we utilize the limited resources we do have on the most important sources of pollution* and the most important violations that, if addressed, can result in improvements in water quality and people’s lives.”

Question 12: Does the EPA continue to affirm its commitment, from the highest levels to line-level enforcement personnel, to focus enforcement resources on the most important sources of pollution?

Answer: Yes, the EPA has made a commitment to utilize its limited enforcement resources on the most important sources of pollution, identified by federal, state and public input. The administration uses national enforcement initiatives to help focus efforts on serious pollution problems affecting communities. These priority areas for FY 2011 – FY 2013 were established after an extensive stakeholder process that included input from our state and tribal partners, as well as numerous other outside entities. The national enforcement initiatives that are regulated under the Clean Water Act include keeping raw sewage and contaminated stormwater out of our nation’s waters and preventing animal waste from contaminating surface and ground waters.

In October 2009, Administrator Lisa Jackson issued the Clean Water Act Action Plan which lays out an approach to target enforcement to the most important water pollution problems, strengthen oversight of the states, and improve transparency and accountability. The EPA is retooling key reporting, permitting and enforcement practices as part of the Clean Water Act Action Plan. The final products of the action plan will include changes to the EPA’s national

guidance documents and policies to improve efficiency in identifying and focusing enforcement efforts on the most important sources of pollution.

Question 13: Section 309(g)(3) of the Clean Water Act includes factors that the EPA must consider in determining the amount of a penalty for exceeding NPDES permit limits. These criteria are:

1. The nature, extent and gravity of the violations;
2. The respondent's prior compliance history;
3. The respondent's degree of culpability;
4. The economic benefit or savings accrued by the respondent as a result of the violations;
5. The respondent's ability to pay the proposed penalty; and
6. Any other factors that justice requires.

Does the EPA analyze these factors prior to undertaking an enforcement action, and if so, is the analysis reviewed at the regional level or by EPA headquarters' officials for compliance with the Administration's policies to pursue only the most important sources of pollution?

Answer: The statutory factors in Section 309(g)(3) that the EPA must consider when assessing administrative penalties for violations of the CWA are also considered as part of the case analysis prior to an enforcement action. These factors are considered when determining an appropriate course of action for resolving the noncompliance. The analysis is developed and reviewed at the regional level, and is subsequently reviewed by EPA headquarters if the region makes a preliminary determination that a civil judicial enforcement action is warranted. Less significant violations, as determined by the statutory factors, are handled at the regional level either through an administrative enforcement action, an informal enforcement action or by a determination that no further action is warranted.

Question 14: If the EPA's priority is to focus on the most important sources of pollution, isn't it important that the EPA communicate with dischargers to put them on notice prior to undertaking an enforcement action when the EPA sees serious enforcement issues and so that the EPA can understand the nature of the issues and understand if those issues are really as serious as the agency believes? Similarly, would that not allow the discharger an opportunity to correct the issue prior to an enforcement action?

Answer: The EPA uses a variety of approaches to address noncompliance with environmental laws and regulations. When the EPA issues new regulatory requirements, it provides information through its Compliance Assistance Centers to the regulated universe on how to be in compliance. If an inspection was conducted, and noncompliance identified, the EPA inspector often meets with the facility's managers to summarize issues of concern that arose during the inspection, giving the EPA and the regulated party an opportunity to discuss their perspectives on the

alleged noncompliance and for the regulated entity to correct the noncompliance as quickly as possible.

The compliance response chosen by the EPA depends on the individual circumstances of each situation. In determining an appropriate response, the EPA considers many factors including the severity of the violation, the impact to public health and the environment, and the party's history of noncompliance.

RURAL WATER TECHNICAL ASSISTANCE

The 2012 budget included \$15 million to establish a competitive grant program wherein entities that provide technical assistance to small or rural localities, or private well owners have an opportunity to compete for funds to assist these communities with understanding, and complying with EPA water regulations. Unfortunately, this funding has been carried forward in the 2013 President's budget for rural water technical assistance. I suspect part of the answer is that tough choices had to be made when developing the budget.

Question 15: Why is it not a priority for the Administration to fund these technical assistance programs that help communities keep up with, and understand the impacts and requirements in the EPA's water regulations?

Answer: Assisting small and rural communities in compliance with water regulations is very much a priority for this Administration. The EPA's FY 2013 budget does request \$850 million for the Drinking Water State Revolving Fund (DWSRF) program, which can be used to provide assistance to systems serving 10,000 or fewer customers. For example, States are required to provide 15% of the funds available for loan assistance to small systems to help address infrastructure needs.

In addition, the Agency strongly supports state use of Public Water System Supervision funds and the Drinking Water State Revolving Fund 2% small system technical assistance set-aside to provide assistance to small and rural water systems. The 2% DWSRF set-aside is used by nearly every state to support their small systems and several states use these funds for non-profit state affiliates.

Additional DWSRF set-asides established under the 1996 Amendments to the Safe Drinking Water Act (SDWA) focus on the needs of small systems. SDWA §1452(g)(2) allows states to use up to 10 percent of their allotment for State program management activities, including administering or providing technical assistance, and up to 4 percent of a State's allotment may be used to cover the costs of DWSRF program administration and to provide technical assistance to public water systems within the State. Under §1452(k), States may use up to 10 percent (of an available 15 percent) of their DWSRF capitalization grants to provide technical and financial assistance to public water systems as part of a capacity development strategy, to conduct source water assessment activities, and implement wellhead protection programs. States have the option of targeting assistance for these activities toward small systems.

The Agency continues to believe that states are best positioned to develop technical assistance plans for their water systems and the funds available via the DWSRF and PWSS grant allow them to do so.

Silviculture

The Supreme Court is considering whether to review a Ninth Circuit Court of Appeals decision stating for the first time in the history of the Clean Water Act that forest roads are point sources of water pollution under the Clean Water Act. Last year we worked on a bipartisan basis with the Administration to include language in the fiscal year 2012 Omnibus Appropriations Act on this issue. We appreciate the Administration's cooperation on this important issue so far. In addition, 30 bipartisan state attorneys general from around the country have sought Supreme Court review of the Ninth Circuit's decision as have 76 bipartisan members of the House and Senate. Governors from both parties (including Governor Kitzhaber of Oregon, who leads the appeal to the Supreme Court) and numerous other elected officials around the country support preserving the EPA's historic position that forest roads are nonpoint sources.

Question 16: Given all that is at stake and the bipartisan efforts of so many to defend the EPA's position, please provide an update on efforts within the EPA and the administration to defend the existing regulations and preserve the nonpoint source status of forest roads.

Answer: To address this issue, the EPA announced on May 23, 2012 in a Federal Register notice our intent to expeditiously propose revisions to our Phase I stormwater regulations to specify that stormwater discharges from logging roads are not stormwater discharges "associated with industrial activity" (77 FR 30473). The effect of this revision would be to clarify that discharges of stormwater from logging roads generally would not require a permit under section 402 of the Clean Water Act for such a discharge. At the same time, the May 23, 2012 Federal Register notice also announced our intent to evaluate stormwater discharges from forest roads to determine what additional measures, if any, are appropriate to address such discharges.

Stormwater discharges from forest roads may introduce significant amount of sediment and other pollutants into surface waters and, consequently, cause a variety of water quality impacts. Where appropriate best management practices are used, receiving waters can be protected and impacts can be minimized. If not properly managed, however, stormwater discharges from some forest roads can cause preventable impairments to water quality. For additional information, please visit <http://www.epa.gov/npdes/stormwater/forestroads>.

IRIS – 2012 CONFERENCE REPORT LANGUAGE

In the fiscal year 2012 bill, the Committee included language-directing EPA to contract with the National Academies of Science to review the IRIS standards for up to 3 chemicals. Since then, the NAS board has recommended that the Academy conduct a review of the entire IRIS process in lieu of one of the chemical reviews. The 2012 report language also included a directive to submit a progress report to the Committee by March 1st on process reforms that EPA has put in place following the Chapter 7 findings in the NAS Formaldehyde report.

Question 17: Since EPA failed to meet the March 1st deadline, please provide an overall sense of the IRIS program and where improvements can be made.

Answer: EPA delivered the IRIS Progress Report to Congress on April 20, 2012. This report provided detailed information concerning the IRIS Program's progress in implementing the April 2011 NAS recommendations from Chapter 7 of the formaldehyde review report.

Question 18: Please include for the record what steps have been taken to date to address the concerns that have been raised by the NAS and others.

Answer: To date, EPA has made several improvements to the IRIS system as well as integrating the recommendations of the NAS and others. EPA is implementing the recommendations in a multi-phase approach.

- Phase 1
 - Focus on editing and streamlining documents and using more tables, figures, and appendices.
- Phase 2
 - New draft assessments will use a new document structure including: an Executive Summary, a Preamble describing methods used to develop the assessment, distinct sections on Hazard Identification and Dose-Response Analysis.
 - In addition, EPA is addressing all of the short-term NRC recommendations and is making several changes to IRIS assessments. Highlights include: evaluating and describing the strengths and weaknesses of critical studies in a more uniform way, including toxicity values for multiple affects associated with the chemical, routinely considering the use of multiple data sets of combined multiple responses in deriving toxicity values, and evaluating existing guidelines to establish clearer criteria for study selection.
- Phase 3
 - Implementation will incorporate the long-term scientific recommendations of the NRC.

For more detailed information regarding the phases and implementation of the NRC's recommendations, please see Section I of the IRIS Progress Report to Congress.

IRIS REASSESSMENT OF FORMALDEHYDE

EPA agreed to contract with the National Research Council (NRC) of the National Academy of Sciences (NAS) to peer review the Agency's 2010 draft cancer and non-cancer assessments of formaldehyde under its IRIS program. In April 2011, the NRC issued a highly critical report of the EPA assessment of formaldehyde. The science of formaldehyde is extensive, complex and very advanced, resulting in the need to employ the best risk assessment practices. An adherence by EPA to the numerous scientific criticisms and recommendations in the NRC report would require EPA to make fundamental changes to its 2010 initial draft assessment and will entail considerable staff work. A serious, responsible revision of the IRIS assessment that faithfully implements the NRC recommendations cannot be conducted quickly. However, the director of EPA's IRIS program recently stated publicly that the revised IRIS assessment of formaldehyde will be issued in 2012. This raises serious doubts as to the Agency's adherence to the scientifically challenging recommendations by the NRC. It is noteworthy that this is a pattern exhibited by EPA over the years as the Agency has routinely failed to make significant changes using advanced science to draft risk assessments called for by the National Academy of Sciences or EPA's own Science Advisory Board.

Question 19: What is the Agency's current projected schedule for release of the draft IRIS assessment of formaldehyde?

Answer: EPA projects that a revised draft formaldehyde assessment that addresses the NRC recommendations will be released for public comment and external peer review in summer 2013.

Question 20: Given that a new NRC committee is being convened to review the National Toxicology Program's 12th Report on Carcinogens (RoC) that covers all of the same scientific evaluations and issues that EPA attempts to address in its draft IRIS assessment, what are EPA's plans to evaluate and reflect the findings of that review before releasing its revised draft IRIS assessment?

Answer: EPA's IRIS program and the NTP's Report on Carcinogens Program are separate and distinct programs that have different, but complementary goals. The Report on Carcinogens is a public health report that identifies agents, substances, mixtures, or exposure in our environment that may potentially put people in the United States at increased risk for cancer. This report provides qualitative information about these agents, substances, and mixtures. EPA's IRIS Program provides qualitative information about the cancer-causing potential of chemicals in the environment, as well as quantitative dose-response assessments and toxicity values for both cancer and noncancer health effects.

EPA is revising the IRIS formaldehyde assessment to address the NRC recommendations and the public comments received on the assessment. EPA works closely with NTP to share information and coordinate as appropriate and intends to follow the progress of the NRC's evaluation of the NTP Report on Carcinogens. When the NRC review of the NTP Report on Carcinogens is available, EPA will appropriately consider it as additional input.

Question 21: EPA has publicly embraced the recommendations made in the NRC report on the IRIS assessment of formaldehyde. Can you confirm that the many complex scientific challenges in the IRIS assessment of formaldehyde pointed out in the NRC report are being fully and completely addressed in the Agency’s revised draft assessment? Please discuss the scientific challenges that the Agency must address prior to release of a revised assessment.

Answer: EPA is fully addressing all of the NRC recommendations related to the draft IRIS assessment for formaldehyde. For example, EPA is re-evaluating the evidence on many health effects, including asthma, lymphohematopoietic cancer subtypes, and neurotoxicity, and is incorporating additional study results and a consistent approach to the evaluation of study quality and the weight of evidence for potential hazard.

The NRC also offered several complex and long-term recommendations. For these recommendations, the NRC was clear that “although the committee suggests addressing some of the fundamental aspects of the approach to generating the draft assessment later in this chapter, it is not recommending that the assessment for formaldehyde await the possible development of a revised approach.”¹

Much of the response by EPA to the NRC report has been focused on improving the IRIS process. Along with making recommendations regarding the IRIS assessment of formaldehyde, the NRC report also clearly noted substantive issues with interpretation of the scientific data. For instance, in rejecting EPA’s causality determination for leukemia, the NRC report stated, “...there is no clearly articulated framework for establishing causation on the basis of the weight and strength of evidence...As a result, the conclusions appear to be based on a subjective view of all the overall data and the absence of a causal framework for these cancers is particularly problematic given the inconsistencies of the epidemiological data, the weak animal data, and the lack of mechanistic data.” Given the substantive nature of some of the NRC recommendations, EPA is working hard to re-evaluate the scientific basis for assessing the risks of formaldehyde exposure.

Question 22: If so, how is it possible to have the revised draft completed so quickly?

Answer: The NRC’s recommendations have been available since April 2011, and EPA has been using the recommendations since that time to guide the revisions to the assessment. Regarding the IRIS process and timeliness, it should be noted that both the October 2008 GAO report on the IRIS program and its follow-up report in 2011 focused significant attention on the slow pace of finalizing IRIS assessments. EPA has been consistently working to appropriately increase its pace while simultaneously addressing the concerns of GAO and NAS about the scientific quality of the IRIS assessments. The revised draft is expected to be completed by June 2013, which allows sufficient time to address these difficult challenges.

Question 23: Does EPA intend to incorporate any new research into its assessment, if so, what? How will the Agency respond to the strong NAS recommendation for use of new risk assessment models?

¹ National Research Council, 2011. Review of the Environmental Protection Agency’s Draft IRIS Assessment of Formaldehyde (pg. 151).

Answer: In revising the draft IRIS assessment of formaldehyde, EPA has been and will continue to conduct searches of the scientific literature for additional up-to-date peer-reviewed, published articles and will consider and include these, as well as peer-reviewed literature identified by the NAS and public commenters, as appropriate. EPA will reexamine available models and how they inform risk assessment and will carefully consider any new peer-reviewed and published research that is relevant to the toxicity of formaldehyde. EPA will carefully use the NRC comments in a manner that is fully reflective of the current state of science on modeling formaldehyde hazards and dose-response.

Question 24: Considering the Agency's stated commitment to transparency, how will the Agency solicit public comment on the revised draft IRIS assessment of formaldehyde and resolve any scientific conflicts in an open forum?

Answer: EPA's IRIS process is open, transparent, and provides for multiple opportunities for public and stakeholder involvement, including a public comment period and public peer review meeting. EPA's revised draft IRIS assessment of formaldehyde will undergo an additional public comment period and scientific peer review, which will be open to the public. Additionally, EPA's Health and Environmental Research Online (HERO) database will be used to develop the revised draft IRIS assessment. HERO promotes transparency by capturing and making available to the public the references and abstracts to scientific studies used in Agency health and environmental assessments.

Question 25: What level of external peer review will be applied to the revised draft IRIS assessment of formaldehyde? In particular, does the Agency contemplate seeking a second review by the NAS to ensure that the concerns raised on the initial draft have been adequately addressed? If not, why not?

Answer: EPA plans to conduct an independent scientific peer review of the revised draft formaldehyde assessment through the Science Advisory Board (SAB). In addition to the peer review, EPA will request that the SAB evaluate whether or not EPA has addressed the NRC peer review recommendations. EPA will then determine if a second NAS review is needed.

Question 26: EPA's Office of Research and Development has indicated its intent to hold a workshop on including Weight of Evidence considerations into IRIS assessments – consistent with the recommendations of Chapter 7 of the National Academy of Sciences' report on formaldehyde. I understand that the NAS has offered to convene this workshop. In this regard, is EPA amenable to working with NAS on convening this workshop?

Answer: Yes, in April 2012, EPA contracted to work with the NAS on weight of evidence considerations.

SUPERFUND BUDGET

The 2013 budget proposes \$1.176 billion for the Superfund program, a \$37 million reduction from 2012 levels. Ninety percent of the reduction, or -\$33 million would be applied to the Superfund Remedial line item – the line item responsible for cleaning up sites on the National Priorities List. One concern about the Superfund budget is that only \$2 out of every \$3 appropriated from the Fund is used for cleanup activities. That third dollar largely ends up funding administrative or overhead activities with some exception for research and enforcement. And when large reductions are proposed, as was the case for 2012, and is again the case this year, disproportionate reductions are applied to the cleanup programs rather than derived from the bloated overhead or administrative activities as one might expect. Report language in the 2012 Bill stated the Committee’s intent, “...expecting that future budget requests will propose a higher percentage of cleanup funding as part of the total request...”. It appears that direction was not followed when crafting the FY2013 budget. Total Superfund cleanup funding was reduced by \$40 million across the FY2013 budget, which means that money was added back to administrative and overhead portions of the Superfund budget.

Question 27: Please explain why the budget proposes to defy Congressional intent in this funding area.

Answer: Approximately \$983 million, or 84 percent, of the \$1.176 billion Superfund FY 2013 President’s Budget Request goes directly toward the Superfund Cleanup (\$755 million), Homeland Security (\$42 million), and Enforcement and Compliance (\$186 million) program areas. In FY 2011 the Superfund Enforcement program secured private party commitments that exceeded \$3.3 billion. During the past ten years, EPA has achieved an average of \$8 in private party cleanup commitment for every \$1 spent by EPA on Superfund civil enforcement costs. EPA disbursed \$230.6 million from special accounts for response work at more than 550 sites in FY 2011.

The program areas making up the remaining 16 percent of EPA’s Superfund appropriation are essential to support Superfund cleanups and effectively manage all Superfund resources. For instance, these resources include funding for contractual management, financial management and transdisciplinary research. Without these services, the Superfund program would not have the science or operational tools needed to efficiently and effectively perform cleanups. These resources also provide rental and maintenance of laboratory and office space, utilities, security, and support services for Superfund-related workforce; support the financial management system which tracks and pays Superfund bills and enables the Agency to recoup cleanup and oversight costs for the Superfund Trust Fund; and provide the critical information technology infrastructure needed for rapid and efficient communication within EPA, the regulated community, and the public.

EPA is continuing its efforts to improve the efficiency and effectiveness of the Superfund program. The Integrated Cleanup Initiative (ICI) represents EPA's commitment to bring more accountability, transparency and efficiency to contaminated site cleanups. EPA completed four site project management pilots as part of our ICI efforts. Lessons learned include methods to expedite settlement negotiations, producing a more effective procurement and management process through project delivery integration, reducing remedial timelines through increased use of Agency-based resources, and utilizing pre-placed contracts for remedial design and remedial action work. We plan to apply the cost and time savings lessons learned through these pilots to other site projects planned and underway in the Superfund program.

The FY 2013 President's Budget Request, including Superfund, recognizes the difficult fiscal situation that the nation is facing. In making tough choices, the President's Budget makes strategic adjustments to sustain necessary and fundamental human health and environmental protection within core resources and programs.

Question 28: The budget documents indicate that with the \$33 million reduction to the Superfund remedial program, no new construction starts will occur. Does this [budget reduction] indicate that the Administration will not be adding new sites to the National Priorities List? Why would EPA add sites to the NPL without the intention of making the resources available to fund the cleanup at those sites?

Answer: In FY 2013, the EPA will continue to meet the statutory requirement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) which requires that a national priorities list of releases or threatened releases of hazardous substances be revised at least once a year. The National Priorities List (NPL) identifies for the public and the states those sites with releases or threatened releases that appear to warrant further investigation and response. EPA has a responsibility to communicate to the executive and legislative branches of government, as well as to the public, states, and tribes, the most accurate information about the existence of national priority sites. Therefore, in FY 2013, EPA, in consultation with states, will continue to add new sites to the NPL where there are imminent threats to human health and/or the environment. Placing a site on the NPL does not necessarily mean that remedial or removal actions will be taken. For instance, the EPA may pursue other appropriate federal or state authorities to respond to releases.

In addition, the identification of a site for the NPL provides notice to potentially responsible parties that EPA may initiate CERCLA-financed remedial action. With all NPL sites, EPA works to identify the parties responsible for contamination at a site, and require them to conduct or pay for the cleanup. For a newly listed site without viable potentially responsible parties, EPA will investigate the full extent of the contamination before determining remedial action needs.

In FY 2013, the Agency will continue to place a priority on its two key environmental indicators and expects to achieve the same number of sites with controlled human exposures and controlled groundwater migration. Also, the Agency plans to give priority to completing projects at various stages of the response process as opposed to starting new project phases. However, in recognition of the budget reduction, in FY 2013, the Agency does not plan to start any new EPA funded construction projects.

ARSENIC REPORT LANGUAGE

The 2012 bill included report language directing the EPA to engage on a number of fronts with respect to the arsenic and drinking water rule, and EPA is moving expeditiously to establish the alternative affordability criteria Working Group. One output from the discussions will include a report to the Committees on actions to make alternative compliance methods more accessible as well as reporting on alternative affordability criteria.

Question 29: At this early stage are there any impediments to submitting those reports on time – within 180 days of enactment of the 2012 bill – by the end of June?

Answer: The EPA has convened an Arsenic Small Systems Working Group composed of 20 individuals that includes representatives of States, small publicly owned water systems, local public health officials, drinking water consumers, and treatment manufacturers. The EPA held four facilitated meetings of the Working Group, three web based meetings in March and a face-to-face meeting in April.

The EPA has asked members of the working group to provide individual input and recommendations on: 1) barriers to the use of point-of-use and point-of-entry treatment units, package plants (including water bottled by the public water system), and modular units, and; 2) alternative affordability criteria that give extra weight to small, rural, and lower income communities. The work group members submitted their recommendations at the end of April.

The EPA is working to compile and synthesize workgroup comments and to develop a draft report to provide to the Committee. Once a draft report is developed, we will coordinate internal EPA review and interagency review of the report. We are working hard to complete these processes by the Committee's June 2012 deadline.

**NATIONAL INFRASTRUCTURE BANK – A TOOL TO ADDRESS COMBINED
SEWER OVERFLOW / WATER INFRASTRUCTURE ISSUES AND AVOID EPA
ENFORCEMENT ACTIONS?**

The President's budget includes a proposal to establish a \$10 billion National Infrastructure Bank. The proposal would seek to finance major energy, water, and transportation projects in excess of \$100 million; therefore, it is not likely that the EPA Clean Water and Drinking Water SRF projects will play much of a role given the size of those projects.

However, major metropolitan areas face daunting challenges when dealing with combined sewer overflow (CSO) issues. Last August, the St. Louis Sewer District agreed under a consent decree to spend \$4.3 billion over the next 23 years to upgrade its sewer systems to begin to address the repeated release of untreated waste following rain storms. In May of 2010, Kansas City agreed to spend \$2.5 billion over 25 years to address their CSO issues. In addition, those cities had to collectively pay \$2.4 million in civil penalties.

These are major investments for cities and these consent decrees force mayors and other elected officials to make choices about whether to fund teachers, firefighters or fund sewer improvements. These are the real world trade-offs, and cities are searching for some relief from the EPA's onerous enforcement.

Question 30: To what extent could individual cities locked into a consent decree tap into the proposed infrastructure bank to upgrade their water infrastructure systems in order to mitigate some of these real world trade-offs?

Answer: The proposed National Infrastructure Bank would offer another avenue for funding water infrastructure, including for those communities who have entered into a consent decree with the EPA. As the question notes, the Bank would also fund infrastructure in other sectors, so it would not be a dedicated source for drinking water or wastewater needs.

Question 31: To what extent will cities be able to tap into the infrastructure bank to address their CSO issues before the EPA's enforcement arm locks them into a consent decree and subjects the cities to pay civil penalties?

Answer: Communities would be free to seek funding from a National Infrastructure Bank with or without a consent decree in place. The EPA encourages communities to proactively invest in their water systems in order to maintain or return to compliance with the Clean Water Act.

Hydraulic fracturing

In fiscal year 2010, this Committee urged EPA to carry out a study on the relationship between hydraulic fracturing and drinking water. The Committee is closely monitoring EPA's progress and expects the Agency to provide updates in a clear and transparent manner as information becomes available. Overall, the President's budget proposes a \$45 million budget for hydraulic fracturing research across 3 agencies – the Department of Energy, the U.S. Geological Survey, and EPA. EPA's portion is \$14 million, an \$8 million increase over existing base resources.

Question 32: Please explain how this research will be coordinated across the Federal government.

Answer: The three Agencies will create a Steering Committee to coordinate the Agencies' activities for unconventional oil and gas research. Each Agency will contribute two members to the Steering Committee: one member focused on policy and one member focused on research and technology. The Office of Science and Technology Policy (OSTP) will also provide a member to serve on the Steering Committee. The lead agency of the Steering Committee will rotate annually among the three Agencies in alphabetical order: DOE, DOI, and EPA. The Steering Committee will provide leadership, coordinate the activities of the three participating Agencies, and reach out to other relevant Federal, state, and local organizations.

Question 33: There is a \$3.8 million increase for air emissions research related to fracking. What are the current concerns associated with air emissions related to hydraulic fracturing?

Answer: As described in Section 13 of the peer reviewed EPA Plan to Study the Potential Effects of Hydraulic Fracturing on Drinking Water Resources,² research on air quality was identified as an area of concern but was outside the scope of EPA's current study of the potential impacts of hydraulic fracturing on drinking water resources. There are several possible sources of air emissions from hydraulic fracturing operations, including well development and gas production activities. Concerns have been raised about the potential public health impacts associated with exposure to possible emissions of pollutants such as particulate matter, nitrogen oxides, volatile organic carbon compounds, and air toxics.

The FY 2013 President's budget request of \$3.8M to examine the potential air quality impacts from natural gas drilling and hydraulic fracturing operations will improve our understanding of multiple emission components of hydraulic fracturing systems and the potential for human exposures. This research is solutions oriented. The ultimate goal of this air research is to facilitate the identification and development of more environmentally responsible and sustainable hydraulic fracturing practices. Research will be coordinated with the Department of Energy and the Department of the Interior (including USGS) as part of the Memorandum of Understanding, which was signed on April 13th.

² http://epa.gov/hfstudy/HF_Study_Plan_110211_FINAL_508.pdf

Question 34: On page 1189 of the Appendix, EPA's Office of Research and Development indicates that the Sustainable Water Research Program (SSWR) "will address potential water supply endangerments associated with hydraulic fracturing." This budget statement implies that EPA has already decided that there is a relationship between hydraulic fracturing and drinking water in advance of completing the study to determine whether there is a relationship between hydraulic fracturing and drinking water. Please explain how EPA would use such funding if the ORD study finds no relationship between hydraulic fracturing and drinking water.

Answer: EPA has not made assumptions regarding the potential impacts of hydraulic fracturing on drinking water. In alignment with EPA's Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources, research on potential drinking water impacts will continue through 2014.

No question number 35.

HYDRAULIC FRACTURING STUDY AND ENVIRONMENTAL JUSTICE

The Committee understands that EPA has incorporated an Environmental Justice screening component into the ongoing hydraulic fracturing study to assess whether hydraulic fracturing occurs more often in areas with predominantly low-income, minority, young or elderly populations.

Question 36: Of the \$6 million appropriated to conduct the study in fiscal year 2012, how much will be used for this environmental justice screening component of the study?

Answer: In fiscal year 2012, the effort is largely conducted in-house, so \$9,500 will be used for the initial environmental justice screening component of the study.

Question 37: Of the \$6 million requested to complete study in fiscal year 2013, how much of will be used for this environmental justice screening component of the study?

Answer: The results of the screening conducted during FY 2012 will assist in determining whether further investments in the environmental justice components of the study are needed. Any additional expenditure on environmental justice components are expected to be relatively small.

Question 38: Please explain what authority EPA is using to incorporate an Environmental Justice screening into a study to determine the relationship between hydraulic fracturing and drinking water.

Answer: Environmental Justice screening is being conducted in alignment with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which established the Interagency Working Group (IWG) on Environmental Justice, comprised of 17 Federal agencies and White House offices. This EO charged agencies in the IWG with making environmental justice an integral part of their missions and operations to the greatest extent practicable. EPA is incorporating EJ screening into studies in order to identify areas with potentially disproportionately high and adverse environmental and public health burdens.

GREEN INFRASTRUCTURE – DRINKING WATER SRF RESERVE

Question 39: The 2013 budget proposes to reinstate the green infrastructure reserve for the Drinking Water SRF. The 2012 bill eliminated this requirement as most of the so called “green” projects eligible for funding via the Drinking Water SRF are really energy efficiency upgrades for more efficient water pumps, etc. One would expect that States and utilities would invest in these types of projects on their own if they make economic sense. They wouldn’t need a mandate to do so. Further, carving out 10 percent of the Drinking Water funds for “green infrastructure” projects reduces the amount of funds available to address human health concerns and projects that would improve the quality of drinking water. Why is the Administration proposing to require that States and utilities prioritize energy efficiency projects over projects that would improve drinking water quality?

Answer: EPA is continuing to encourage states to incorporate water and energy efficiency into their public health based projects, and utilities are already doing so. EPA is not proposing to require States to prioritize “green” projects over public health protection projects. Rather, the Agency is highlighting the “green” elements of the projects already highly ranked as public health protection projects. In the universe of highly ranked public health projects (i.e. those funded by the SRF), historically approximately 78% of projects are either treatment and/or distribution projects; which also represents a majority of the green projects that were completed pursuant to the American Recovery and Reinvestment Act (ARRA). These are the types of projects which likely incorporate replacing badly leaking pipes or using more energy efficient equipment, while meeting the public health goals of our program. EPA does not believe the green infrastructure reserve and the public health goals of the program are incompatible; rather, the reserve encourages public health projects that are more efficient and cost-effective for municipalities over the long run.

As shown by the success of ARRA, almost 30 percent of DWSRF projects were considered “green”, and based on information reported to date for 2010 DWSRF grants, 18 percent of projects are designated as green so far. EPA estimates based on experience to date that, on average, approximately 10 percent of the value of projects typically funded by the SRF involve green components, such as utilizing energy efficient treatment equipment, replacing badly leaking water mains, or improving the energy efficiency of water pumping.

OIL SPILL TRANSFER AUTHORITY

EPA incurred at least one Anti-Deficiency Act violation last year due to a failure to receive reimbursement from the Oil Spill Trust fund in a timely manner. The violation occurred because EPA had paid contractors responding to oil spills, but reimbursement from the Trust Fund was delayed due to additional controls the Coast Guard established to maintain proper stewardship of the Oil Spill Trust Fund. When EPA and the Coast Guard were unable to resolve the matter, the Administration proposed language in the 2012 budget that would allow EPA to transfer such sums as necessary from any account into the Oil Spill account to cover any future shortfalls so long as those funds were returned within 30 days.

The 2012 House bill indicated that if a legislative fix was needed, a more appropriate and long-term fix would be to explore the option of having EPA withdraw directly from the Oil Spill Trust Fund. EPA is the lead agency for responding to inland oil spills. It is a failure to the American public that the Administration cannot process a transfer of funds from one agency to another in such a fashion that it doesn't violate the Anti-Deficiency Act.

Ultimately, contractors in the field responding to oil spills need to be paid. Government bureaucracy should not impede the response to oil spills. With that in mind, the 2012 Omnibus included a directive that EPA and OMB work together to propose a more permanent solution, if a legislative fix is necessary to resolve the issue. In the interim the House and Senate Appropriations Committees agreed to modify the transfer language to cap the transfer amount at \$10 million. The Committees also believed that if the Agency is moving \$10 million from one account to another, then the Appropriations Committees need to be notified. Unfortunately, the 2012 budget proposes to continue the language from the 2012 Omnibus and makes it worse. The budget proposes to remove the requirement that EPA notify the Appropriations Committee before making any such transfer of funds.

Question 40: What is EPA's objection to notifying the Appropriations Committees before transferring money into the Oil Spill account given that the Administration has failed to address this issue internally?

Answer: EPA proposed the change in language to facilitate the Agency's ability to respond quickly in an emergency situation when it may be impractical to notify the Appropriations Committees prior to transferring money into the Oil Spill account. However, the Administration has no objection to notifying the Appropriations Committee and appreciates the Appropriations Committees' efforts to provide the EPA with a temporary solution via the FY 2012 transfer language.

Question 41: What conversations has the Agency engaged in with OMB about exploring a different legislative fix?

Answer: The Agency and OMB are currently evaluating potential options for a permanent legislative fix in place of the current emergency transfer language.

Question 42: What conversations has the Agency had with OMB and the Coast Guard about resolving this issue within the Administration rather than seeking help from Congress?

Answer: The Agency has been working with the Coast Guard on negotiating a revised memorandum of understanding to facilitate receiving reimbursement from the Oil Spill Trust Fund in a timely manner. OMB has been kept apprised of these efforts and has engaged both agencies as necessary. EPA and OMB will also explore options for a permanent legislative, long-term fix, as discussed above.

Radon Grants

Tough choices need to be made when crafting a budget. It is often easier for Washington to spend money than it is to tighten its belt. Restraining spending in a responsible manner should be a goal for everyone, and EPA's budget includes proposals to eliminate programs that may have run their course. This Subcommittee hears testimony from public witnesses about various proposals throughout the bill. These public witness hearings give members an opportunity to hear about the real-world impacts of some of this funding. It is an opportunity to hear about where the rubber meets the road. The Subcommittee received several requests to testify and to submit information in the written record about the FY 2013 proposal to eliminate the \$8 million in state radon grants. This is more requests than the Subcommittee has ever received about the EPA state radon grants. These requests to testify are from former cancer survivors, and they are quite passionate about the subject, as one can imagine.

Question 43: Please explain why the budget proposes to terminate this grant program when 21,000 people die annually of radon-induced lung cancer and the public has little knowledge about the risks of radon.

Answer: While exposure to radon gas continues to be an important risk to human health, over the 23 years of its existence the EPA's radon program has provided important guidance and significant grant funding to support states' efforts to establish sustainable programs. Some states now have the technical expertise and program funding in place to continue radon protection efforts without federal funding. The elimination of State Indoor Radon Grants (SIRG) will transfer responsibility to state and local radon programs for maintaining the number of homes with high radon levels that are mitigated, the number of new homes that are built with radon resistant new construction, and the number of schools with high radon levels that are mitigated or built with radon resistant new construction.

To better target resources at the Federal level, EPA will implement the Federal Radon Action Plan, a multi-year, multi-agency strategy for reducing the risk from radon exposure by leveraging existing Federal housing programs and more efficiently implementing radon-related activities to have a greater impact on public health.

Question 44: If the feeling is that States are capable of handling delegated responsibilities within their budgets, why is there a \$66 million increase in the budget for grants to fund base state air programs and a \$27 million increase for state water programs? There seems to be a disconnect in the Agency's view that states have a sufficient budget to handle some programs but not others.

Answer: The decision to reduce the radon grant program was a difficult one. In developing its budget request for Congress, the EPA must carefully prioritize program and grant funding on the basis of relevance to the Agency's core mission, statutory authority, and impact on reducing relative risk to public health, among other factors. The State Indoor Radon Grant program has

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achieved progress over the 23 years of its existence in mitigating radon exposure and building capacity at the local and state government level. If States maintain their existing programs, there is the possibility of sustaining some of the human health benefits through implementation at the state or local level. The Agency did not make the same determination for other grant programs and we continue to work with states as they implement programs.

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CHESAPEAKE BAY

The 2013 budget proposes a \$15 million increase funding for the Chesapeake Bay program. Last September, GAO issued a review of the latest federal strategy for protecting and restoring the Chesapeake Bay and found a lack of collaboration among stakeholders and that state officials indicated that they were not working toward the strategy's goals. Therefore there is a lack of buy-in at the state and local level. To date, EPA has spent over \$686 million on the Chesapeake Bay program. Since that is probably a fraction of government-wide spending levels, legitimate questions need to be raised.

Question 45: Considering that state officials are not working toward the goals in the latest Federal strategy, what progress can one expect to make in the watershed with the additional \$15 million increase for the Chesapeake Bay?

Answer: The EPA and Chesapeake Bay states are working closely together to achieve our shared goal of restoring clean water to the Chesapeake Bay watershed, thereby improving the quality of life and economy for the 17 million people who live in it. The requested increase for the Chesapeake Bay Program will be provided to the Bay jurisdictions to support them as they work towards the goals of the state strategies to implement the Chesapeake Bay total maximum daily load (TMDL). The increase will contribute to the progress on their Watershed Implementation Plans (WIPs), with particular emphasis on engaging local governments in the implementation of the WIPs. Through the TMDL/WIP process, the Bay jurisdictions have established milestones for 2012 and 2013. The EPA's additional support will be important to the jurisdictions in meeting those two-year milestones.

Question 46: The Congressional Justification includes quite a bit of narrative about enforcement and implementation of total maximum daily loads (TMDLs). This speaks to more of a command-and-control approach to the issue. As a result, I can understand why local stakeholders may not support that proposal. The budget includes a \$1 million increase for

enforcement and a 10% increase for continued TMDL work. Please explain how this approach will help foster dialogue and collaboration with the States.

Answer: The Chesapeake Bay TMDL and the jurisdictional Watershed Implementation Plans (WIPs) are based on a collaborative effort between the EPA and the Chesapeake Bay jurisdictions to improve water quality. Supporting these commitments made by the Chesapeake Bay jurisdictions and ensuring their strategies are carried out are essential to meeting the goals of the TMDL and restoring the Bay.

The EPA has developed and is implementing an enforcement and compliance strategy specific to the Chesapeake Bay watershed in order to help achieve these shared goals. While direct federal enforcement and compliance assurance activities play an important role in TMDL implementation, equally important are jurisdiction capacity building, program evaluation, and outreach and education to the regulated community. For example, few Bay jurisdictions have a Municipal Separate Stormwater Sewer Systems (MS4) compliance assurance program, though this sector plays an important role in attaining Bay Program Goals. The EPA has been supporting those jurisdictions' current efforts and filling gaps in important areas, such as by conducting compliance inspections, performing outreach and education to the regulated community, and evaluating state programs to identify areas of concern and to work with jurisdictions to address them. Taken together, these activities will improve compliance, build jurisdictions capacity, and ensure accountability.

The EPA's requested increase in this area is intended to accomplish these goals not only for the MS4 sector, but for the other high priority sectors at a time when jurisdiction budget limitations pose a challenge. This increased oversight will not impact the high level of dialogue and collaboration that has been achieved to date.

Question 47: Did the GAO findings about a lack of involvement at the local level factor into the decision to increase the state implementation grants?

Answer: The EPA takes seriously the findings in GAO's September 15, 2011, report. Since embarking on the Chesapeake Bay TMDL, in addition to the efforts of the jurisdictions, EPA also has anticipated a critical role for local governments and other stakeholders in the success of the jurisdictional Watershed Implementation Plans (WIPs) as evidenced by the recently submitted final Phase II WIPs, which include extensive local engagement efforts. The EPA expects that the requested increase will be an important element in ensuring that local entities are able to meet their responsibilities under the WIPs.

GREAT LAKES RESTORATION INITIATIVE – RESULTS

Since fiscal year 2010, more than \$1 billion has been appropriated for the EPA Great Lakes Restoration Initiative as protection and restoration of the Great Lakes remains a bi-partisan issue. In February 2010, the Administration released the Great Lakes Action Plan, which set specific annual targets for demonstrating progress in the five focus areas. Given the amount of funding over the past 3 years and a continued request for an additional \$300 million in fiscal year 2013, it is about that time where we begin to ask about what have we accomplished with that funding and what continued progress we expect to see.

Question 48: Asian Carp continues to pose a threat to Great Lakes. The President's budget proposes a total of \$51 million to combat the threat. What progress, if any, have we made with respect to Asian Carp? I understand we're finding more Carp in more rivers in the Great Lakes basin.

Answer: The Administration's work to prevent a self-sustaining population of Asian carp in the Great Lakes is being carried out through the efforts of the Asian Carp Regional Coordinating Committee (ACRCC), which was formed in 2009. Led by the White House Council on Environmental Quality's Asian Carp Director, the ACRCC includes the U.S. Army Corps of Engineers (USACE), U.S. Coast Guard, U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Environmental Protection Agency, the National Oceanic and Atmospheric Administration, U.S. Department of Transportation, and all eight Great Lakes states, as well as the Great Lakes Fishery Commission, the Metropolitan Water Reclamation District of Greater Chicago, and the City of Chicago. Through unified federal, state, and local actions, the ACRCC employs a comprehensive approach to prevent the establishment of a self-sustaining Asian carp population and to develop longer-term biological controls. The 2010 and 2011 Asian Carp Control Strategy Frameworks (Frameworks) included 45 federally-funded initiatives, all of which are under way or completed. Together, these activities have helped preserve a commercial sport fishery valued at an estimated \$7 billion per year. The Frameworks are funded through both federal agency base funding and through the Great Lakes Restoration Initiative (GLRI). The ACRCC's ongoing implementation of the Frameworks has proven successful in coordinating actions to comprehensively address the Asian carp threat. Key accomplishments include the following:

- Strengthening a system of electric fences and physical barricades to prevent Asian carp transfer during floods, and closing off smaller waterway connections to the Great Lakes.
- Utilizing emergency authority provided through Section 126 of the *Energy and Water Development Act of 2010* to block flood waters from the Des Plaines River with a 13-mile fish barrier and a permanent block in the Illinois and Michigan Canal to keep Asian carp from crossing into the Chicago Area Waterway System (CAWS).

- Installing a 1,500 foot fish barrier fence at Eagle Marsh, near Fort Wayne, IN, to block advancement of Asian carp from the Wabash River in the Mississippi River basin to the Maumee River in the Lake Erie.
- Identifying 18 pathways across all the Great Lakes states with the potential to transfer Aquatic Nuisance Species (ANS) between the Great Lakes and Mississippi River Basins.
- Implementing the Asian Carp Prevention and Control Act following the President's signing of the bill in 2010. This legislation prohibits live bighead carp from being shipped or imported across state and national lines.
- Cooperating with provincial authorities, helping to stop illegal transport of Asian carp across the U.S.-Canadian border.
- Conducting over 40,000 hours of netting, electrofishing, and observation above the electric dispersal barriers, resulting in the finding of no new live Asian carp in the Chicago area waterway system.

Efforts outlined in the Frameworks have been effective in controlling Asian carp in the short term, allowing for time to identify and implement permanent control actions. The USACE, in consultation with other federal agencies, Native American tribes, state agencies, local governments, and non-governmental organizations, is conducting the Great Lakes and Mississippi River Interbasin Study (GLMRIS). GLMRIS is one component of the Frameworks, and evaluates all options and technologies to permanently prevent the spread of ANS between the Great Lakes and Mississippi River.

Federal and state agencies will continue to work together and in collaboration with local agencies and other stakeholders to protect the Great Lakes from Asian carp. Additional information on these ongoing efforts is available at www.asiancarp.us.

Question 49: How is EPA complying with the Committee's directive to prioritize and place sufficient funding on projects so as to be able to demonstrate meaningful and measurable results? Please provide a few examples for the record.

Answer: In response to the Committee's directive, the EPA and partner agencies have prioritized work and funding to clean up Areas of Concern (AOCs), reduce phosphorus contributions from agricultural and urban lands that contribute to harmful algal blooms and other water quality impairments, and prevent the establishment of invasive species. For both FY 2012 and FY 2013, the Great Lakes Interagency Task Force (IATF) allocated funding for this priority work before allocating Great Lakes Restoration Initiative (GLRI) funds to other Great Lakes restoration activities. Examples of this prioritized work and associated accomplishments include the following:

- At the Presque Isle AOC, all management actions necessary for delisting have been completed. The EPA expects that the formal delisting process for this AOC will occur this year.
- FY 2012 funding has been allocated to complete all of the management actions needed to delist four more AOCs: Ashtabula in Ohio; Sheboygan in Wisconsin; and White Lake and River Raisin in Michigan.
- The IATF has allocated \$31 million in FY13 GLRI funding for AOC cleanups at Deer Lake, Michigan; Manistique River, Michigan; St. Clair River, Michigan; St. Marys River, Michigan; and Waukegan Harbor, Illinois. At the President's request level, all management actions needed to delist these five AOCs will be completed in FY 2014.
- In FY 2013, the IATF has budgeted \$13 million to reduce phosphorus in the Western Basin of Lake Erie, Saginaw Bay on Lake Huron, and Green Bay on Lake Michigan. Harmful algal blooms associated with excess phosphorus have already injured local coastal economies in Ohio.
- GLRI funding has helped increase the number of acres within the Great Lakes basin where agricultural producers have signed contracts to implement USDA conservation practices to approximately 270,000 acres (an increase of more than 50%).
- Over 13,000 acres are being managed in order to keep populations of invasive species controlled to a target level.
- Agencies are successfully collaborating to implement the Asian Carp Control Strategy Framework and keep self-sustaining populations of Asian Carp from being established. More detailed information about this effort is provided in response to the previous question. As a result of prioritization, up to \$19.5 million in FY 2013 GLRI funding has been allocated to be used, as needed, to protect the Great Lakes from Asian Carp through implementation of the Asian Carp Control Strategy Framework.

DIESEL EMISSIONS REDUCTIONS (DERA) GRANTS

In the 2012 budget, the Administration proposed to eliminate the diesel emissions grants, or DERA grants. This proposal was met with significant opposition as the program provides \$13 of economic benefit per Federal dollar, the retrofit technology supported by DERA reduces black carbon emissions by 90 percent, and projections estimate that nearly 2,000 lives will be saved by 2017 as a result of this funding.

The 2012 bill maintained funding for the DERA grants at \$30 million. While I am pleased to see the Administration has kept the DERA grants in the budget this year, it is disappointing to see that they have been cut in half, from \$30 million to \$15 million. The budget proposes to do so citing a new approach for the program whereby EPA will use rebates and revolving loan funds.

Question 50: In what way would the rebate model offer a more efficient or preferred approach that allows for savings?

Answer: In December of 2010, Congress passed the Diesel Emissions Reduction Act of 2010, which modifies and reauthorizes the EPA's Diesel Emission Reduction Program through FY 2016. Signed into law in January of 2011, this reauthorization for the first time provides the Agency the flexibility to add a rebate component to its successful grant and loan program.

The DERA grant and loan program has provided immediate emission reductions from existing diesel engines to communities across the nation through engine retrofits, rebuilds and replacements; switching to cleaner fuels; idling reduction strategies; and other clean diesel strategies. To date, the program has awarded grants to over 500 communities and States to reduce nitrogen oxides (NOx) and particulate matter (PM), which contribute to serious public health problems.

Now with fewer resources available, in FY 2013 the Agency will be piloting a new approach that will use rebates to target specific fleets in high diesel exposure areas such as near ports and freight distribution hubs and other disproportionately affected communities. While there is a place for grants within the legacy fleet program, we believe the rebate program will allow precision in scrapping certain model years of vehicles and equipment and assisting public and private fleet owners with retrofitting or replacing those engines. Through the rebate mechanism the Agency would be able to target the awards toward the dirtiest, most polluting engines in particular locations.

COAL COMBUSTION ASH – STATUS OF REGULATION?

Following the 2008 TVA Kingston coal ash spill EPA submitted proposed regulations to OMB which would define coal ash as waste under RCRA Subtitle C. The proposed rule was then sent back to the Agency following many meetings with stakeholders. Since then the Agency has been sued by environmental groups seeking a release of the rulemaking.

Question 51: Please provide the status of the coal combustion rule.

Answer: EPA has proposed two options for the management of coal ash under the Resource Conservation and Recovery Act (RCRA). Under the first option, EPA would regulate CCRs as a “special waste” under RCRA subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. Under the second option, EPA would regulate CCRs under RCRA subtitle D, which gives EPA the authority to set performance standards for waste management facilities which would be enforced primarily by the states.

Under each approach, the Bevill exemption remains in place for coal combustion residuals that are beneficially used.

EPA is reviewing the more than 450,000 comments received on the proposed rule and will finalize the rule pending a full evaluation of all the information and comments the Agency received on the proposal.

Question 52: Is EPA still considering a hazardous waste designation for coal ash?

Answer: As stated above, the EPA is still analyzing and evaluating comments on the proposal and has not yet made a decision on the final rule.

Question 53: The budget proposes increasing the use of coal combustion residuals (CCR) by 50%. However, the proposed CCR rule has caused a 6% reduction of reuse. How does EPA propose to achieve this increased use of CCRs?

Answer: The EPA continues to support the environmentally sound and protective beneficial use of coal combustion residuals. As the construction industry continues its economic recovery, an increase in the beneficial reuse of CCRs is also expected. The goal of 50% reuse referenced in the EPA’s FY 2013 Congressional Justification is drawn from the EPA’s 2011 Strategic Plan, which anticipated that the total aggregate reuse of CCRs would reach 50% by fiscal year 2015 - a 10% increase over 2008 levels.

CAFO 308 Database Rule

EPA is currently in the process of finalizing a rule – that grew out of a settlement agreement – to develop a database that must be made public on tens of thousands of livestock and poultry farmers across America. This is causing concern in the farming and ranching community as America’s food producers are unsure of EPA’s motivations.

Question 54: In light of the many incidents we have seen over the years, including a recent attack at a Cattle Ranch in California, what protections does EPA plan to include when it finalizes its CAFO Database Rule to prevent sensitive data on individual livestock farms from becoming publically available and putting the families, homesteads, and animals of farmers and ranchers across America at risk?

EPA estimates there are about 20,000 CAFOs and AFOs that will need to report under EPA’s proposed CAFO Database Rule. At the same time, EPA is working on another rule to expand the definition of CAFOs and regulate many additional farms. EPA estimates there are some 220,000 animal feeding operations in this country.

Question 55: What is EPA’s plan for outreach to individual farms and ranches across America to inform them about any new requirements or obligations to file records with the agency?

Answer: EPA will provide a response as soon as possible.

Question 56: What is the agency’s plan for educating potential regulated entities about the new database rule, and how much has the agency budgeted for these efforts?

Answer: EPA will provide a response as soon as possible.

Question 57: If EPA finalizes this rule to require producers to submit the reports, then EPA is going to receive a tremendous volume of data to process and use. What exactly does EPA intend to do with that data? What plan does EPA have in place to review all the data it receives and turn that into useful information? How much has the agency budgeted to process all this data and do the analysis? Have funds been included in the FY 2012 or FY2013 budget?

Answer: EPA will provide a response as soon as possible.

CAFO PERMIT MANUAL

EPA recently released a new guidance manual for permit writers that prepare permits for CAFOs. Many livestock and poultry producers were disappointed to learn that the manual was released in final form rather than as a draft where all stakeholders would be given the time to submit comments and suggestions before it was finalized. When released, EPA indicated it was a “living” document subject to periodic update and that people were welcome to send comments.

Question 58: For the record, please provide a more definitive plan that outlines the frequency for periodic updates.

Answer: The National Pollutant Discharge Elimination System (NPDES) Permit Writers’ Manual for CAFOs provides information to assist states, producers, and the general public, and includes: (1) general information on Clean Water Act and NPDES requirements pertaining to CAFOs; (2) specific information concerning various NPDES permitting requirements applicable to CAFOs, including a range of possible options for meeting requirements, where such flexibility exists; and (3) technical information to help states and producers understand options associated with nutrient management planning.

The EPA intends for this Manual to be a “living” document subject to periodic updates, so that it can reflect the most up-to-date and accurate information concerning the CAFO permitting program and the variety of technical tools that are used in nutrient management. The EPA will continue to be open to new information and comments. Because this information could arise at any time, the EPA has no set timeframe for periodic updates. The frequency of updates would be based on changes to the national CAFO program, new technical information, or comments the Agency receives that would merit clarification to the guidance.

To date, the EPA has not received any substantive comments from any stakeholders regarding the Permit Writers’ Manual or requests for revisions. The only comments received have been regarding how to obtain a printed copy and one comment from the National Resources Conservation Service West National Technology Support Center indicating that the information was helpful to their program.

Question 59: In light of the concerns raised, what steps does EPA plan to take to provide a meaningful opportunity for the farmers and ranchers who will be impacted by EPA’s actions to comment?

Answer: The NPDES Permit Writers’ Manual for CAFOs does not present any new significant policy issues beyond those that were established by the CAFO regulations. However, if CAFO permit holders have questions or concerns regarding the development of their CAFO permit that were not addressed in this manual, the EPA is very interested in hearing from them.

The EPA has discussed with industry groups that if questions arise that identify additional issues not currently addressed, EPA is willing to work together to provide training and/or webinars for farmers and ranchers that would incorporate additional examples of best management practices or nutrient management plans beyond those that are currently used in the manual. Similarly, the EPA is willing to consider other suggestions that would help various stakeholders to better understand the Permit Writers' Manual or the underlying requirements of the program

Question 60: When does EPA expect to reissue this guidance after the regulated community and other stakeholders have sent EPA their comments and suggestions?

Answer: The EPA welcomes comments from the regulated community and stakeholders regarding their experience with the manual and any ways in which they believe it could be improved. As described above, the Agency has not received such comments at this time, but remains open to new information and comments that could improve the manual in the future.

Title 42

The 2012 budget proposes to remove the cap on Title 42 appointments.

Question 61: Please provide an update on the status of appointments under Title 42 authority by year and position.

Answer: EPA will provide a response as soon as possible.

Question 62: Given that the initial language included by the Appropriations Committee explicitly capped the number of appointments at 30 persons, please explain why eliminating the cap on Title 42 appointments is the preferred policy rather than simply increasing the cap?

Answer: EPA will provide a response as soon as possible.

Question 63: Based on EPA's planned research agenda, what are EPA's current needs for additional Title 42 appointments? Please identify research program areas and labs that would benefit from a Title 42 appointment.

Answer: EPA will provide a response as soon as possible.

Question 64: Identifying and selecting appropriate candidates is a time-intensive process. If the language enacted as proposed, what is the estimated time-frame for additional Title 42 hires in fiscal years 2013 through 2015?

Answer: EPA will provide a response as soon as possible.

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EPA BUDGET BY NATIONAL PROGRAM MANAGER AND MAJOR OFFICE

The Committee appreciates the Agency's work to include the "EPA Budget by National Program Manager and Major Office" in Congressional Justification per the directive in the 2012 Omnibus.

Question 65: In order to establish a baseline for comparison, for the record, please provide the table of budgets by National Program Manager and Major Office on pgs 1051-1054 of the EPA Congressional Justification that also includes the 2012 Enacted levels for pay, non-pay and FTE for each office.

Answer: Please see table below.

EPA Budget by National Program Manager and Major Office

Dollars in Thousands, Appropriated FTE Only

NPM	Major Office	FY 2012 President's Budget			FY 2013 Operating Plan			FY 2013 President's Budget			
		Pay (\$K)	Non-Pay (\$K)	FTE	Pay (\$K)	Non-Pay (\$K)	FTE	Pay (\$K)	Non-Pay (\$K)	FTE	
OA	Immediate Office	\$5,922.0	\$880.0	44.4	\$2,873.0	\$411.0	21.5	\$2,900.0	\$631.0	21.8	
	Office of Congressional and Intergovernmental Relations	\$6,426.0	\$795.0	48.3	\$6,286.0	\$251.0	58.4	\$7,969.0	\$266.0	58.8	
	Office of External Affairs and Environmental Education*	\$5,075.0	\$378.0	44.7	\$5,364.0	\$374.0	50.6	\$6,950.0	\$573.0	51.2	
	Office of Policy	\$25,140.0	\$16,799.0	167.1	\$21,396.0	\$10,473.0	163.9	\$25,680.0	\$16,296.0	164.0	
	Administrative Law Judges	\$2,667.0	\$265.0	17.6	\$2,638.0	\$217.0	18.1	\$2,676.0	\$256.0	18.3	
	Children's Health Protection	\$2,842.0	\$5,422.0	18.9	\$2,178.0	\$4,103.0	13.7	\$2,902.0	\$5,384.0	18.9	
	Environmental Education	\$762.0	\$7,671.0	8.6	\$1,271.0	\$6,935.0	9.6	\$0.0	\$0.0	0.0	
	Office of Civil Rights	\$5,887.0	\$2,358.0	38.7	\$5,368.0	\$2,283.0	39.1	\$6,290.0	\$3,799.0	44.5	
	Office of Federal Advisory Committee Management and Outreach	\$1,467.0	\$378.0	11.0	\$1,297.0	\$399.0	12.0	\$1,841.0	\$547.0	12.8	
	Environmental Appeals Board	\$2,244.0	\$210.0	15.0	\$2,145.0	\$168.0	15.2	\$2,252.0	\$208.0	15.4	
	Executive Secretariat	\$1,797.0	\$131.0	13.5	\$1,558.0	\$129.0	14.5	\$1,980.0	\$129.0	14.6	
	Executive Services	\$2,776.0	\$576.0	20.8	\$2,794.0	\$470.0	24.8	\$2,985.0	\$840.0	22.0	
	Homeland Security	\$2,203.0	\$413.0	13.0	\$2,085.0	\$503.0	12.9	\$2,146.0	\$405.0	13.0	
	Science Advisory Board	\$4,181.0	\$1,886.0	28.3	\$4,955.0	\$1,036.0	26.6	\$4,291.0	\$2,346.0	28.6	
	Small and Disadvantaged Business Utilization	\$2,359.0	\$1,936.0	15.3	\$1,959.0	\$1,767.0	15.6	\$2,206.0	\$1,912.0	15.8	
	Regional Resources	\$30,419.0	\$6,172.0	227.5	\$29,420.0	\$6,167.0	223.2	\$30,229.0	\$5,798.0	223.1	
		\$102,477.0	\$45,660.0	732.7	\$92,576.0	\$35,480.0	719.7	\$103,117.0	\$44,099.0	722.1	
	*OEAE includes \$5M in FY 2013 for new streamlined Cross-NPM Environmental Outreach Program managed by the Office of the Administrator										
	OAR	Immediate Office	\$11,660.5	\$15,162.0	77.0	\$11,878.1	\$11,824.4	78.2	\$11,697.0	\$14,886.0	76.8
Office of Air Quality Planning and Standards		\$55,078.7	\$34,626.0	383.3	\$46,798.7	\$25,751.3	345.7	\$51,558.0	\$34,251.0	382.3	
Office of Atmospheric Programs		\$38,255.9	\$99,082.0	272.0	\$37,955.2	\$96,371.5	270.0	\$37,592.0	\$96,801.0	264.4	
Office of Transportation and Air Quality		\$54,495.2	\$65,876.0	402.6	\$52,761.3	\$59,370.9	385.7	\$55,582.0	\$57,683.0	402.6	
Office of Radiation and Indoor Air		\$22,241.8	\$19,048.0	163.3	\$22,316.7	\$19,077.9	161.6	\$22,923.0	\$18,787.0	161.8	
Regional Resources		\$80,438.0	\$331,674.0	620.2	\$76,666.0	\$290,440.0	601.9	\$78,799.0	\$334,500.0	608.2	
		\$259,170.0	\$565,488.0	1,918.4	\$248,016.0	\$496,441.0	1,843.1	\$256,151.0	\$557,008.0	1,896.1	
To display continuity across all years, STAG dollars are represented as part of Regional Resources, as future allocations have yet to be determined.											
OARM	Immediate Office	\$4,639.7	\$2,535.0	31.0	\$7,392.0	\$11,192.3	33.0	\$7,839.0	\$15,499.0	33.0	
	Office of Acquisition Management	\$93,114.2	\$13,266.9	261.3	\$32,496.0	\$12,568.9	262.8	\$32,766.0	\$17,088.0	261.3	
	Office of Administration	\$23,811.8	\$364,040.3	124.8	\$22,169.0	\$351,807.7	125.3	\$23,412.0	\$362,783.0	129.8	
	Office of Human Resources	\$26,451.8	\$11,423.8	172.6	\$21,384.0	\$6,631.7	129.3	\$18,605.0	\$12,230.0	104.4	
	Office of Grants & Debarment	\$11,086.3	\$7,455.4	82.4	\$11,160.0	\$4,786.1	82.4	\$11,182.0	\$6,663.0	82.4	
	OARM ST	\$10,744.0	\$29,496.1	96.6	\$10,433.0	\$27,652.7	95.6	\$10,646.0	\$29,539.0	95.6	
	OARM Cincinnati Office	\$8,191.2	\$16,543.6	71.9	\$10,262.0	\$16,663.7	94.5	\$10,584.0	\$16,780.0	94.5	
Regional Resources	\$93,461.0	\$51,411.0	381.4	\$51,876.0	\$43,674.0	392.8	\$52,265.0	\$42,552.0	388.5		
	\$171,500.0	\$497,172.0	1,222.0	\$167,152.0	\$474,977.0	1,215.7	\$167,279.0	\$503,294.0	1,189.5		
OCFO	Immediate Office	\$2,505.1	\$176.7	13.9	\$2,405.1	\$366.8	14.0	\$2,603.0	\$164.0	13.9	
	Center for Environmental Finance	\$1,074.6	\$2,581.5	7.0	\$1,014.7	\$2,253.1	7.0	\$1,023.0	\$1,417.0	6.5	
	Office of Budget	\$7,330.8	\$3,728.9	51.4	\$6,905.1	\$1,599.3	51.1	\$7,482.0	\$6,081.0	51.4	
	Office of Planning, Analysis and Accountability	\$5,724.4	\$849.5	36.5	\$5,327.9	\$1,156.0	36.6	\$5,775.0	\$893.0	36.5	
	Office of Financial Management	\$7,036.0	\$651.3	54.5	\$6,694.4	\$1,286.8	50.9	\$7,267.0	\$577.0	54.7	
	Office of Technology Solutions	\$8,706.2	\$19,165.8	40.5	\$6,249.3	\$17,338.4	40.9	\$6,781.0	\$17,477.0	40.5	
	Office of Financial Services	\$15,546.2	\$6,040.8	140.9	\$14,665.1	\$5,215.5	139.9	\$15,933.0	\$9,400.0	141.1	
	Office of Resource and Information Management	\$1,585.6	\$1,795.4	10.6	\$1,499.3	\$1,812.2	11.7	\$1,630.0	\$1,785.0	10.6	
	Regional Resources	\$28,913.0	\$1,927.0	233.2	\$28,477.0	\$1,847.0	235.0	\$28,993.0	\$1,847.0	235.4	
		\$76,422.0	\$36,917.0	588.5	\$73,238.0	\$32,779.0	587.1	\$77,477.0	\$39,641.0	590.6	
OCSP	Immediate Office	\$7,378.6	\$1,838.0	58.6	\$7,603.7	\$2,066.6	50.3	\$7,650.0	\$1,752.0	49.6	
	Office of Pesticide Programs	\$79,543.0	\$17,725.0	59.0	\$76,675.4	\$18,709.6	53.6	\$80,239.0	\$17,044.0	53.0	
	Office of Pollution Prevention and Toxics	\$49,138.3	\$50,384.0	325.4	\$47,923.0	\$30,456.2	319.9	\$47,713.0	\$47,224.0	316.2	
	Office of Science Coordination and Policy	\$4,221.1	\$6,808.0	26.5	\$4,235.9	\$6,629.6	26.1	\$4,212.0	\$5,841.0	25.5	
	Regional Resources	\$22,693.0	\$26,043.0	177.7	\$22,318.0	\$30,468.0	176.1	\$21,674.0	\$25,684.0	166.7	
		\$167,974.0	\$102,798.0	1,139.2	\$160,756.0	\$88,332.0	1,126.0	\$161,488.0	\$97,545.0	1,110.0	
OECA	Immediate Office	\$7,686.9	\$2,971.4	51.2	\$8,390.3	\$2,859.9	52.7	\$7,112.0	\$2,858.0	48.1	
	Office of Civil Enforcement	\$25,609.2	\$13,678.3	151.6	\$22,973.1	\$4,185.2	143.3	\$25,876.0	\$13,411.0	155.7	
	Office of Criminal Enforcement, Forensics, and Training	\$60,784.5	\$13,398.0	375.4	\$59,897.5	\$10,655.7	372.1	\$60,380.0	\$12,608.0	367.3	
	Office of Compliance	\$22,156.8	\$54,113.6	141.2	\$21,724.2	\$20,050.9	140.2	\$23,751.0	\$57,131.0	150.2	
	Office of Environmental Justice	\$2,600.9	\$3,371.8	18.5	\$4,637.0	\$3,037.2	18.7	\$2,854.0	\$3,188.0	18.9	
	Office of Federal Activities	\$4,557.6	\$1,480.2	31.7	\$4,056.0	\$1,132.0	31.6	\$4,445.0	\$1,493.0	31.2	
	Federal Facilities Enforcement Office	\$3,387.7	\$559.5	19.0	\$3,069.3	\$704.1	18.7	\$2,888.0	\$550.0	18.8	
	Office of Site Remediation Enforcement	\$11,922.4	\$31,716.1	79.7	\$11,559.6	\$31,349.1	78.3	\$11,477.0	\$30,127.0	75.8	
	Regional Resources	\$333,805.0	\$26,794.0	2,444.5	\$326,716.0	\$47,821.0	2,438.5	\$329,050.0	\$26,908.0	2,409.6	
		\$472,461.0	\$148,083.0	3,312.8	\$466,823.0	\$121,795.0	3,294.1	\$467,633.0	\$148,251.0	3,273.6	

OGC	Immediate Office	\$4,842.0	\$4,547.0	29.0	\$4,567.0	\$3,060.0	27.7	\$4,667.1	\$4,332.3	28.5	
	Air and Radiation Law Office	\$6,963.0	\$40.0	41.2	\$6,900.0	\$40.0	41.2	\$7,187.4	\$47.0	43.7	
	Pesticides and Toxic Substances Law Office	\$3,684.0	\$29.0	21.8	\$3,585.0	\$29.0	21.8	\$3,855.2	\$35.0	21.0	
	Solid Waste and Emergency Response Law Office	\$2,596.0	\$47.0	14.7	\$2,541.0	\$30.0	14.9	\$2,615.0	\$151.0	15.0	
	Water Law Office	\$3,895.0	\$26.0	23.3	\$3,796.0	\$26.0	23.8	\$3,798.9	\$29.0	22.5	
	Other Legal Support*	\$12,506.0	\$1,086.0	71.4	\$12,296.0	\$809.0	73.5	\$12,716.4	\$1,401.7	75.3	
	Regional Resources	\$23,569.0	\$618.0	198.2	\$21,283.0	\$134.0	141.1	\$24,046.0	\$974.0	142.5	
		\$58,155.0	\$6,393.0	339.6	\$54,868.0	\$3,128.0	344.0	\$59,186.0	\$6,270.0	348.5	
	*Other Legal Support includes resources for Alternative Dispute Resolution, Civil Rights and Finance Law, Cross-Cutting Issues, and General Law support.										
	OIG	Immediate Office	\$2,728.0	\$3,476.0	17.7	\$2,677.0	\$2,231.0	17.4	\$2,933.0	\$3,290.0	17.7
Office of Audit		\$10,909.0	\$696.0	95.9	\$10,700.0	\$411.0	93.9	\$11,797.0	\$646.0	95.9	
Office of Congressional, Public Affairs and Management		\$2,727.0	\$185.0	19.7	\$2,677.0	\$120.0	19.3	\$2,946.0	\$173.0	19.7	
Office of Counsel		\$2,260.0	\$93.0	16.5	\$2,219.0	\$60.0	16.1	\$2,440.0	\$86.0	16.5	
Office of Investigations		\$10,754.0	\$2,573.0	69.7	\$10,551.0	\$1,656.0	68.1	\$11,607.0	\$2,990.0	69.7	
Office of Mission Systems		\$6,466.0	\$1,669.0	53.2	\$6,347.0	\$1,080.0	52.1	\$6,988.0	\$1,551.0	53.2	
Office of Program Evaluation		\$10,899.0	\$578.0	93.1	\$10,690.0	\$423.0	91.2	\$11,613.0	\$540.0	93.1	
		\$46,736.0	\$9,270.0	365.8	\$45,871.0	\$6,000.0	358.1	\$50,522.0	\$8,615.0	365.8	
OTA		Immediate Office	\$1,382.6	\$168.5	8.2	\$1,303.2	\$126.8	7.8	\$1,062.1	\$143.1	6.3
		Office of Regional and Bilateral Affairs	\$3,819.5	\$4,219.1	25.8	\$3,712.4	\$3,679.6	25.0	\$3,728.8	\$4,030.9	24.7
	Office of Global Affairs and Policy	\$3,163.7	\$433.6	20.1	\$3,191.9	\$323.2	20.4	\$3,318.3	\$473.6	20.9	
	Office of Management and International Services	\$2,087.9	\$1,412.4	15.2	\$2,238.6	\$68.7	15.9	\$2,356.0	\$1,333.6	16.5	
	American Indian Environmental Office	\$2,431.4	\$2,180.4	17.5	\$2,459.0	\$1,605.8	17.5	\$2,646.8	\$2,102.8	17.9	
	Regional Resources	\$10,216.0	\$94,377.0	82.1	\$10,113.0	\$69,496.0	81.7	\$10,330.0	\$99,045.0	81.5	
		\$23,101.0	\$102,791.0	168.9	\$23,058.0	\$75,913.0	168.3	\$23,442.0	\$107,129.0	167.8	
	ORD*	Air, Climate, and Energy	\$41,780.0	\$66,220.0	309.6	\$41,072.0	\$57,773.0	306.6	\$41,792.0	\$64,102.0	308.4
		Sustainable and Healthy Communities	\$83,590.0	\$105,740.0	621.7	\$84,493.0	\$104,435.0	621.7	\$84,975.0	\$99,161.0	620.9
		Chemical Safety and Sustainability	\$37,224.0	\$58,433.0	292.7	\$38,363.0	\$53,372.0	291.2	\$38,993.0	\$55,248.0	293.5
Safe and Sustainable Water Resources		\$66,155.0	\$62,621.0	439.6	\$53,278.0	\$60,198.0	436.3	\$57,995.0	\$63,195.0	443.5	
Homeland Security: Preparedness, Response, and Recovery		\$9,058.0	\$17,594.0	64.7	\$9,058.0	\$17,545.0	64.1	\$9,469.0	\$16,893.0	64.7	
Human Health Risk Assessment		\$27,696.0	\$18,046.0	195.8	\$25,759.0	\$17,131.0	192.4	\$27,739.0	\$16,082.0	195.9	
Water Quality Research and Support Grants				50.0		\$4,992.0	0.0				
		\$35,473.0	\$328,654.0	1,924.1	\$252,034.0	\$315,446.0	1,904.3	\$290,963.0	\$314,681.0	1,926.9	
* ORD does not develop the research budget based on a functional organizational split, rather ORD develops an office level allocation of resources after Congressional Action during the Operating Plan. This breakout represents a breakout of ORD program projects. FY 2013 Resources reflect a more accurate Payroll by Program breakout.											
OSWER		Immediate Office	\$9,031.9	\$6,362.6	58.9	\$8,993.2	\$6,059.1	58.4	\$9,263.0	\$6,282.0	59.0
	Federal Facilities Restoration and Reuse Office	\$2,325.3	\$980.5	15.0	\$2,283.5	\$964.8	14.8	\$2,364.0	\$951.0	15.0	
	Innovation Partnership & Communication Office	\$1,281.6	\$1,830.0	9.2	\$1,214.6	\$1,176.6	9.1	\$1,256.0	\$1,802.0	9.2	
	Office of Superfund Remediation and Technology Innovation	\$25,648.6	\$88,095.4	174.4	\$25,544.8	\$86,914.8	177.2	\$25,462.0	\$75,808.0	173.0	
	Office of Resource Conservation and Recovery	\$26,712.4	\$11,149.3	177.2	\$26,079.8	\$8,456.8	175.4	\$26,777.0	\$10,972.0	175.7	
	Office of Underground Storage Tanks	\$4,841.1	\$3,722.1	32.3	\$4,652.5	\$4,014.1	31.1	\$4,739.0	\$3,015.0	30.9	
	Office of Brownfields and Land Revitalization	\$2,862.7	\$28,145.8	20.5	\$2,682.7	\$17,462.8	20.4	\$2,670.0	\$18,680.0	19.2	
	Office of Emergency Management	\$11,740.3	\$38,078.3	77.1	\$11,296.8	\$37,080.1	75.7	\$11,940.0	\$34,498.0	77.8	
	Regional Resources	\$270,948.0	\$868,444.0	1,999.1	\$264,659.0	\$850,985.0	2,002.3	\$274,456.0	\$818,455.0	2,022.7	
		\$35,392.0	\$1,046,908.0	2,563.7	\$347,452.0	\$1,013,114.0	2,564.4	\$358,927.0	\$970,463.0	2,582.5	
OW	Immediate Office	\$9,915.1	\$9,376.4	69.4	\$9,511.7	\$8,568.7	64.8	\$10,158.0	\$9,011.0	68.9	
	Office of Ground Water and Drinking Water	\$26,597.2	\$39,281.0	180.8	\$26,031.4	\$46,544.7	189.5	\$26,344.0	\$36,080.0	188.1	
	Office of Science and Technology	\$19,284.3	\$24,967.0	131.9	\$19,131.7	\$21,434.2	130.9	\$19,860.0	\$23,993.0	132.2	
	Office of Wastewater Management	\$14,996.7	\$15,198.0	107.5	\$14,442.6	\$12,429.6	104.7	\$14,756.0	\$15,012.0	105.2	
	Office of Wetlands, Oceans and Watersheds	\$18,953.7	\$38,987.7	127.4	\$18,220.6	\$29,428.7	125.3	\$19,201.0	\$30,188.0	126.3	
	Regional Resources	\$197,284.0	\$356,622.0	1,503.6	\$191,405.0	\$349,317.0	1,506.0	\$197,195.0	\$310,928.0	1,502.0	
		\$286,031.0	\$3,693,732.0	2,130.6	\$278,745.0	\$3,466,723.0	2,121.2	\$287,314.0	\$3,124,812.0	2,122.7	
	Subtotal Agency Resources										
	Less Reversion of Prior Year Funds										
	Reimbursable FTE										
Total Agency Resources											

COMPASS

Question 66: EPA has requested an increase of \$3.4 million to perform maintenance of the new Compass system. What needs are associated with the system that are unable to be addressed within base resources?

Answer: The increase of \$3.4 million reflects a full year of operations in FY2013 as opposed to a partial year of costs for FY2012 and supports a new interface with the Department of Interior's National Business Center for the Human Resources Line of Business (HRLoB) migration.

In addition, it is important to note that the previous year's Integrated Financial Management System (IFMS) operations and maintenance costs were unusually low as a result of the EPA's decision to limit IFMS changes (i.e., fixes and other system updates) and the contractor waived IFMS license fees in advance of IFMS retirement.

COMPETITIVE RESEARCH GRANTS

The fiscal year 2012 Omnibus established a \$5 million competitive grant program to fund extramural water quality and availability research of national scope. The language included a directive to issue the funds to grantees within 180 days of enactment. ORD has signaled that it may be unable to meet the 180 requirement to issue the grants whereas the Office of Water released the RFP for the competitive technical assistance grants at the end of February.

Question 67: Is ORD on track to issue the competitive research grants within 180 days per the directive in the 2012 Omnibus? If not, why not?

Answer: The 2012 Omnibus Report required \$5 million be associated with extramural research grants on water quality and quantity. As a result, EPA's Office of Research and Development (ORD) is currently developing a request for proposals in alignment with the directive in the 2012 Omnibus. We expect to advertise the request for proposals by late summer, therefore, we will not be able to award the grants within 180 days. The requirements of the Science to Achieve Results (STAR) research program are designed to ensure that all our research grants are competitively awarded. Extensive internal and external peer review of our research grants ensure that we forward only the proposals with the highest scientific quality. While ORD will expedite the process as much as possible, it will not be awarded within 180 days in order to ensure the scientific quality of the proposals and awards.

Question 68: Do the processes for developing request for proposals in the Office of Research and Development differ from those in the Office of Water? If so, how do they differ?

Answer: There are no significant differences between the processes used by the Office of Research and Development (ORD) and the Office of Water (OW) for developing requests for proposals (RFP) for financial assistance. Both ORD and OW are guided by EPA Order 5700.A1, Policy for Competition of Assistance Agreements (1/11/2005). RFPs in both offices are subject to review by Agency technical experts, counsel, financial management and competition staff depending on the amount of funding that is involved. This process allows EPA to develop RFPs that comport with standards for sound science and programmatic effectiveness, comply with legal requirements, and are consistent with EPA's policy of conducting competitions fairly and impartially.

STORMWATER DISCHARGES

Section 402(p) of the Clean Water Act requires the EPA to prepare and submit a report to Congress prior to any efforts to expand the scope of the stormwater discharge program. Last year EPA expressed its intent to submit a supplement to 1999 Report to Congress on Stormwater Discharges. EPA expected that the Report would be sent to Congress last summer.

Question 69: Does EPA intend to submit such a supplement? If so, please provide the status and an estimated timeframe.

Answer: On December 28, 2009, EPA announced its plans to initiate national rulemaking to establish a program to reduce stormwater discharges from newly developed and redeveloped sites and make other regulatory improvements to strengthen its stormwater program.

Under a settlement agreement with the Chesapeake Bay Foundation (CBF), EPA expected to complete the rulemaking proposal in September 2011; however, the rulemaking schedule has been delayed to provide EPA additional time to develop its benefits and cost analyses. EPA and CBF are currently in continuing discussions to revise the rulemaking schedule.

Pursuant to Clean Water Act section 405(p)(5), EPA has been developing a supplement to the Reports to Congress on studies used to support the December 8, 1999 stormwater regulations authorized under 402(p)(6). EPA would submit a Supplemental Report to Congress before publishing a proposed rule.

Lead Paint Rule

EPA's Renovation, Repair, and Painting Rule (RRP rule) has been in effect since April 21, 2010. Currently, all for-hire contracting firms working in pre-1978 housing units or child-occupied facilities (COF) must be *both* an EPA-certified firm and have at least one contractor on staff who has successfully completed EPA's certified renovator training who is assigned to specific phrases of the renovation activities. EPA internally tracks the total number of EPA-certified firms and the number of contractors who have successfully completed EPA-certified renovator training course.

However, my question focuses not on how many remodeling/contractor firms have complied with EPA's RRP rule's certification and worker training requirements, but rather on whether EPA tracks progress of reducing childhood lead poisoning, which was Congress's intent under Title X (15 U.S.C. §2681 et seq.), the statutory basis for EPA's RRP rule.

Question 70: Does EPA track reductions in the total number of children with lead poisoning due to implementation of the RRP rule?

Answer: EPA to provide response as soon as possible.

Question 71: What metric(s) does EPA use to track reduced instances of lead poisoning due to the RRP rule for children over the age of six or adults?

Answer: EPA to provide response as soon as possible.

Question 72: Does the agency track any of the following metrics?

1. Percentage of consumers' (i.e., homeowners') knowledge of the existence of EPA's RRP rule;
2. Homeowners' willingness to pay for lead safe work practices (both in terms of homeowners with children under the age of six and homeowners without children);
3. The value-add homeowners place upon renovation activities performed by EPA-certified renovation firms following EPA's lead-safe work practices.

LEAD PAINT RULE - ENFORCEMENT

Question 73: From the EPA's enforcement records, how many inspections were done in homes where there were children under age 6 residing?

Answer: As of May 2, 2012, the EPA has conducted 1,154 Renovation Repair and Painting (RRP) federal inspections of all types, including both on-site and books and record inspections since the rule became effective in April 2010. Although the Agency data system collects information about numbers of renovation firm inspections, it does not track information about children related to those inspections.

It is important to note that the presence of children during or after a renovation can be difficult to determine from a single on-site visit, or from review of records, since the house or apartment is often empty while the work is on-going.

Question 74: How many were child-occupied facilities?

Answer: Although the Agency data system collects information about numbers of inspections, it does not track information about children related to those inspections.

Question 75: How many actual "on-site" (during a remodeling project) inspections have been done and how many were "books and records" recordkeeping inspections?

Answer: The EPA has conducted 1,154 Renovation Repair and Painting (RRP) federal inspections of all types, including both on-site and books and record inspections (as of May 2, 2012), since the rule became effective in April 2010. Our data system does not include data elements that allow us to differentiate between on-site and "books and records" inspections. The inspection type varies by individual site circumstances. Though books and records inspections are typically conducted first to determine compliance, they may warrant on-site inspections and on-site inspections may be followed-up by record inspections of previous renovations by the firm in question.

EPA approved pre-renovation test kits

EPA's justification for an EPA-approved pre-renovation test kit was to provide EPA-certified renovation firms with a cheap, reliable, and fast method for testing painted surfaces within jobsites to determine applicability of the RRP rule. EPA's RRP regulations (40 C.F.R. §745.88) require all EPA-approved lead based paint (LBP) test kits to have a certain level of accuracy (i.e., percentage of false positive and false negative results) for testing painted surface for the presence of LBP.

None of the currently available EPA-approved test kits achieve EPA's required accuracy levels and as a result EPA had chosen to amend the final RRP rule on August 5, 2011 (76 Fed. Reg. 47918) to allow EPA-certified renovators to collect paint chip samples and send them to EPA-accredited laboratories for chemical analysis.

Question 76: EPA has stated that a cheap, reliable, and fast EPA-approved LBP test kit is critical in order to successfully implement the RRP rule. Given this assertion, does EPA intend to continue work on finding such a kit so that EPA-certified renovation firms will be able to use onsite test kits instead of sending paint chip samples to labs?

Answer: EPA to provide response as soon as possible.

BIOLOGICAL OPINIONS

Farmers, particularly in the Pacific Northwest, are concerned about the Biological Opinion situation related to endangered salmon species in the Columbia River Basin. There appears to be a large gap between EPA's modeling and data and that of the US Fish and Wildlife Service. Specifically, the two agencies use different assumptions regarding legal use of farm chemicals. To be more specific, the US Fish and Wildlife Service is using misconstrued modeling, data, and assumptions that could essentially impact the use of significant amount of farm acres by requiring huge buffer zones and banning legal use of specific pesticides in an attempt to keep crop chemicals from reaching waters harboring endangered species.

Question 77: Please update the subcommittee on the status of the EPA's activity related to this issue, and how EPA is working with the US Fish and Wildlife Service to address the aforementioned concerns.

Answer: The Service responsible for the Biological Opinions (BiOps) related to endangered salmon species in the Pacific Northwest is the National Marine Fisheries Service (NMFS), rather than the U.S. Fish and Wildlife Service (FWS). To date, NMFS has issued biological opinions for 24 of the 37 pesticides addressed in the *Washington Toxics Coalition v. NMFS* litigation settlement agreement. Under that agreement, NMFS must complete BiOps for the 13 remaining pesticides on a schedule that runs through June 30, 2013.

Following completion of the first several of these BiOps, EPA and NMFS (as well as FWS and the U.S. Department of Agriculture) determined that the appropriate course of action was to commission the National Academy of Sciences (NAS) to review the critical scientific and technical issues that have arisen during consultation efforts on pesticides under the Endangered Species Act (ESA). The NAS review, which is scheduled to be completed by early 2013, will provide independent advice on the following six specific topics as they relate to impacts on ESA-listed species of pesticide active ingredients: (1) best available scientific data and information; (2) sub-lethal, indirect, and cumulative effects; (3) mixtures and inert ingredients; (4) modeling; (5) interpretation of uncertainty; and (6) geospatial information and datasets. The different approaches and assumptions used by EPA, NMFS, and FWS to assess the potential impact of pesticides on listed species are being addressed by the NAS review. EPA and NMFS assessments from the salmonid consultations are being used as examples for that review. It is our expectation that the report that follows that review will inform both agencies' endangered species programs, including EPA's implementation of the NMFS BiOps on listed salmonids.

MINING PERMITS / ENHANCED COORDINATION PROCEDURES

Question 78: On October 6, 2011 the U.S. District Court for the District of Columbia ruled in *National Mining Association v. Jackson* that it is incumbent upon the Corps to ensure that Clean Water Act permits are issued in a timely manner and without impermissible interference from EPA. What efforts are EPA and the Corps undertaking to ensure compliance and consistent implementation of the court's decision?

Answer: On October 6, 2011, the Federal District Court for the District of Columbia set aside the Enhanced Coordination Procedures (ECP) developed by the Department of the Army and the U.S. Environmental Protection Agency for the review of 79 pending Appalachian surface coal mining permit applications. Army Corps of Engineers Districts and the EPA regions in Appalachia ceased using the ECP as of the date of the District Court's decision. The Corps Districts affected by the court ruling were advised to process pending applications in accordance with published Corps of Engineers regulations and applicable Memoranda of Agreement. The EPA issued a memorandum to the three EPA regional offices reviewing permits in Appalachia instructing them to cease coordination under the ECP and to work with the Corps consistent with existing statutory and regulatory authorities and roles. The Corps issued similar instructions to its Districts.

Question 79: The Court also ruled that the Enhanced Coordination Procedures developed by the EPA and the Corps unlawfully changed the permitting process for Section 404 coal mine permits under the Clean Water Act. In light of this decision, how can we ensure that current and future guidance documents do not become rules themselves without affording stakeholders the procedural protections under the Administrative Procedure Act?

Answer: It is important to emphasize that the EPA works hard to assure that our guidance is developed to help Agency staff, states, the public, industry, and others better understand how we implement existing law. EPA guidance is non-binding and does not establish any new requirements. It is also important to state that the decision in *National Mining Association v. Jackson* focused exclusively on the Corps and the EPA use of their enhanced coordination procedures developed to coordinate review of section 404 permit applications that had been pending since the prior administration. The public can be assured that any binding rules the EPA develops will be fully consistent with relevant requirements established under the Administrative Procedure Act.

Question 80: Data from the Army Corps of Engineers indicates that there are still 130 individual and general permits pending in four districts alone, with only 21 of those in the "final review stage." What progress has been made by the EPA since the Court decision to issue these permits in a timely manner?

Answer: We have been advised by the U.S. Army Corps of Engineers, the lead federal agency for issuing Clean Water Act Section 404 permits, that 94 projects have been authorized under general permits and 38 individual permits have been issued by the Corps for coal mining operations in Appalachia between January 1, 2009 and December 31, 2011. According to this Corps information, the EPA is aware of the following Section 404 permits being issued for coal mining activities in the first quarter of FY 2012 (identified below), which reinforces the effective coordination that is taking place. Also attached is the Corps' full list of the 132 Section 404 mining-related permits that have been issued by the five Corps districts in the Appalachian region from January 1, 2009 - December 31, 2011.

	State	Permittee	DA Number	Date Issued	County
1	KY	Mountainside Coal Company, Inc.	LRN-2009-01716	12/22/11	Whitley
2	OH	Sands Hill Coal Company, Inc.	LRH-2001-00407-OHR	12/12/11	Jackson
3	KY	Dixie Fuel Company	LRN-2007-00202	12/9/11	Harlan
4	OH	Oxford Mining Company, Inc.	LRH-2008-00979-MUS	12/7/11	Tuscarawas
5	OH	Kimble Clay & Limestone	LRH-2005-00478-TUS	11/30/11	Tuscarawas
6	WV	Patriot Mining Co.	LRP-2008-02414	11/18/11	Harrison
7	PA	Amerikohl Mining, Incorporated	LRP-2011-01714	11/18/11	Fayette
8	OH	Oxford Mining Company, Inc.	LRH-2010-00558-MUS	11/15/11	Perry
9	VA	Chris Stanley-Clintwood Elkhorn Mining Company	NAO-2009-02381-gct	11/10/11	Buchanan
10	WV	Consolidation Coal Co.	LRP-2010-00420	11/10/11	Monongalia
11	WV	Cliffs Logan County Coal, LLC	LRH-2009-00613-GUY	11/8/11	Logan
12	OH	Nathan Leggett-Oxford Mining Company	LRP-2007-01180	11/3/11	Jefferson
13	WV	Robert Coit-Consolidation Coal Company	LRP-2010-01600	10/28/11	Marion
14	WV	Pocahontas Coal Company LLC	LRH-2008-00801-GUY	10/27/11	Raleigh
15	WV	Pocahontas Coal Company LLC	LRH-2009-00681-GUY	10/21/11	Mercer
16	WV	Hobet Mining, LLC	LRH-2008-00479-BCR	10/21/11	Boone
17	WV	Pocahontas Coal Company LLC	LRH-2010-00057-NEW	10/7/11	Raleigh
18	OH	B&N Coal Company	LRH-2009-00701-OHR	10/5/11	Noble

The U.S. Environmental Protection Agency strives to provide timely input on proposed section 404 activities in accordance with standard procedures, which were established based on the Corps implementing regulations and the 1992 EPA/Corps Memorandum of Agreement implementing Clean Water Act section 404(q). The EPA continues to work with all agencies in each Appalachian state responsible for the review and permitting of activities associated with surface coal mining.

**** Also see attached chart titled Section 404 Appalachian Mining-Related Permits ****

Chemical Management

EPA is proposing to increase its budget to address “chemical safety” issues – enhancing its existing chemicals program and maintaining the activities in the new chemicals program under TSCA. One of the means by which EPA proposes to enhance its existing chemicals program is through prioritization of chemicals for further review and possible assessment.

Question 81: What steps is EPA taking to implement its prioritization strategy in a science-based way?

Answer: EPA to send as soon as possible.

The budget states that the Agency is “committed to...achieving transparency in agency decision-making as an integral part of achieving” EPA’s mission. And yet, EPA has undertaken a prioritization process to date without making transparent the criteria applied in that process.

Question 82: Will EPA make its criteria and processes for prioritizing chemicals transparent?

Answer: EPA to send as soon as possible.

Question 83: Will EPA apply its prioritization approach to all chemicals currently in commerce, or only those which have already gained attention within EPA and other chemical regulatory bodies around the world? In other words, will EPA take a comprehensive, long term approach to prioritization? Please outline EPA’s prioritization process.

Answer: EPA to send as soon as possible.

Question 84: When does EPA expect to release its chemical priorities for 2012, in line with its proposed prioritization approach?

Answer: EPA to send as soon as possible.

High production volume (HPV) chemicals

Between 1998 and now, chemical manufacturers provided screening level data and information on 2,200 high production volume (HPV) chemicals, representing more than 95% of all chemicals in commerce today, by volume.

Question 85: How has the Agency made use of the HPV data and information to date? Will the Agency make better use of this data and information to prioritize chemicals for further evaluation and assessment?

Answer: EPA to send as soon as possible.

Question 86: What is the agency doing about formalizing that agreement to make full use of the information on HPVs and other substances so as not to waste resources by requiring duplicative information from industry?

Answer: EPA to send as soon as possible.

Chemical Action Plans

Question 87: Has EPA budgeted additional dollars for its “Action Plans” in 2013? Please explain what is the intention of the agency regarding action plans?

Answer: The EPA is proposing to allocate FY 2013 resources to continue to implement in FY 2013 risk management actions associated with the ten Action Plans published from 2009 through 2011, as described in detail in the Chemical Risk Review and Reduction (CRRR) program section of the FY 2013 President’s Budget.

In March 2012, EPA completed a TSCA Work Plan³ identifying 83 chemicals for further assessment under the Toxic Substances Control Act (TSCA). A complete listing of the 83 chemicals is publicly available; please see <http://www.epa.gov/oppt/existingchemicals/pubs/workplan.html>. On March 1, 2012 EPA selected seven of those chemicals for risk assessments which will begin in FY 2012 and are scheduled to be completed in FY 2013. On June 1, 2012, EPA identified eighteen more of those chemicals which are planned to be assessed in FY 2013 and FY 2014. EPA will use the TSCA Work Plan to continue to screen and identify future chemicals as candidates for risk assessment and will pursue data collection and risk reduction actions as warranted by the results of those screening and assessment activities.

Question 88: Will EPA issue any new action plans in 2013?

Answer: EPA will continue to implement in FY 2013 risk management actions associated with the ten Action Plans published from 2009 through 2011, as described in detail in the Chemical Risk Review and Reduction (CRRR) program section of the FY 2013 President’s Budget. EPA will use the TSCA Work Plan to continue to screen and identify future chemicals as candidates for risk assessment and will pursue data collection and risk reduction actions as warranted by the results of those screening and assessment activities.

³ The TSCA Work Plan and information about its development may be found at <http://www.epa.gov/oppt/existingchemicals/pubs/workplan.html>

Confidential Business Information (CBI)

In 2010, EPA announced a policy shift in its interpretation of section 14(b) of TSCA and plans to deny claims for confidential chemical identity in health and safety studies except where disclosing that identity would also disclose process information or concentrations in a mixture or formulation. This interpretation of the statute's protection of CBI is a direct contradiction of more than 30 years of EPA's own legal and policy position as well as legislative history. It is also inconsistent with 5 other federal environmental statutes enacted between 1972 and 1986, all of which provide for disclosure of health and safety effects information while still protecting confidential chemical identities. In fact, even EPCRA, the Right-to-Know statute, allows chemical identity to be protected in a health and safety study while still making public the health and safety effects information in the study.

Question 89: Please comment on EPA's more recent interpretation of TSCA's CBI provisions and why the Agency now thinks TSCA treats confidential chemical identity differently than it is treated under the other five federal environmental statutes.

Answer: EPA to send as soon as possible.

Question 90: How does EPA plan to implement this new policy in a manner that balances the public's access to information while still protecting industry's legitimate competitive interests?

Answer: EPA to send as soon as possible.

Chemical Data Reporting (CDR) Rule

Question 91: What outreach has EPA conducted with the regulated community to ensure they have a firm understanding of the new Chemical Data Reporting (CDR) requirements and adequate time to fully comply with this rule?

Answer: The EPA has provided a wide variety of guidance, presentations and other assistance to the regulated community and continues to respond to requests for information as they are received. Since the final Chemical Data Reporting (CDR) Rule was published in August 2011, the EPA has held several webinars⁴, traveled to industry meetings to make presentations and answered questions on the reporting requirements, and added numerous guidance documents, training modules, and frequently asked questions to the CDR website. Issues related to byproduct reporting under CDR seemed to be of strong interest; as a result, the EPA has specifically addressed this type of reporting. Items associated specifically with byproduct reporting that are readily available on the CDR website include an online training module⁵, a question and answer (Q&A) document⁶, and a byproduct and recycling scenarios document⁷ (including an associated slide presentation⁸). In addition, byproduct-specific instructions for reporting are included in the overall CDR instructions manual⁹ and a byproduct example is included in the CDR case studies document¹⁰.

EPA will continue to provide support to companies through a range of informational resources. The Agency will continue to address newly submitted questions from the regulated community through the end of the submission period. Comments and questions may be submitted to EPA in a variety of ways, including through telephone hotlines and a general CDR email address. In addition, the regulated community and the public may call any of a number of agency staff persons who are able to address their questions.

Question 92: In the CDR final rule, with its expanded reporting requirement, EPA shortened by three months the timeframe in which industry must prepare the reports for 2011. EPA has provided companies only up to six months to prepare reports for the 2011 CDR collection year, as contrasted with the 2016 CDR and subsequent CDR reporting periods, in which companies

⁴ CDR webinars were held on September 23 and November 16, 2011 and January 19, February 8, April 17, and May 8, 2012. Information from the webinars is on the CDR website, at <http://www.epa.gov/iur/tools/index.html>.

⁵ http://www.epa.gov/iur/tools/training/Training_Module_7.pdf

⁶ http://www.epa.gov/iur/tools/Q&A_DOCUMENT-Recycling_and_TSCA_Chemical_Substance_Inventory%20-revised%208-1-11.pdf

⁷ http://www.epa.gov/iur/pubs/guidance/2012_CDR_Byproducts_Scenarios.pdf

⁸ http://www.epa.gov/iur/pubs/guidance/ByproductWorkshop_01-19-12_final.pdf

⁹ <http://www.epa.gov/iur/tools/InstructionsManual.041712.pdf>. Byproducts are specifically discussed beginning on page 2-4 of the Instructions document.

¹⁰ http://www.epa.gov/iur/tools/2012_CDR.Examples.pdf. Example C, beginning on page 6, addresses a byproduct chemical substance.

will have six to nine months to prepare the reports. Would the Agency consider extending the reporting submission period to September 30, 2012 to be consistent with future CDR reporting periods and to allow submitters adequate time to fully comply with the new requirements?

Answer: The final CDR Rule was published on August 16, 2011. The rule requires companies to report a range of information on the chemicals they manufacture. In order to provide time for the regulated community to become accustomed to the reporting requirements that were new, the EPA has taken significant steps to accommodate submitters' transition concerns. For example, several required reports were delayed until the 2016 submission period, including the need to report production volume for all years since the last principal reporting year, the need to report processing and use information for chemicals manufactured under 100,000 pounds, and the need to report for certain chemicals based on a 2,500 pound product volume threshold. The EPA has also been working closely with many industry groups and individual companies to address questions regarding the 2012 reporting obligations. The EPA has provided a variety of guidance and training materials on its website, including instructions for reporting, user guides, case studies, reporting scenarios, and seven training modules; has held webinars beginning in November 2011; and has provided presentations and addressed questions at industry meetings beginning in September 2011. In addition, the EPA expanded the 2012 submission window from the previously established four months to five months to provide adequate time for companies to review and understand changes in the requirements, gather the necessary information, and file through the Agency's electronic reporting system. On June 11, EPA announced an extension of the deadline for 2012 reports from June 30, 2012 to August 13, 2012. EPA will continue to provide support to companies through a range of resources, including the TSCA Hotline, the CDR webmail, and the availability of EPA staff to answer questions about reporting to CDR.

ENDOCRINE DISRUPTOR SCREENING PROGRAM

Question 93: When reviewing the newly developed screening battery of test methods for EPA's Endocrine Disruptor Screening Program (EDSP), EPA's Science Advisory Board recommended that, after the initial round of screening is completed, the Agency should analyze the results to determine how well or poorly each of the 11 screening methods has performed, have this analysis undergo scientific peer review, and then make any changes needed in the screening battery before pushing on to screening additional substances. Considering EDSP screening costs can be more than \$500,000 per substance, and that the results of the first round of screening from EPA's issuance of 67 test orders in 2009 and early 2010 will be completed by August or September, please state whether you plan to follow the SAB recommendation in early FY 2013 before issuing additional endocrine screening test orders? If not, why not?

Answer: In accordance with the Federal Food, Drug and Cosmetic Act (FFDCA) section 408(p), the agency will continue to require appropriate validated scientific methods when issuing additional Tier 1 screening orders. The agency intends to follow the Science Advisory Board's (SAB) recommendation to “convene a panel of independent scientists to review all the screening data for 50-100 compounds, with an eye towards revising the process and eliminating those methods that don't work.” (U.S. EPA Report, Joint Subcommittee of the Science Advisory Board and Scientific Advisory Panel, *Review of the EPA's Proposed Environmental Endocrine Disruptor Screening Program*, July 1999). To that end, the agency plans to conduct a thorough scientific review of the Tier 1 assay results, the individual assays and the collective Tier 1 battery performances. The EPA's comprehensive scientific evaluation of the Tier 1 screening assays will occur in the Fall of 2012, and will include external scientific peer review by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) in Fall of 2013.

It is our intention to fully utilize recommendations received from the SAB and FIFRA SAP to guide our implementation of the EDSP.

EPA AIR TOXICS PRIORITIES

EPA has proposed a \$7 million increase for the stationary source NAAQS and air toxics program. EPA indicates that it has a host of air toxics rules to complete, almost 200 of which will be past their statutory deadline by FY 2012-2013. EPA also indicates that it has “prioritized sectors” and will attempt to take an improved approach to rulemaking with its “multipollutant sector based” approach.

Question 94: How has EPA put this plan into action? How has EPA prioritized sectors, and how has EPA’s rulemaking agenda reflected such prioritization?

Answer: EPA has worked with stakeholders to understand and establish priorities and develop regulatory strategies for industrial sectors. We grouped rule-making activities by industrial sector and this resulted in a total of 70 sector groupings, 55 of which are covered by stationary source regulations. Using a number of factors (hazardous and criteria emissions, cancer and non-cancer toxicity of emissions and nonattainment area emissions) EPA developed several different ranking exercises of these sectors. In general, 10 to 15 industrial sectors consistently showed up near the top of the rankings. These emission-based ranking exercises were then combined with other factors affecting each sector, such as the potential for future emissions reductions, potential for synergistic control of multiple pollutants, significance of MACT and NSPS regulations, legal considerations, and population exposure concerns to assess regulatory plans and resource needs. These prioritization exercises are taken into account, together with legal and court-ordered timetables, to determine EPA’s regulatory agenda for stationary sources of air pollution.

Question 95: What evidence exists to suggest that the multi-pollutant, sector-based approach results in significant benefits beyond what the Clean Air Act already provides?

Answer: The multi-pollutant, sector-based approach is an integrated approach which optimizes data collection for better characterization of industrial sectors, focuses on reducing emissions in areas that will accrue the greatest public benefits, maximizes co-benefits of air pollution control investments, aligns control strategies, and streamlines monitoring, recordkeeping and reporting requirements to minimize regulatory and administrative burdens to the regulated entity. A multi-pollutant approach should also enable EPA to more efficiently manage its workload, allowing the Agency to reduce its vulnerability to lawsuits driven by EPA’s inability to meet statutory deadlines for issuing and revising regulations. The two examples below illustrate these benefits.

Cement Sector Multi-pollutant Approach

The multi-pollutant sector approach for cement optimized the reductions of criteria air pollutants and air toxics through the synchronization of the Portland Cement NSPS and NESHAP. The optimization included maximizing the use of multi-pollutant controls while minimizing conflicting and redundant requirements in emission limits and in monitoring, reporting and record keeping of the both actions. The approach also aimed to maximize the

interactions between the NSPS and NESHAP with other regulatory programs (e.g. NSR, Regional Haze, and PM2.5 SIPs).

Below is a summary of the strategy developed to optimize the regulatory actions for the cement sector.

- Established standards for air toxics pollutants in accordance with section 112 of CAA, while also considering the new source performance standards in accordance with section 111 of CAA. This alignment improves facilities' ability to optimize their control strategy for multiple standards and avoid stranded costs that can come from planning for one standard at a time.
- Maximized interactions between the technologies used to control acid gases (HCl) and mercury for existing kilns, which results in additional SO₂ reductions from existing kilns. These collateral SO₂ reductions (precursor of PM_{2.5}) may be considered for "netting" and "offsets" purposes under the major New Source Review program or as credits that could help areas around the country with attainment of the SO₂ or PM_{2.5} National Ambient Air Quality Standards (NAAQS).
- Allowed for alignment and consistency of monitoring, record keeping and reporting requirements, where appropriate (e.g., consistent averaging time for air toxics and criteria pollutants).

Detroit Multi-pollutant risk-based Approach

The Detroit metropolitan area was the focus on an EPA case study to test the viability of a new multi-pollutant risk-based approach to air quality management. This analysis attempted to estimate the impact of prioritizing control measure selection to minimize population exposure and emphasizing multi-pollutant emission reductions as a means of reducing overall air-pollution concentrations. The analysis demonstrated that, as compared to a traditional pollutant-by-pollutant approach to air quality management, a multi-pollutant risk-based approach will most likely result in larger human health benefits associated with reduced exposure to ozone and PM_{2.5} concentrations and greater risk reductions due to reduced exposure to air toxics.

CROSS STATE AIR POLLUTION RULE

On August 8, 2011, EPA finalized the Cross-State Air Pollution Rule (CSAPR). The rule was scheduled to take effect on January 1, 2012; however, the D.C. Circuit Court of Appeals stayed the rule pending judicial review on December 30th. The CSAPR sets limits for 28 states on their emissions of SO₂, NO_x, and/or ozone-season NO_x that would impair “downwind” states from achieving air quality standards for ozone and/or particulate matter. CSAPR was promulgated to replace the 2005 Clean Air Interstate Rule which was remanded back to the Agency.

Question 96: What was the agency’s justification for adding in the four additional states (KS, NE, OK, and TX) to the Cross State Air Pollution Rule?

Answer: Each state that is covered in EPA’s Cross-State Air Pollution Rule, including these four states, is included based on a determination that emissions from the state significantly contribute to at least one downwind area that will have a problem attaining and/or maintaining EPA’s National Ambient Air Quality Standards for ozone and/or fine particulate matter (PM_{2.5}). Specifically, Kansas is included in CSAPR’s annual SO₂ and annual NO_x programs based on EPA’s determination that emissions in the state contribute to downwind PM_{2.5}-related air quality problems in Illinois and Wisconsin. Nebraska is included in CSAPR’s annual SO₂ and annual NO_x programs based on EPA’s determination that emissions in the state contribute to downwind PM_{2.5}-related air quality problems in Wisconsin. Oklahoma is included in CSAPR’s ozone season NO_x program based on EPA’s determination that emissions in the state contribute to downwind ozone-related air quality problems in Michigan. Texas is included in CSAPR’s annual SO₂, annual NO_x, and ozone season NO_x programs based on EPA’s determination that emissions in the state contribute to downwind PM_{2.5}-related air quality problems in Illinois and ozone-related air quality problems in Louisiana and Michigan.

Question 97: Was any consideration given to provide these newly included states with an extended time period for upgrading their facilities to comply considering the amount of time the other states had?

Answer: The time periods for compliance with EPA’s CSAPR are aligned with the attainment deadlines for the relevant National Ambient Air Quality Standards as defined in the Clean Air Act and are consistent with the charges given to EPA by the Court in its decision on the Clean Air Interstate Rule in *North Carolina*. EPA accounted for air quality, costs, and feasibility in determining CSAPR’s emissions budgets for 2012. These budgets are expected to be achievable by operating existing controls, shifting generation to cleaner units, installing limited NO_x controls that can be implemented in a short period of time (e.g. low NO_x burners), and obtaining emission allowances. Additionally, EPA has worked closely with these states and has finalized revisions to the CSAPR which increase budgets for Nebraska and Texas. EPA also proposed further revisions to CSAPR, which would also increase budgets for Kansas, Nebraska, Oklahoma, and Texas.

Question 98: If CSAPR compliance poses a serious economic risk to the utility companies in these four states, would EPA consider granting a temporary stay on CSAPR equal to the time provided to the original states for the four recently added states? What relief is available to these States?

Answer: Analysis by EPA shows that compliance with CSAPR is not expected to pose an economic risk to the utilities, businesses, and public of these four states. EPA is actively engaging power plants and other entities that will be involved in getting power plants ready to comply while maintaining the reliability of the electric grid. EPA has held, and will continue to hold, a series of discussions with the Department of Energy, the Federal Energy Regulatory Commission, State utility regulators, Regional Transmission Organizations, the North American Electric Reliability Corporation, regional electric reliability organizations, and other grid planning authorities to promote compliance planning, to support orderly implementation of the EPA's power sector rules, and to ensure that any potential, localized reliability concerns are identified and addressed. The nation's power grid is strong and resilient because numerous agencies and organizations fulfill their obligations to maintain the nation's electric reliability.

REGIONAL HAZE

The fiscal year 2012 Omnibus included a directive to EPA to work with States as partners in order to resolve compliance and cost differences.

Question 99: What steps has EPA taken to work with states on regional haze issues in response to the Congressional directive? How is rejecting state implementation plans that reduce visibility impairment consistent with the Congressional directive?

Answer: EPA has been collaborating with the states and with their regional planning organizations since 1999 on the development of regional haze plans. Our preference has always been to allow states that are moving forward to complete their work, and then to give due deference to the emission controls decisions that they reach based on accurate technical information. In fact, we have fully approved the plans for California, Delaware, Kansas, the District of Columbia, Maine, South Dakota, and New Jersey, and have proposed to fully approve the Colorado, Rhode Island, Connecticut, Vermont, New Hampshire, and Massachusetts plans.

At this point, EPA is under consent decree deadlines to act on the remaining state plans that have been submitted, and in a few cases, to promulgate plans for those states that did not submit any plan. In many eastern states, we are moving toward approval of the plans except with respect to the plans' reliance on the Clean Air Interstate Rule; for these states, we have proposed a "housekeeping" federal plan to substitute reliance on the Cross State Air Pollution Rule, an approach that will not result in any additional control requirement for any power plants in these states solely for regional haze purposes. In several cases where state plans have not fully met the requirements of the regional haze rule, the EPA is working with the states to correct any deficiencies, including Minnesota, Nevada, Tennessee, and New York.

In rare instances where deficiencies cannot be addressed by consent decree deadlines, the EPA is meeting its regional haze rule obligations by issuing Federal Implementation Plans (FIPs). States have the option of revising their state plans at any time and submitting them to EPA. Upon approval, EPA will withdraw the FIP.

Question 100: EPA continues to promote the adoption of the most stringent pollution reduction equipment, such as Selective Catalytic Reduction (SCR), by overruling State-proposed Best Available Retrofit Technology (BART) determinations that were made on a plant-by-plant basis, considering site-specific concerns and working toward a 2064 goal, as it required by the Clean Air Act. Why does EPA continue to push to use SCR in light of State concerns?

Answer: EPA assesses all regional haze state implementation plans in accordance with the Regional Haze Rule BART Guidelines, which were issued in 2005. With respect to BART determinations, the EPA reviews the state's assessment of each individual source considering five statutory factors. These five factors are: (1) the costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in

use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. As determinations are made on a source-specific basis considering all of the five factors, there is no promotion of one control technology over another. Similarly, there is no “bright line” as to what EPA considers to be cost-effective technology. In some cases, the visibility impact of the emissions from the source may warrant greater emission reductions at a higher cost. However, we have found few instances where we were obligated to correct all or a portion of a state’s plan because we disagreed with a state’s assessment. With respect to SCR, to date we have finalized one Federal Implementation Plan requiring this specific technology at a power plant that is one of the largest emitters of nitrogen oxides in the U.S.

Question 101: When a state has determined that alternatives (Selective Non-Catalytic Reduction technology or combustion controls, such as Low NO_x Burners) could achieve visibility improvements at much lower cost with visibility benefits that are on a reasonable path to the 2064 goal, what is EPA’s legal justification for requiring different, more expensive retrofit controls and more stringent emissions limits?

Answer: Section 169A of the Clean Air Act defines Best Available Retrofit Technology (BART) as “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted” by a BART eligible facility, and requires that states consider five factors when assessing a control determination for BART: 1)the costs of compliance; 2), the energy and nonair quality environmental impacts of compliance; 3) any existing pollution control technology in use at the source; 4)the remaining useful life of the source; and 5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. In cases where the state has considered these factors but used a technically flawed assessment of costs or visibility improvement, EPA cannot approve the state’s decision and the state must revise its plan or EPA is obligated to adopt a Federal plan. In only one case to date has EPA required controls more expensive than Selective Non-Catalytic Reduction.

Question 102: EPA’s cost estimates are significantly lower than the cost estimates prepared by Black and Veatch, Sargent and Lundy, and Burns and McDonnell – each of whom is actively engaged in the business of designing and retrofitting SCRs and other pollution control equipment on existing power plants. What is the legal authority for EPA’s lower cost estimates? What is the legal authority for rejecting cost estimates based on actual construction experience and market-supported bid documents?

Answer: When reviewing state plans, EPA must consider all the cost information in the record. However, it would be arbitrary and capricious for EPA to accept submitted cost information without any analysis of its accuracy or consideration of significant issues raised in comments. It would also be arbitrary and capricious for EPA to simply reject cost estimation studies submitted by a state or source, and we have not done so to date. Where EPA has itself estimated the cost of control, this is because of specific flaws in the cost estimate submitted by a state, and both our finding that there were flaws and our own cost estimates have then been subject to public notice and comment. In the case of the San Juan Generating Station in New Mexico, we modified our cost estimates by a significant amount in response to comments from the owners of the station. We have not yet received the most recent Sargent and Lundy cost analysis for the San Juan

Generating Station through a SIP submission or public comment, but we will consider it carefully when we do.

Question 103: How is EPA taking into account the impact of higher elevations present in the western U.S. over those in the eastern U.S. in its regional haze retrofit technology decisions, and what is the effect of higher elevations on the operation of SCRs?

Answer: A retrofit SCR at high elevation could require a somewhat larger unit than what might be required at lower elevations. Any differences in costs necessary for larger units would be part of the factors considered in making the BART determination. In the case of the San Juan Generating Station in New Mexico, which is at a particularly high altitude compared to other power plants, we modified our original cost estimates to increase SCR costs in response to comments from the owners of the station on this particular point. Cost estimates submitted by other western states, often prepared by the affected sources, have not always included an explicit cost adjustment for this possibility.

Coalbed Methane Wells

Question 104: Given that any new regulations are unlikely to pass an economic feasibility test what are EPA's plans for how this data will be used?

Answer: The data EPA collected as part of its study of coalbed methane (CBM) wells will be used in the analysis of possible wastewater treatment technologies and their associated costs and impacts. We are aware of the market changes with natural gas and have met with industry experts to fully understand these changes. EPA is currently assessing the impact of these market changes on EPA's announced plans to initiate an effluent guideline (ELG) for CBM in 2013.

Question 105: How much has EPA spent in fiscal year 2011, how much is EPA currently spending in 2012, and what resources if any are proposed for fiscal year 2013 to collect and analyze discharge data from CBM wells?

Answer:

- In FY 2011, EPA spent \$232,500 in extramural resources.
- In FY 2012, EPA plans to spend \$950,000 in extramural resources.
- The FY 2013 spending plan has not been determined yet. The amount needed will depend on the work being done this fiscal year to assess the impact recent changes in natural gas prices are having on the coalbed methane producers, which may influence the future direction of the rulemaking.

PM Research Centers

Question 106: Please provide the 2011, 2012, and 2013 funding history of the PM Research Centers, by center.

Answer: The Particulate Matter (PM) Research Centers concluded their work in FY 2010 and are in the process of completing their summary of findings. They received no additional funding in FY 2011 and will receive no funding in FY 2012.

In FY 2010, the STAR Grants program awarded new grants to four Clean Air Research Centers (CLARCs) to expand on the work of the Particulate Matter Research Centers. These Centers support research on the health effects of exposure to PM, ozone, and other air pollutants. The table below identifies the resources for these four Clean Air Research Centers.

All four of these Clean Air Research Centers are five-year projects and are subject to available funds.

Center/ Institution	Description	FY 2011 Enacted (\$M)	FY 2012 Enacted (\$M)	FY 2013 President's Budget* (\$M)
Emory University	The Emory/Georgia Tech Collaborative: Multi-Scale Assessment of Health Effects of Air Pollution Mixtures Using Novel Measurements and Models	\$1.6M	\$1.7M	\$1.6M
President and Fellows of Harvard College	Air Pollution Mixtures: Health Effects Across Life Stages	\$1.6M	\$1.6M	\$1.7M
University of Washington	University of Washington Center for Clean Air Research	\$1.8M	\$1.7M	\$1.5M
Michigan State University	Great Lakes Air Center for Integrative Environmental Research	\$1.5M	\$1.6M	\$1.6M
Totals (may not add due to rounding)		\$6.6	\$6.6	\$6.5

* All out year funding for assistance agreements is contingent on annual appropriations.

STAR Budget and Fellowships

Question 107: Provide the 2011, 2012, and 2013 budgets for the STAR fellowships program and the number of fellowships supported by those budgets.

Answer:

Fiscal Year	Budget (M)	# New STAR Fellowship Awards*
2011	\$14.0	110
2012	\$14.0	90
2013 (estimated)	\$14.0	80

*The number reflects new fellowships initiated in each fiscal year. In addition to new fellowships, resources support continuing fellows from previous years. The number of new fellows supported is dependent on funds available after second-year fellowships are awarded.

Question 108: Please provide an updated chart with the number of STAR fellowships awarded since 1995.

Answer: The new Science to Achieve Results (STAR) fellowships awarded each year since 1995 are shown in the following table.

Fiscal Year	New STAR Fellowship Awards
1995	101
1996	105
1997	118
1998	124
1999	127
2000	108
2001	100
2002	0
2003	83
2004	124
2005	128
2006	112
2007	69
2008	48
2009	50
2010	138
2011	110

2012	90
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Representative Simpson

SIM – 109

PESTICIDE REGISTRATION AND REREGISTRATION

Question 109: Please provide more detailed tables of program activity for each of the 3 program projects that show funding for 2011, 2012, and 2013 for the registration and re-registration programs as well as endangered species activities and all other major activity areas.

Answer: The table below displays the major activity areas within each program project. Endangered species efforts are funded by several of the activities listed in the table below. In FY 2011 the Pesticides program spent approximately \$5.6M on ESA compliance; in FY 2012 & 2013 EPA estimates that the Pesticides program will spend approximately \$12.9M and \$12.5M respectively on ESA compliance.

Appropriations: EPM and S&T

Program Project	Activity	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Pres Bud
Protect Human Health from Pesticide Risk		\$64,880	\$61,965	\$62,890
	Regional Funding	\$4,886	\$4,907	\$4,985
	Test Guidelines	\$536	\$520	\$535
	Small Other Infrastructure	\$74	\$74	\$74
	Registration	\$23,512	\$20,938	\$21,539
	RED Implementation	\$5,947	\$5,456	\$5,603
	Re-registration	\$6,437	\$5,856	\$6,018
	Registration Review	\$7,758	\$6,864	\$6,909
	Stewardship/ Implementation	\$5,249	\$5,136	\$4,531
	Rulemaking	\$1,296	\$1,503	\$1,476
	Program Management	\$7,991	\$8,502	\$8,283
	WCF	\$166	\$160	\$248
	Enabling & Support	\$1,028	\$2,049	\$2,689
Protect the		\$43,894	\$40,143	\$40,564

Environment from Pesticide Risk				
	Regional Funding	\$4,107	\$3,963	\$4,131
	Small Other Infrastructure	\$122	\$122	\$122
	Registration RED Implementation	\$11,558	\$10,437	\$10,719
	Re-registration Registration Review	\$4,801	\$4,434	\$4,568
	Stewardship/ Implementation	\$4,780	\$4,416	\$4,549
	Rulemaking Program Management	\$6,013	\$4,137	\$4,284
	WCF Enabling & Support	\$5,207	\$5,179	\$4,537
		\$676	\$686	\$702
		\$5,769	\$5,658	\$5,880
		\$95	\$95	\$95
		\$766	\$1,016	\$977
Realize the Value of Pesticide Availability				
		\$13,310	\$13,049	\$12,881
	Regional Funding	\$4,159	\$4,468	\$4,276
	Registration RED Implementation	\$3,160	\$2,671	\$2,724
	Re-registration Registration Review	\$741	\$669	\$680
	Stewardship/ Implementation	\$891	\$664	\$674
	Rulemaking Program Management	\$1,086	\$732	\$746
	WCF Enabling & Support	\$1,724	\$2,187	\$2,184
		\$182	\$164	\$166
		\$1,150	\$1,120	\$1,123
		\$22	\$22	\$22
		\$195	\$352	\$286

Greenhouse Gas Emissions

Question 110: Please provide a table of all current non-regulatory programs whose activities would reduce greenhouse gas emissions. Please include in the table the FY 2011, FY 2012, and FY 2013PB funding levels for those programs, the actual greenhouse gas emissions reductions for the most recent year of data, and 2013 emissions reduction targets.

Answer: See next page.

Climate Change Funding -- Non-Regulatory Programs (\$000s)

EPA has defined a Non-Regulatory Voluntary Program as: Any program in which the participants or partners are not statutorily required to participate.

Activity/Program Name	FY 2011	FY 2012	FY 2013	Actual Emissions Reductions *	FY 2013 Emission Reduction Target (MMTCO _{2e})
	Total Funding (\$ in 000)	Total Funding (\$ in 000)	Total Funding (\$ in 000)		
AgStar Agricultural Programs	\$792.1	\$742.2	\$667.2	1.3	1.8
Coalbed Methane Outreach Program	\$1,177.5	\$1,169.3	\$1,082.3	9.9	10.6
Combined Heat and Power Partnership	\$1,114.3	\$1,005.0	\$912.0	12.5	12.0
Energy Star	\$53,304.0	\$49,668.0	\$53,872.0	198.5	205.0
Green Power Partnership	\$1,426.6	\$1,505.0	\$1,334.0	11.4	11.0
Landfill Methane Outreach Program	\$2,219.8	\$1,912.0	\$1,811.0	23.1	24.5
Methane to Markets Partnership (Global Methane Initiative)	\$4,565.0	\$5,013.0	\$4,927.0	28.0	35.0
Natural Gas Star	\$1,634.7	\$1,469.4	\$1,489.0	38.0	29.0
Smart Way Transport	\$2,420.0	\$2,538.0	\$2,783.0	23.6	41.5
State and Local Voluntary Activities	\$2,375.0	\$2,496.0	\$2,554.0	0.0	0.0
Voluntary High GWP Programs	\$1,413.0	\$1,271.0	\$1,317.0	52.0	60.5
Total	\$72,440.0	\$68,788.9	\$72,748.5	398.3	430.9

* Reductions are for 2010 and are in million metric tons of CO₂ equivalent (MMTCO_{2e})

ARRA BALANCES

It has been over three years since the Congressional Democrats passed and the President signed the Recovery Act, which appropriated \$7.22 billion for the EPA. The Recovery Act was billed as a “stimulus” program whereby funds were supposed to be quickly put on projects and spent to create jobs. While EPA has obligated all of the ARRA funding to States, and States have worked to efficiently put the funding on projects, EPA still has not spent \$600 million in funding.

Question 111: States have spent 91% of the Clean Water funds and 93% of the Drinking Water funds. However, at 67%, the Brownfields program continues to lag behind. Why have one-third of the Brownfields stimulus funds not yet been spent?

Answer: In ARRA planning, the EPA expected that the Brownfields program ARRA funds would require 2 to 3 years to expend these resources. First, Brownfields program recipient projects are tied to the performance of the real estate and property development markets. Due to decreasing revenues for state, city and municipal governments, administrative hurdles have become difficult to navigate for brownfields projects in some areas that have been hardest hit by the economic downturn. Furthermore, successful Brownfields projects depend heavily upon state and local governments to help facilitate transactions and provide the necessary public service infrastructure for redevelopment projects to be completed.

In the last year, EPA’s Brownfields program took a number of actions to increase the outlay rates for Recovery Act funds, including:

- Developing Quarterly “scorecard” reviews of ARRA Brownfields awards that rate the awards along set criteria and help EPA and state managers assure that projects remain on track.
- In March 2011, the EPA issued an internal memo to be shared with grant recipients emphasizing the importance of completing all projects in a timely manner and the need to draw down funds as effective fiscal stewards and partners in environmental protection.
- Increasing outreach and technical assistance to grant recipients facing challenges completing their ARRA projects.
- In 2010, the EPA issued an internal memo with guidelines to improve performance in the close-out of older and non-performing cooperative agreements. The memo implemented a process for reviewing all open cooperative agreements that are five-years old or older, providing justification for those that cannot be closed out, and returning unspent funds that had been obligated to poor performing agreements.

EPA's ARRA programs and the Brownfields program in particular have made substantial progress in ensuring that Recovery Act funds are promptly expended for the purposes for which they were appropriated. As of May 10, 2012, the Brownfields ARRA program has expended \$69 million, leaving \$27 million unexpended (i.e., 72% expended and 28% unexpended).

ENERGY STAR: VERIFICATIONS AND USER FEES

In 2010, the Energy Star program received a less than favorable review from a GAO investigation that identified programmatic deficiencies. In response, EPA instituted several reforms including 3rd party verification. Several companies have raised concerns that this will increase their costs of obtaining the Energy Star qualification. In addition, the 2013 budget proposes to collect user fees for the Energy Star program to offset programmatic costs. The Committee appreciates that EPA has proposed language in the 2013 budget to collect Energy Star use fees, rather than purporting to rely on general, government-wide user fee authority.

Question 112: Given that companies must pay for a third-party review, why must companies also pay for EPA to review and assign an Energy Star label?

Answer: EPA is currently completing a cost analysis to inform the establishment of a fee program for certifying ENERGY STAR[®] qualified products and to ensure that a fee system would not discourage manufacturers from participating in the program or result in a loss of environmental benefits.

TRUST FUND BALANCES

Question 113: Please provide the balance in the Superfund and Leaking Underground Storage Tank Trust Fund as of October 1, 2010 as well as 2010 actuals and estimates for 2011 tax receipts, interest earned, and expenditures.

Answer: As of October 1, 2010, the budgetary trial balances in the Superfund Trust Fund and the LUST Trust Fund were \$125 million and \$3.2 billion, respectively. 2010 actuals for the Superfund Trust Fund are \$3 million in tax receipts, \$70 million in interest earned which includes \$5 million to special accounts, \$53 million in cost recoveries, and \$1.786 billion in gross expenditures. 2010 actuals for the LUST Trust Fund are \$169 million in tax receipts, \$134 million in interest earned, and \$174 million in gross expenditures. The Superfund Trust Fund and the LUST Trust Fund were subject to a \$3 million rescission and a \$9 million rescission, respectively, in American Reinvestment and Recovery Act (ARRA) resources in FY 2010.

As of October 1, 2011, the budgetary trial balances in the Superfund Trust Fund and the LUST Trust Fund were \$139 million and \$3.3 billion, respectively. 2011 actuals for the Superfund Trust Fund are \$310 thousand in tax receipts, \$49 million in interest earned which includes \$12.8 million to special accounts, \$98 million in cost recoveries, and \$1.815 billion in gross expenditures. 2011 actuals for the LUST Trust Fund are \$152 million in tax receipts, \$88 million in interest earned, and \$208 million in gross expenditures.

In FY 2012, the Superfund Trust Fund is projected to collect \$0 in tax receipts, collect \$104 million in cost recoveries, earn \$86 million in interest which includes \$25 million to special accounts, and make \$1.748 billion in gross expenditures. In FY 2012, the LUST Trust Fund is projected to collect \$178 million in tax receipts, earn \$82 million in interest, and make \$135 million in gross expenditures.

STATE AIR QUALITY GRANTS – BREAKOUT FUNDING BY CAA AUTHORIZATION

Question 114: Please provide a table that further breaks out the funding within this program project allocated to Section 103 activities, Section 105 activities and Section 106 activities. Please include funding for 2011, 2012 and 2013.

Answer:

State and Local Air STAG Distribution

	Fiscal Year		
	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>CAA Section 105</u>			
State/Local Continuing Air Programs for meeting NAAQS and addressing air toxics	186,983,000	183,242,000	183,630,000
New NAAQS and air toxics implementation programs			37,420,000
Greenhouse gas permit program development			25,000,000
<u>CAA Section 103</u>			
Fine Particulate (PM2.5) Monitoring	41,875,000	41,875,000	30,000,000
National Air Toxics Trends Site Network	4,973,000	4,973,000	5,000,000
Community Scale Air Toxics Monitoring	2,276,000	5,000,000	4,850,000
NAAQS Monitoring Equipment			15,000,000

CAA Section 106

N.E. Ozone Transport Commission	639,000	600,000
Total	236,107,000	235,729,000 301,500,000

Question 115: Please provide a table that further breaks out the funding within this program project allocated to each of the NAAQS. Please include funding for 2010, 2011 and 2012.

Answer: Distributions of those portions of funds that can be attributed to a specific NAAQS are shown for FY 2011 and FY 2012. A distribution of funds by NAAQS for FY 2013 has not been shown because: (a) EPA still needs to discuss the prospective distribution of FY 2013 funds with state and local agencies, and (b) the Agency is working with state and local agencies to adopt and implement an updated allocation rationale.

State/Local Continuing Air Program FYs 2011-2013 (\$Ms)

	<u>Fiscal</u>		
	<u>Year</u>		
	<u>2011</u>	<u>2012</u>	<u>2013</u>
Ozone	77.5	77.5	
Particulate Matter (e.g., PM10, PM2.5)	83.3	82.9	
Visibility	11.6	11.6	
NO2	9.3	9.3	
Pb	0.8	0.8	

CO	3.1	3.1	
SO2	6.2	6.2	
Air Toxics	41.9	41.9	
Acid Rain	2.4	2.4	
Total	236.1	235.7	301.5

TRIBAL GRANTS

Question 116: The 2013 budget request no longer requests \$20 million for a new Multimedia Tribal Implementation Grant program. Rather, the budget proposes to increase the Tribal GAP grants by \$29 million, a 42% increase. The associated performance targets for the program do not appear to have measurably increased. What results are expected with the associated increase?

Answer: In FY 2013, the Agency does not expect the requested funding level to have a significant measurable effect on existing strategic performance targets. The majority of the increase in GAP grants will help prevent the high rates of tribal environmental program staff turnover and support our ability to meet established Agency performance projections. Achieving established targets depends in large part on the Agency's ability to sustain a stable tribal environmental program presence.

The average base funding level of \$110K, established in 1999, is no longer sufficient for tribes to hire and retain qualified staff needed to administer their basic core environmental management programs. Based on a review of grant work plans, EPA has determined that tribal government expenses require an estimated minimum average of \$156K per tribe. This amount provides tribes the opportunity to sustain a basic environmental program presence while helping EPA meet its program implementation responsibilities for Indian country. A basic environmental presence, for most tribes, is to be able to hire a qualified full-time Environmental Director as well as a half-time Environmental Technician; this includes benefits such as training, education, travel, office space, general supplies and equipment, but generally does not include the costs required to move a tribe beyond basic program capacity into media-specific program development. Additionally, for Tribes that are preparing to undertake an ever increasing role in administering EPA programs (i.e., conducting compliance inspections and monitoring at regulated facilities, providing compliance assistance to the regulated community, and taking enforcement actions under authorized tribal programs), a portion of the increase will be targeted towards national and regional concerns that require additional capacity assistance. These program development needs are driven by the specific regulatory and compliance work load associated with the circumstances found at each reservation and the associated federal regulatory requirements.

Consistent with the 2008 Inspector General Report on the GAP Program, EPA, in consultation with tribes, is developing a revised strategic environmental program planning guidance to strengthen and enhance a more effective use of GAP resources. This guidance addresses a broader range of environmental challenges in Indian country and establishes new program performance indicators.

Based on the Agency's existing goal of increasing the percent of tribes implementing federal regulatory programs, EPA tracks progress in having tribes take a lead role in administering programs for Indian country through program delegation, primacy, approval, or other authorization similar to responsibilities which the Agency has traditionally delegated to state governments for non-reservation lands. The Agency's goal of increasing the percent of tribes conducting EPA approved environmental monitoring and assessment activities in Indian country is designed to show EPA's progress expanding tribal participation in the collection and management of environmental data consistent with EPA standards. Both of these goals are advanced through GAP investments along with the technical and financial support provided through other Agency program offices.

Question 117: EPA and Tribes have been working together since 1992 to build capacity to operate environmental programs. Does EPA have an estimate for how many Tribes are ready to begin implementing their own environmental programs?

Answer: EPA estimates that approximately 100 tribes are prepared to undertake program implementation activities under one or more of EPA's program areas. This number includes tribes that are already administering some aspect of an EPA program (76 tribes) but are ready to expand their implementation activities into other areas. For example, a tribe approved to implement a water quality standards program may also be prepared to implement an air quality program. Whether a tribe chooses to pursue federal program authorization, primacy, delegation, or approval is entirely up to the tribe and largely constrained by the lack of program implementation resources.

Question 118: If Tribes have already developed the capacity to implement their own environmental programs, are those Tribes still eligible to receive GAP grants and for what purposes?

Answer: Great progress has been made toward restoring the nation's environment. States, local governments, nonprofit organizations, tribes, and others find financial assistance through flexible federal programs that are designed to address current and future pollution control challenges. Tribes that have successfully developed the capacity to implement an environmental program are still eligible to receive GAP grants for two main purposes.

First, establishing basic capacity is only the first step in a long-term capacity building effort. For example, a tribe with the capacity to baseline environmental conditions and load data into geographic information systems (GIS) may need continuing capacity building investments to:

- purchase and install new software; train new staff on how to operate the GIS equipment;
- add new layers of environmental data to their initial baseline assessment;
- add inventories of facilities, homes, and other community features; or
- develop the capacity to share data across platforms to link the tribes' data sets with neighboring jurisdictions and with EPA managed data systems.

Second, because a tribe may have successfully developed capacity to implement their own environmental program in one media area does not constrain a tribe from using GAP resources to build capacity in another media area. For example, a tribe with an air emissions permitting and enforcement program may still receive GAP funds to build capacity for administering a water quality program.

EPA expects that a reduction in GAP funding to a tribe would result in the loss of capacity that has been successfully built up over time. Stable funding that allows tribes to hire and retain qualified staff is essential to developing, maintaining, and evolving tribal environmental program capacity to bear the important responsibilities for the day-to-day mission of environmental protection on tribal lands.

U.S.-MEXICO BORDER GRANTS

Question 119: For the record, please provide an updated table of annual appropriations, obligations, unliquidated obligations and outlays in the US-Mexico program.

Answer: The tables below provide the requested information.

Annual Appropriations by Fiscal Year

(Dollars in Millions)

Fiscal Year	1997	1998	1999	2000	2001	2002	2003	2004	2005
Appropriation	\$100.0	\$75.0	\$50.0	\$50.0	\$75.0	\$75.0	\$50.0	\$50.0	\$50.0

Fiscal Year	2006	2007	2008	2009	2010	2011	2012
Appropriation	\$49.3	\$49.3	\$19.7	\$20.0	\$17.0	\$10.0	\$5.0

**Annual Obligations, Disbursements and Unliquidated Obligations to the
North American Development Bank
Through FY 2011**

Since FY 2004, Congress has monitored the unliquidated obligations (ULO) balance at the North American Development Bank (NADB). The table below provides the annual obligation, disbursement and unliquidated obligations information that Congress has routinely requested, updated through FY 2011. The ULO balance represents construction funding that is allocated to drinking water and wastewater infrastructure projects in the U.S.-Mexico Border region.

RESOURCES

(Dollars in Millions)

Fiscal Year	Obligations	Disbursements	Unliquidated Obligations Balance
1997 - 2004	\$501.4	\$180.4	\$321.0
2005	\$42.9	\$57.9	\$306.0
2006	\$38.7	\$48.3	\$296.4
2007	\$43.0	\$65.6	\$273.8
2008	\$9.9	\$92.3	\$191.4
2009	\$2.5	\$63.5	\$130.4
2010	\$18.8	\$29.2	\$120.0
2011	\$7.7	\$14.9	\$112.8
Totals	\$664.9	\$552.1	N/A

Notes:

1. At the end of the 2nd quarter FY 2012 (March 31, 2012) the ULO balance totaled \$104.2M.
2. Obligations and disbursements are reported by Fiscal Year. “Unliquidated obligations” constitutes the cumulative balance as of the end of that fiscal year.
3. A new grant awards process that EPA fully implemented in FY 2009 delayed the award of \$6.5M in FY 2009 construction funding to FY 2010 because the associated projects had to complete planning and design prior to the award of construction funding.

4. Funds reported represent obligations to the NADBank for construction. The information does not include Congressionally-directed funds to El Paso and Brownsville, TX, or planning and design work.

Representative Simpson

SIM – 120-121

EPA PERSONNEL AND FTE

Question 120: What is the average Grade at EPA and how does that compare to other Federal Agencies of similar size and mission?

Answer: EPA’s mission to protect human health and the environment requires high-level scientific and technical expertise. The average pay grade at the EPA is 12.8, expressed as a General Schedule or Equivalent Grade for permanent employees.

Among cabinet-level agencies EPA is most related to the Department of Agriculture (USDA), Department of Interior (DOI), and Department of Commerce’s National Oceanic and Atmospheric Administration, which also provide natural resource services under either Budget Function 300 (Natural Resources and Environment) or Function 350 (Agriculture). As a regulatory agency, EPA is comparable to the Department of Health and Human Services’ Food and Drug Administration, and as an independent agency, EPA believes the best comparisons in terms of size, mission, and agency-wide scientific and technical expertise include the Nuclear Regulatory Commission (NRC) and the National Aeronautics and Space Administration (NASA).

Department/Agency	Average Grade or Equivalent	Total Permanent Employment
EPA	12.8	17,156
<i>Cabinet-Level Comparisons</i>		
USDA	9.9	79,797
DOI	10.5	56,398
DOC-NOAA	12.1	12,431
HHS-FDA	12.5	11,162
<i>Independent Agency Comparisons</i>		
NRC	13.3	3,182
NASA	13.1	17,603
<i>Government-Wide</i>		
USG	10.4	1,896,152

(Note: All data are from Fed Scope December 2011, General Schedule and Related Pay Plans for permanent employees only.)

Representative Simpson**SIM – 121****Question 121:** What percent of your workforce are Grade 14s, 15s, and SES?**Answer:** The following table provides the percent of EPA's workforce at grades 14, 15 and SES level.

	April 1, 2012	
Grades	Percentage	Onboard
GS-14	17.1%	2,911
GS-15	14.0%	2,388
SES	1.7%	282
Total	32.8%	5,581

Notes:

All data are from People Plus as of April 1, 2012, and include 17,016 permanent employees.

Representative Simpson

SIM – 122

Question 122: Provide the number of SES positions by account and indicate how many are Schedule C and Career?

Answer: EPA has a total of 314 Senior Executive Service (SES) positions. There are 275 Career SES positions, 30 Non-Career SES positions, and 9 SES positions have been designated for the Office of the Inspector General. EPA has 23 Schedule C positions.

The table below provides SES and Schedule C positions by account:

EPA Account	Career SES	Non-Career SES	Total SES	Schedule C
Office of the Administrator	14	11	25	21
Office of Air and Radiation	18	1	19	1
Office of Administration and Resources Management	13	1	14	1
Office of the Chief Financial Officer	8		8	
Office of Enforcement and Compliance Assurance	24	1	25	
Office of Environmental Information	6		6	
Office of General Counsel	11	3	14	
Office of International and Tribal Affairs	6		6	
Office of Chemical Safety and Pollution Prevention	21		21	
Office of Research and Development	27		27	
Office of Solid Waste and Emergency Response	13	1	14	
Office of Water	16	1	17	
Region 1	5	1	6	
Region 2	7	1	8	
Region 3	8	1	9	
Region 4	7	1	8	
Region 5	6	1	7	
Region 6	4	1	5	
Region 7	5	1	6	
Region 8	3	1	4	
Region 9	7	1	8	
Region 10	7	1	8	
Vacancies*	39	1	40	

Total for All EPA Accounts	275	30	305	23
<i>Office of the Inspector General**</i>	7	2	9	
Grand Total	282	32	314	23

*Vacancies within the Agency pool.

**The SES positions allocated to the Office of the Inspector General (OIG) are separate and treated as independent entities, per the Inspector General Act of 2008. Within each federal agency the allocation of SES positions in the OIG are considered, but not counted against the allocation numbers for the rest of the agency.

Representative Simpson**SIM – 123-125**

Question 123: How many EPA employees are currently eligible for retirement? Please also provide this as a percentage of EPA's total FTE.

Answer: As of April 1, 2012, EPA has 3,185 employees currently eligible for retirement; this represents 18.7% of EPA's total on-board personnel (17,016) and 18.7% of EPA's total FTE (17,055.).

Question 124: How many current EPA employees will be eligible for retirement in the next 5 years? Please also provide this as a percentage of EPA's total FTE.

Answer: EPA has 6,986 employees eligible for retirement in the next five years (through Q4 FY 2017); this represents 40.8% of EPA's total projected FTE levels (17,109). As of April 1, 2012, EPA has 3,185 employees eligible for retirement.

The number of FTEs for 2012 and 2013 are the official FTE levels for the Agency. In anticipation of the budget either remaining constant or declining in future years, the number of FTEs for 2014 through 2017 is projected at a steady state.

Year	Number of Employees Eligible for Retirement	Number of EPA FTEs	Percentage of EPA Total FTEs
2012	3,185	17,055.1	18.7%
2013	4,080	17,109.1	23.9%
2014	4,757	17,109.1	27.8%
2015	5,458	17,109.1	31.9%
2016	6,128	17,109.1	35.8%
2017	6,986	17,109.1	40.8%

Question 125: For the record, please provide a breakdown of regional vs. headquarters FTE and funding for FY 2011 actual, FY 2012 estimate and FY 2013 request.

Answer: The chart below provides a breakdown of EPA's headquarters vs. regional FTE and funding for the requested years.

	FY 2011 Actuals (FTE)	FY 2011 Actuals (\$)	FY 2012 Operating Plan (FTE)	FY 2012 Operating Plan (\$)	FY 2013 President's Budget (FTE)	FY 2013 President's Budget (\$)
Headquarters	9,150.1	\$1,257,054	9,046.2	\$1,211,194	9,118.8	\$1,260,097
Regions	8,087.8	\$1,047,833	8,008.9	\$1,035,962	7,990.2	\$1,060,514
Total	17,237.9	\$2,304,887	17,055.1	\$2,247,156	17,109.0	\$2,320,611

Note: Resources for child care and transit subsidies as well as workers compensation are managed centrally by the Agency and therefore not included.

Representative Simpson

SIM – 126

Question 126: For the record please provide by program project the operating plan levels vs. carryover balances for the past 3 years.

Answer: EPA to send as soon as possible.

Hydraulic Fracturing

EPA is requesting \$14 million in the 2013 request for Hydraulic Fracturing.

Moran 1: Is EPA proposing an expansion of the original study requested by the Appropriations Committee?

ANSWER: No, EPA is not expanding the scope of the congressionally-requested study, but rather will use a portion of the requested funds (\$6M of the \$14M total in FY 2013) to complete this effort. The additional funds (\$8M) will be used for separate research to address key concerns relating to potential air, water quality, and ecosystem impacts, which are not part of the original drinking water study.

Moran 2: Please provide specifics on how the \$14 million will be used.

ANSWER: The FY 2013 request of \$14M for research on hydraulic fracturing includes \$6M to complete the Congressionally-requested study on the potential impacts on drinking water resources and \$8M to understand potential air, water quality, and ecosystem impacts.

The purpose of the Congressionally-requested study examining the potential effects on drinking water resources is described in detail in the EPA's "Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." The purpose of the air, water quality, and ecosystem research is to address concerns that have been raised about sources of air emissions from hydraulic fracturing operations and the potential effects of hydraulic fracturing on water quality and terrestrial and aquatic ecosystems.

This effort will facilitate the identification and development of environmentally responsible and sustainable hydraulic fracturing practices and provide the scientific foundation to minimize any potential negative impacts on air, water quality, and ecosystems. The research will be conducted in a highly coordinated and collaborative manner with the DOI (including USGS) and DOE.

On April 13, EPA, DOI and DOE announced a new partnership to help coordinate their scientific efforts to ensure there is no duplication. The primary goal of this effort will be to identify research topics where collaboration among the three agencies can be most effectively and efficiently conducted to provide results and technologies that support sound policy decisions by the agencies responsible for ensuring the prudent development of energy sources while promoting safe practices and human health. On the same date, an Executive Order was issued to create a new Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources, which will further enable interagency coordination.

GHG AND FUEL ECONOMY STANDARDS

One of the administration's major accomplishments was the agreement between the government and automakers to reduce emissions in cars and trucks through model years 2025. EPA and the National Traffic Safety Administration are responsible for implementing the emission standards and fuel economy standards.

Question 3: What are EPA's responsibilities vs. NHTSA's responsibilities?

Answer: The GHG emission standards are issued under the Clean Air Act, and EPA has full responsibility for the implementation and enforcement of the program, from pre-production certification through in-use compliance. That includes meeting with manufacturers to discuss implementation, such as review of test procedures, regulations, available program flexibilities or any other questions manufacturers may have about the requirements. At the end of each model year, EPA reviews all manufacturer submitted data and information, including GHG emission results, vehicle sales, and program flexibilities used, and total credits or debits. EPA also monitors in-use compliance.

For the Corporate Average Fuel Economy (cafe) program, EPA is responsible for adopting the testing and calculation procedures. EPA ensures that all manufacturer fuel economy testing is performed in accordance with the appropriate procedures and regulations (40 CFR Part 600). This includes the review of all fuel economy test results and the audit of some manufacturer fuel economy test vehicles at the National Vehicle and Fuel Emissions Laboratory in Ann Arbor, Michigan. EPA also ensures that manufacturers properly calculate the CAFE values to ensure that they comply with fleet average CAFE standards. Once EPA has reviewed all data and information and has verified the manufacturer's calculations and determined a final value, EPA sends the information to NHTSA who then determines if the manufacturer is in compliance with the CAFE standards. NHTSA is in charge of enforcing the CAFE standards.

Question 4: Also the request highlights the need to update laboratory facilities to enable testing of these new technologies. Is that for the Ann Arbor facility? How much is requested for that update?

Answer: Yes, the new laboratory testing equipment is required at the Agency's National Vehicle and Fuel Emissions Laboratory, which is located in Ann Arbor, Michigan. The Agency's FY 2013 budget request includes \$6.3 million for this effort.

FUEL ECONOMY LABEL

In 2013 EPA will begin overseeing a new vehicle fuel economy labeling requirement so that consumers know the emissions level of vehicles in addition to fuel economies.

Question 5: When can consumers expect to see these labels on cars?

Answer: The new fuel economy and environment labels will be on new 2013 model year vehicles. Some manufacturers have also decided to use the new label on some of their late 2012 model year vehicles. Some of these vehicles are already being sold and there will be many more models with the new label available by the summer of 2012.

Question 6: There has been some press about vehicles not meeting the fuel standards that are on cars. Does EPA or NHTSA test every model to ensure that fuel standards are accurate?

Answer: The fuel economy values on the window sticker labels are not standards that manufacturers have to meet. Instead they are fuel economy values that manufacturers derive by following test procedures and protocols that EPA establishes. There are standards for greenhouse gas (GHG) emissions and Corporate Average Fuel Economy (CAFE) that manufacturers have to meet, but these are separate from the Fuel Economy labeling requirements established by EPA and NHTSA.

The window sticker labels are designed to provide useful information for potential buyers of a new automobile. The redesigned label provides expanded information to American consumers about new vehicle fuel economy and fuel consumption, greenhouse gas and smog-forming emissions, and projected fuel costs and savings, and also includes a smartphone interactive code that permits direct access to additional Web resources.

The window sticker displays fuel economy estimates for city driving and for highway driving, and a combined value. These estimates, in units of miles per gallon, essentially serve two purposes: (1) To provide consumers with a basis on which to compare the fuel economy of different vehicles, and (2) to provide consumers with a reasonable estimate of the fuel economy they can expect to achieve. It is important to emphasize that fuel economy varies from driver to driver for a wide variety of reasons, such as different driving styles, climates, traffic patterns, use of accessories, loads, weather, and vehicle maintenance. Even different drivers of the same vehicle will experience different fuel economy as these and other factors vary. The EPA estimates are meant to be a general guideline for consumers, particularly to compare the relative fuel economy of one vehicle to another.

EPA audits or confirms the fuel economy test results that manufacturers use to derive the label values, on approximately 15% of the available models. Depending on the year, this can range from 100 to 150 vehicles annually.

Question 7: Are fuel economy standards ever revisited on certain models?

Answer: As discussed above, the fuel economy label values for individual vehicles are not standards. When EPA performs fuel economy audit (confirmatory) testing at the National Vehicle and Fuel Emissions test laboratory in Ann Arbor, Michigan, the test results are compared with the results submitted by the manufacturer. By regulation, if the difference in the fuel economy results between EPA and the manufacturer are less than 3%, the EPA result is the “official” result used on the fuel economy label and for CAFE purposes. If the difference between the two results is greater than 3%, the manufacturer can elect to use the lowest value (EPA or manufacturer value) or request EPA retest the vehicle. If the vehicle is retested and the results are now within 3% of the first EPA result, the two EPA results are averaged and become the “official” fuel economy result. If the retest value is within 3% of the original manufacturer result, the EPA retest value becomes the new “official” result.

GREENHOUSE GAS REPORTING REGISTRY GRANTS

Part of the increase for Climate Change is to fund a new Greenhouse Reporting Registry grant program.

Question 8: Can you explain how those grants would be disseminated?

Answer: EPA anticipates that the FY 2013 grant funding would be distributed based upon the results of a competitive solicitation.

The funds would be used by states to facilitate the collection, review and use of greenhouse gas emissions data collected under the EPA's Greenhouse Gas Reporting Program (GGRP) and linked state-based reporting programs. Specifically, states would use the funds: to develop data management systems to transfer and receive greenhouse gas data; to carry out state-specific review and verification tasks related to reported greenhouse gas emissions data, to conduct training and outreach to affected facilities and other stakeholders; and to promote the use and publication of greenhouse gas emission data.

ENERGY STAR – FEE LANGUAGE

The President's Budget requested language to authorize fees on manufacturers for the Energy Star Program.

Question 9: Would the fee fully fund the Energy Star Program?

Answer: No, EPA's fee proposal is only associated with one aspect of EPA's ENERGY STAR program, specifically a fee program for certifying ENERGY STAR® qualified products. EPA is currently completing a cost analysis to inform the establishment of a fee program for certifying ENERGY STAR® qualified products and to ensure that a fee system would not discourage manufacturers from participating in the program or result in a loss of environmental benefits.

In response to the 2010 GAO audit and EPA IG audits, EPA instituted a process for third party certification of ENERGY STAR products, while increasing resources to keep ENERGY STAR specifications current and relevant for more than 60 product categories. The result has meant a shift in some resources away from EPA's traditional product certification work.

MULTI-POLLUTANT RESEARCH

In fiscal year 2013 EPA plans to conduct research that evaluates the “multi-pollutant” nature of air pollution.

Question 10: How much of EPA’s request will support this multi-pollutant analysis?

Answer: In FY 2013, EPA’s Air, Climate, and Energy (ACE) research program is shifting focus to conduct air research that largely focuses on multi-pollutant research as opposed to single-pollutant approaches. The air portion of ACE research specifically includes an investment of \$6.5M to support the Clean Air Research Centers (CLARCs) which emphasize multi-pollutant research. This research will enhance EPA’s air quality management activities through the application of new methods and approaches to examine the effects of multi-pollutant exposures and to provide more realistic estimates of air pollution impacts on public health.

In order to reduce the impact of air pollution on human health and the environment, we must first understand what the impacts are. This investment will help us better understand the extent to which mixtures of pollutants (such as smog) impact our health, particularly for susceptible populations, such as children and the elderly. The understanding we gain from this research will provide the fundamental information needed to develop multi-pollutant strategies needed to reduce harmful air pollution. These innovative strategies will provide more cost effective and practical solutions to our nation’s air pollution problems. Specifically, EPA will provide multipollutant research (tools and data) that informs pollution reduction strategies. The existing National Ambient Air Quality Standards (NAAQS) focus on individual pollutants (such as lead, particles, carbon monoxide). In the real world, however, humans are exposed to mixtures of air pollutants. EPA’s multipollutant research will provide data on whether health effects are additive, synergistic, or antagonistic. EPA will also provide research on how health effects may change depending on the sequence of exposure to a variety of pollutants. With this type of information, decision makers can make more informed choices regarding tradeoffs and synergies among pollution reduction strategies. EPA’s multi-pollutant research is conducted, in part, in collaboration with the Health Effects Institute and various universities.

DIOXIN HEALTH ASSESSMENT

Recently EPA finalized its non-cancer science assessment for dioxins and found that over a person's lifetime exposure to dioxins do not pose a significant health risk.

Question 011: Why doesn't EPA look at dioxin's effect in total, including its possible cancer risks? Why does EPA separate cancer from non-cancer risk assessments?

Answer: Outside experts peer-reviewed EPA's Integrated Risk Information System dioxin assessment extensively. While the reviewers supported EPA's analysis of the non-cancer health effects, they recommended that EPA do further work on the cancer part of the science assessment. Based on this advice, EPA decided to finish and release the non-cancer part of the assessment. EPA is working to complete the cancer assessment. Americans deserve the best and most up-to-date information about chemicals in the environment. The non-cancer assessment updates the science and provides important new information to the public.

Regarding separate cancer and non-cancer risk assessments, the NCP (National Contingency Plan) (40 CFR §300.430(e)(2)(i)) states the EPA should establish "acceptable exposure levels that are protective of human health and the environment," including, but not limited to, both systemic toxicants and known or suspected carcinogens. Consistent with the NCP, EPA considers both cancer risk and non-cancer effects when performing risk assessments and developing preliminary remediation goal (PRGs) or cleanup levels for Superfund sites. The cancer risk and non-cancer hazard is calculated separately (using different equations) and then a level is selected that is protective of both cancer and non-cancer effects.

SCIENCE ADVISORY BOARDS

Question 1: Under what statutory provision does the EPA have the authority to establish or utilize such review panels to justify its regulatory proposals?

Answer: The Science Advisory Board (SAB) was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. ERDDAA Section (c) states that “The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.” EPA forms such subgroups or panels of the SAB when additional expertise is needed to augment members appointed by the EPA Administrator. Draft advisory reports prepared by subgroups or panels are transmitted to the chartered SAB for quality review. Reports are forwarded to EPA only if they are approved by the chartered SAB.

Question 2: How is the “casting call” for members of a particular SAB made known to affected parties, or to individual candidates who have the relevant credentials or expertise to sit upon a particular SAB?

Answer: When EPA is considering appointments of new members to the SAB or when additional experts are needed to serve on SAB subgroups or panels, EPA publishes a federal register notice requesting nominations from the public. EPA also seeks public comments on the list of candidates under consideration.

Question 3a: What are the criteria used by the EPA to select personnel for a particular SAB?

Answer: EPA Selection criteria include:

- Demonstrated scientific credentials and disciplinary expertise;
- Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees;
- Absence of financial conflicts of interest (see below);
- Absence of an appearance of a lack of impartiality (see below);
- Background and experiences that would help members contribute to the diversity of perspectives on the committee, e.g., geographic, economic, social, cultural, educational backgrounds, professional affiliations; and other considerations; and

- For the committee as a whole, consideration of the collective breadth and depth of scientific expertise; and a balance of scientific perspectives.(see below)

Financial conflicts of interest are defined by 18 U.S.C. § 208, which states that a government employee (including a special government employee serving on a federal advisory committee) is “prohibited from participating *personally or substantially* in an official capacity in any *particular matter* in which he, to his knowledge, or any person whose interests are imputed to him under this statute has a *financial interest*, if the particular matter will have a direct and predictable effect on that interest” [emphasis added]. For a conflict of interest to be present, all elements in the above provision must be present. If an element is missing the issue does not involve a formal conflict of interest; however, the general provisions in the appearance of impartiality guidelines must still apply and need to be considered.

Appearance of a lack of impartiality, defined in the Code of Federal Regulations at 5 C.F.R. § 2635.502(a), arises if advice on a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the person determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.

EPA uses information provided on a candidate’s confidential financial disclosure form (EPA Form 3110-48) to determine whether the work of the advisory committee or panel will have a direct and predictable effect on his or her financial interests. Candidates are evaluated against the 5 C.F.R. 2635(a)(2) general requirements for considering an appearance of a lack of impartiality using information provided by potential advisory committee members (including, but not limited to, EPA 3110-48 confidential financial disclosure forms) and public comment.

Candidates with EPA Research Funding: As noted in OMB Guidance (OMB Bulletin M-05-03, December 2004, p. 11), “when a scientist is awarded a government research grant through an investigator-initiated, peer-reviewed competition, there generally should be no question as to that scientist’s ability to offer independent scientific advice to the agency on *other* projects” [emphasis added].

Balanced Committees: FACA requires that committees be “fairly balanced in terms of the points of view represented and the functions to be performed” [5 U.S.C. app. §5(2)]. For scientific and technical advisory committees composed of special government employees (in contrast to representative advisory committees), EPA defines balance in terms of scientific expertise and viewpoints.

Question 3b: If the regulatory action being studied is region-specific, does the EPA seek out experts familiar with the issues of, or who hail from, that geographic area to serve on the relevant SAB?

Answer: When the SAB undertakes a new advisory activity, the EPA publishes a Federal Register notice describing the regulatory context of advisory activity, and the specific types of

scientific and technical expertise, knowledge and experience that will be needed to address that activity. The Federal Register notice invites public nominations of experts.

When a committee will be reviewing a region-specific science or technical issue, experts are sought with knowledge and research experience in the region, with care to avoid conflicts of interest. For example, recent panels established to evaluate approaches to nutrient criteria in Florida waters and to evaluate the environmental impacts of mountaintop mining in the Appalachian Region included experts with research experience in those geographic areas.

Question 4: Does the EPA select all the members of an SAB itself?

Answer: Per the requirement from ERDDAA, EPA selects all the members of the SAB.

Question 5a: Are there specific criteria or mechanisms to ensure the development or determination of a “fair” or “balanced” panel? For example, are a certain number of panel members designated as “industry” appointments or “regulated community” appointments?

Answer: FACA requires that the membership of an advisory committee be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee. For the SAB, a balanced committee is characterized by inclusion of the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors can be influenced by work history and affiliation), and the collective breadth of experience to address the charge adequately.

The SAB is a technical advisory body, not a committee designed to reflect stakeholder views. They are drawn from academia, industry, state and tribal governments, research organizations, and non-governmental organizations. SAB members are appointed as Special Government Employees. They are asked to provide their independent scientific advice as individuals and not as representatives of organizations or stakeholder groups.

Question 5b: Does the EPA maintain a procedure for identifying or remediating potential conflicts of interest for panel candidates?

Answer: In forming panels to provide expert advice, EPA, as required by the Ethics in Government Act of 1978, works to screen candidates for conflicts of interest and appearance of lack of impartiality. Individuals serving on the SAB are required to submit EPA Form 3110-48, *Confidential Financial Disclosure Form for Special Government Employees serving on Federal Advisory Committees at the U.S. Environmental protection Agency*.

If a conflict exists between an SAB panel candidate's private financial interests and activities and public responsibilities as a panel member, or even if there is the appearance of partiality, as defined by federal ethics regulations, EPA, as a rule, seeks to obtain the needed expertise from another individual.

Question 6a: How many SABs have been established or utilized by the EPA in the last three years?

Answer: Over the past three years, the SAB transmitted 40 advisory reports to the EPA Administrator and posted them on the SAB website (<http://yosemite.epa.gov/sab/sabproduct.nsf/WebReportsbyYearBOARD!OpenView>). EPA established or utilized 32 different SAB subgroups or panels to develop advice on these topics for the full chartered SAB to quality review before approval.

Question 6b: What policy or regulatory actions has each SAB review commented or issued opinions on? How many "opinions" or "recommendations" have been issued by an SAB that were opposed or contrary to a particular EPA regulatory action or objective?

Answer: SAB reports typically provide critical advice to EPA to help strengthen the science to inform decisions to protect public health and the environment. Most SAB reports peer review EPA technical documents and respond to EPA charge questions, although the SAB may also provide technical advice beyond the charge. The SAB focuses on scientific and technical questions and does not issue opinions or recommendations on EPA regulatory actions. Instead, SAB reports focus on the adequacy of the scientific foundation for an agency position (e.g., a regulatory standard), not the position itself. SAB reports can contain a large number of recommendations (sometimes over 100 recommendations) at various levels of detail. The SAB does not enumerate these recommendations or track the Agency's specific responses to them.

Question 6c: How much weight, if any, do such dissenting opinions carry within the regulatory or rulemaking process? Are these opinions or recommendations published or otherwise made public, and in what manner or format are they provided?

Answer: SAB reports provide both consensus recommendations and dissenting or minority views to the agency. SAB reports are advisory only. The EPA Administrator responds by letter to most SAB reports, but generally does not provide specific detail about the Agency's disposition of SAB advice.

Question 7a: Once an SAB is established and assigned the task of reviewing a particular policy or proposed or final action, how much leeway does it have in determining the review processes and procedures it will utilize?

Answer: As described above, the SAB focuses on scientific and technical questions and does not issue opinions or recommendations on EPA policy, or regulatory actions. An SAB panel does not have leeway to develop its own processes and procedures. The SAB must follow FACA requirements. This statute provides for transparency in committee activities, primarily by means of open access to meetings and records and by providing the public the opportunity to submit comments to the committee. The SAB and its subcommittees or panels follow the process for holding committee meetings and developing reports as described in the *Federal Advisory Committee Handbook* (U.S. EPA 2012) and the SAB document, *Advisory Committee Meetings and Report Development: Process for Public Involvement*. (EPA-SABSO-04-001).

Question 7b: Does the EPA determine what criteria, assumptions, and models that are utilized, or does the Board have the authority to determine these metrics?

Answer: As noted above, the SAB primarily responds to agency charge questions, which may involve how a draft science product meets agency science or data quality guidelines. SAB members may provide advice that goes beyond EPA's charge questions.

Question 7c: Who determines what evidence, data, or viewpoints are ultimately included or excluded from the final review?

Answer: The SAB has the discretion to consider any additional relevant technical information as part of its review.

Question 8a: What is the compensation provided to SAB members and what is its source?

Answer: As Special Government Employees, SAB members are compensated at an hourly rate of \$52.83. On average, an SAB member may spend up to 40-80 hours per review. The salary dollars come from EPA budget allocated to the SAB Staff Office.

Question 8b: What percentage of SAB panelists were awarded EPA grant funds to conduct scientific research, prior to their service on the SAB?

Answer: Based on the ethics information submitted by members of the chartered SAB which is consistent with EPA's information available in EPA's research grant database, 12% of SAB members in FY2012 receive current EPA research grants (primarily from EPA's Science to Achieve Results (STAR) grant program). Lists of current and past STAR grant recipients are available on the EPA website at http://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/recipients.welcome/displayOption/grants. These grants are competitively awarded through an independent peer review process. After the grants are awarded, EPA may not direct or influence the research. As noted in OMB Guidance (OMB Bulletin M-05-03, December 2004, p. 11), "when a scientist is awarded a government research grant through an investigator-initiated, peer-reviewed competition, there generally should be no question as to that scientist's ability to offer independent scientific advice to the agency on *other* projects" [emphasis added].

Question 8c: What is the total cost of SABs to the EPA in a given year and what is the relevant budget request?

Answer: \$6.0M was obligated in FY 2011 for the SAB which included compensation for the panel members, payroll for EPA staff, travel and support costs for public meetings and teleconferences. The FY 2013 President's Budget request is \$6.7 million which includes an increase of \$1.0 million from FY 2012 enacted level to support the SAB's review of 10 chemical assessments for EPA's Integrated Risk Information System (IRIS).

Question 8d: If any or all members are paid by the EPA, what guarantee is there of panelists' objectivity?

Answer: The SAB members are drawn from academia, industry, state and tribal governments, research organizations, and non-governmental organizations. As Special Government Employees, SAB members are compensated at an hourly rate of \$52.83. This compensation from EPA is a small honorarium in recognition of their public service providing advice to the federal government. EPA believes this small honorarium does not impair the objectivity of members.

FINAL UTILITY MACT RULE

On December 21, 2011, EPA finalized its long-awaited Utility Maximum Achievable Control Technology (Utility MACT) rule, which it refers to as the Mercury and Air Toxics Standards (MATS) rule. This rule requires that within four years all power plants emit as little mercury as the best 12% performing units do today, to lower emissions nationwide by 90%. By the EPA's own forecasts, this rule will cost industry \$10 billion to implement, making it the most expensive in history. While EPA argues this unprecedented price tag is offset by health benefits ranging from \$37-\$90 billion and Assistant Administrator Gina McCarthy has repeatedly touted potential job creation, critics charge that the EPA's studies are not open to peer-review, are not objective, and only quantify gross benefits.

Question 9: To what extent, if any, did the EPA consider the severe impact the MATS rule will have upon electricity costs, net employment, and American energy security during the rulemaking process? The EPA forecasts the creation of 8,000 long-term jobs to manufacture and service emissions monitoring and scrubbing equipment. Is that figure a gross or net jobs figure? In crafting MATS, did the EPA consider job losses "downstream" associated with higher electricity costs?

Answer: The EPA's Regulatory Impact Analysis (RIA) considered electricity costs, net employment, and national energy security. The RIA can be accessed at <http://www.epa.gov/ttn/ecas/regdata/RIAs/matsriafinal.pdf>.

EPA's analysis shows this rule will provide a net increase in employment by supporting 46,000 short-term jobs (job-years) and 8,000 long-term utility jobs (annual or recurring). The short-term construction jobs include jobs for engineers, steelworkers, and boilermakers building and installing pollution control equipment. The long-term utility jobs include jobs in the electric power industry associated with the installation, operation, and maintenance of pollution control equipment. EPA's central estimate of net long-term employment effects is estimated to be an increase of 8,000 jobs annually in the directly affected sector (with a range from a decrease of 15,000 to an increase of 30,000).

There are also likely to be other employment impacts associated with MATS. These include changes resulting from additional labor to operate the needed pollution controls, increased demand for materials used in pollution control operation, shifts in demand for fuel in response to the rule, and changes in employment resulting from additional coal retirements.

EPA's employment analysis does not consider the effect of energy price increases. EPA recognizes that this rule will cause electricity prices to rise. However, the Agency projects that the increase in retail electricity prices that will result from this regulation (3.1% in 2015, falling to 2% by 2020) is well below those for electricity prices seen historically and as recently as four or five years ago.

Estimating employment effects is challenging and important research related to this issue continues to emerge. EPA has made great effort not to overstate positive employment effects,

and the Agency acknowledges that there will be some negative impacts as well. Overall, there is considerable research showing that "investments in environmental protection industries create jobs and displace jobs, but the net effect on employment is positive."¹ EPA is unable to estimate all of the employment effects of its rules, but makes every effort to provide as much information as possible.

Question 10: Similarly, how can the purported health benefits fluctuate between \$37 and \$90 billion? Why have the associated models and assumptions, paid for with taxpayer dollars, not been made public, particularly when a mere .0004% of the assumed health benefits result from reduction of these toxic materials?

Answer: The range of health benefits reported for MATS represent mortality risk estimates from two epidemiology studies: the American Cancer Society cohort study by Pope et al. (2002) and the Harvard Six Cities Studies cohort by Laden et al. (2006). Based on advice from the EPA's Science Advisory Board, we provide benefits results using the risk estimates from both of these two cohorts.

The EPA uses the Ben MAP model to estimate human health benefits associated with reducing exposure to criteria air pollutants. This PC-based model, the model documentation, and the files containing U.S. EPA's default options for health impact assessments are available for free download on the Internet at <http://www.epa.gov/air/benmap/>. We also offer training courses for people who are interesting in learning how to run the model. In the Regulatory Impact Analysis for MATS, we fully describe the assumptions, the rationale for the analytical choices, and the limitations of the benefits analysis.

Question 11: Were the "best 12%" of electricity generation units used to create the MATS baseline "franken-utilities," composed of the most amenable conditions over a short amount of time cherry-picked to create a completely hypothetical best-performer?

Answer: EPA used the best available data to create the standards. The Clean Air Act requires the Agency to set standards for existing sources that are at least as stringent as the average emission limitation achieved by the best performing 12 percent of sources in the category. Once the Agency has established this standard, which is known as the floor level of control, the statute directs the Agency to evaluate whether the standard should be tighter. In determining whether to require reductions beyond the floor level of control, EPA can consider costs. EPA cannot, however, consider costs in establishing the floor level of control. This methodology for establishing standards for toxic air pollutants was set forth in amendments to the Clean Air Act in 1990.

EPA used data provided by the power plant industry to establish the final standards. Such data were provided by industry in response to a comprehensive information collection request

¹ Environmental protection, the economy, and jobs: National and regional analyses, Roger H. Bezdek, Robert M. Wendling and Paula DiPerna, *Journal of Environmental Management* Volume 86, Issue 1, January 2008, Pages 63-79.

prepared by EPA. The data provided show that the emission limits can be met by readily available technologies that have been used on power plants for many years.

Clean Water Act / Waters of the U.S.

Question 1: I understand that EPA received over 200,000 public comments on draft guidance to determine waters of the United States. The majority of the substantive comments, regardless of position on the guidance, urged EPA and the Corps to abandon guidance and instead proceed with a rulemaking. Contrary to public comments, the agency has now reversed course and asked OMB to approve the guidance. Why has EPA chosen a change in process that circumvents public input and will result in regulatory decisions with profound impacts on individuals, businesses and local government agencies?

Answer: EPA will provide response as soon as possible.

Question 2: Much of the concern regarding the waters of the U.S. guidance is the lack of clarity on what are and what are not waters of the U.S. and the prospect for additional regulation of ditches. The arid west relies on open water conveyances for water delivery that could easily be determined as jurisdiction under the guidance for not only the Corps' Section 404 permits but also for every other aspect of the Clean Water Act. I'm referring to facilities as large and complex as the California Aqueduct to the smallest irrigation ditch. How do you envision these features being affected by the guidance?

Answer: EPA will provide response as soon as possible.

Question 3: Water reclamation and reuse is not only critical in the western states, but is an important domestic water source all over the country for areas that want to preserve groundwater basins and reduce the need to import water from distant sources. I've heard from numerous water agencies that the guidance could have a negative impact on water storage reservoirs and recharge basins, preventing maintenance for their intended use. What changes are included in the guidance to avoid this unintended consequence?

Answer: EPA will provide response as soon as possible.

Question 4: Storm water management is a major concern and cost for every local government. The proposed guidance is so vague that entire municipal separate storm sewer systems, or significant portions of them, could be determined as water of the U.S. As such, the discharges INTO as well as from these systems would be subject to the full complement of regulations under the Clean Water Act rather than limited to the requirements of Section 402 under current practice. How do you envision storm water being affected by the guidance?

Answer: EPA will provide response as soon as possible.

Question 5: One of the major concerns of local governments as both a permittee and administrator of Clean Water Act mandates is the persistent threat of citizen suits and legal action. With the adoption of this extremely broad and ambiguous guidance, what assurances can you provide local governments that this guidance will not result in the proliferation of legal challenges? How do you reconcile the inequity of the guidance itself not being subject to legal challenge, yet the decisions that emanate from it would?

Answer: EPA will provide response as soon as possible.

EPA's Panel and Study to determine the "Value of Water".

In mid-November, EPA announced that it had assembled a 19 member advisory panel with the task of producing a report on that calculates the value of clean water as it relates to the US economy. It has been reported that the panel's goal is to issue a final report by the end of this year.

Question 6: I have heard that EPA's stated purpose for embarking upon this undertaking is to help the Agency in the decision-making process in regard to managing our nation's waters. Am I correct about this panel and study? Please elaborate on this initiative and what the agency is hoping to gain with this report.

I have a number of concerns in regard to this endeavor. First, I have heard concerns from my constituents that with the exception of maybe one or two individuals on the panel, none of the other members on the panel who are tasked with putting this report together have water industry specific experience. In reviewing the biographies of the panel members, I noted that nearly all are academics. I would think that this report could benefit from the input of those who have experience in managing water resources.

Answer: The Environmental Protection Agency (EPA) is conducting this study on the importance of water to the U.S. economy to better understand how water contributes to the economic welfare of the nation and plays a critical role in many sectors of the U.S. economy. The purpose of the study is to capture existing knowledge about the role of water in the United States economy, identify areas where additional research would be useful and create a way to continue building understanding of how water relates to the U.S. economy. The EPA recognizes that multiple entities are responsible for making management decisions regarding the use of our Nation's water resources. The goal of this effort is to provide more information to all those who make decisions regarding our water resources including local, state and federal agencies.

The EPA requested that the Science Advisory Board (SAB) provide consultative advice to assist in developing the proposed scope, planning and issues the report will address. An SAB consultation is a mechanism to provide individual expert comments for the agency's consideration early in the implementation of a project or action. The SAB Environmental Economic Advisory Committee augmented with other SAB members conducted this consultation. The SAB panel provided input to EPA's report on the "Value of Water in the U.S. Economy" at the formative stage. The SAB panel will have an opportunity to peer review the report when it is developed.

Question 7: Can you explain this lack public and private sector water manager representation on the "Value of Water" advisory panel? Recognizing that climate, landscape, availability of the resource, water use, and delivery vary across the country, how can this report place a singular, nationwide, value on water?

Answer: The EPA requested that the Science Advisory Board (SAB) provide consultative advice on a proposed outline of a planned study to evaluate the factors that articulate the “Value of Water to the U.S. Economy”. The charge to the SAB requested comment on the proposed scope, planning and issues the Office of Water should address in developing this report. The SAB committee that reviewed the EPA’s study outline included economists and engineers with experience in economics, drinking water, wastewater and water resource management. Members of the augmented committee were from the academic and consulting community with vast experience in different regions of the country, multiple sectors of the economy, water management issues and interactions with public and private sector water.

The SAB anticipates that when the EPA drafts the “Value of Water to the U.S. Economy” report, it will be brought back to the SAB for it to conduct a further, more detailed advisory review and to develop a consensus report that gives recommendations to the agency. At that time, the SAB Staff Office will convene an advisory panel to review the report.

The EPA recognizes and is engaging stakeholders to gather a more comprehensive understanding of the multiple factors that directly influence the availability of water, such as climate, landscape, and uses. The EPA is reaching out to multiple stakeholders through individual components of this study. The EPA is also supporting the development of a series of papers written by experts to supplement existing information and to present current economic analysis and innovations. The EPA plans to hold a technical workshop to present and discuss the agency’s literature review and the expert papers, and to solicit feedback. The EPA then anticipates producing a draft report that synthesizes all of this information. The Agency also contemplates holding a public symposium that will focus on this topic. The study does not intend to produce a singular, nationwide, value of water estimate.

Question 8: As you well know, we have major water scarcity issues in the state of California. And the fact is that when it comes to almost anything related to water in my state, there is a tremendous sensitivity. So I can tell you that many of my constituents are extremely skeptical at this type of effort by the Federal government. While the Agency’s “Value of Water” initiative has a noble face, from past experience, you can understand the skepticism that might exist that such a report could be a justification document for government over-reach and over-regulation of local water supply and wastewater management. How would you respond to that concern?

Answer: The EPA recognizes the critical and unique role that water plays in states and communities across the country, especially in the arid west. Moreover, the states and local communities are key decision makers in how water is managed and used. The “Value of Water” study EPA is conducting will help local, state and federal decision makers to better understand the importance of water to these communities. As you note, California is a prime example of how water serves as a critical element of the State’s well-being – a strong case for why this effort is important. Much of California’s economy hinges on water and that water has significant importance to California. EPA’s Office of Water has reached out specifically to stakeholders in California for their unique perspective on water’s importance to the economy.

The EPA is conducting this study to better understand how water contributes to the economic welfare of the nation and plays a critical role in many sectors of the U.S. economy. The EPA's study is not a new law, regulation, guidance or policy, and does not change any existing laws, regulations, guidance, or policies.

Utility MACT

I am dismayed by the EPA's "unprecedented" number of recent regulations; regulations which *The Wall Street Journal* has characterized as "a regulatory fire hose on U.S. business." In a "time of great economic stress," the Administration's repeated efforts to threaten millions more "American jobs, and [to] increase the cost of their electricity while they're at it" are unfathomable.

Members of Congress on both sides of the aisle have written letters to the EPA and the Administration expressing their concern. This issue is about economics and junk science. For example, as my colleague, Representative Joe Barton, Texas, revealed during an Energy and Power Subcommittee hearing earlier this month, the Utility Maximum Achievable Control Technology (Utility MACT) standards are estimated to cost approximately \$10 billion a year for the first five years and by 2020 will destroy about 1.5 million American jobs.

The EPA's own studies estimate that although these regulations have been championed as controls for toxic mercury pollution, only 0.02 percent of the potential air quality improvement from these regulations will come from a reduction in mercury.

Question 9: Ms. Jackson, could you please explain to us why you think this Utility MACT regulation and such a miniscule reduction in mercury levels is worth \$50 billion and 1.5 million American jobs?

Answer: We have estimated quantified benefits from the MATS rule of between \$33 and \$90 billion dollars in 2015, and we would expect that in future years annual benefits would continue to significantly outweigh annual costs. A cost benefit ratio of between 3 and 9 to 1 clearly demonstrates the benefits of this rule. Contrary to some estimates of job loss, our analysis suggests that the MATS rule will in fact have a positive impact on jobs, a conclusion that is supported by independent studies. This is particularly true in the near term when thousands of construction workers will be employed installing pollution controls which will in turn, return billions of dollars worth of health benefits to our nation's economy. While most of the quantified benefits do in fact come from reductions in particulate matter, the Clean Air Act allows EPA the discretion to factor in the co-benefits associated with reductions to particulate matter when setting standards for air toxics pollutants. Additionally, the benefits we do quantify do not tell the whole story. We have sufficient information to quantify only a subset of the health benefits associated with air pollutant exposures. There are often many other health endpoints associated with air pollution exposures, such as cancer and developmental delays, that we are unable to quantify and monetize.

New Source Performance Standards

In late 2010, EPA announced that it would propose *additional* NSPS regulations by July 26, 2011. It still has not done so. As you know, 220 members of this Congress recently wrote, asking the EPA not to impose them. There simply are too many unsubstantiated costly regulations already.

Question 10: Do you expect the NSPS will, in fact, be published? If so, please tell us when and provide an estimate their anticipated cost – either in terms of more lost jobs or increased energy prices.

Answer: The July 26, 2011 date was the original settlement agreement date by which EPA was to propose standards of performance for greenhouse gas emissions from electric utilities. On March 27, 2012, EPA issued this proposal. As described in detail in the regulatory impact analysis for the proposed rule, existing and anticipated economic conditions will lead electric utilities to choose technologies that meet the proposed standards, even in the absence of the rule. As a result, EPA anticipates that the rule will have little if any impact on energy prices or employment.

DIESEL EMISSIONS REDUCTION GRANTS

Question 11: Although I wish there could be more funding made available for Diesel Emissions Reduction Act programs, I appreciate the EPA's acknowledgement of the importance of DERA programs and am glad to see that \$15 million was included in your request for FY13. That being said, your budget justification seems to indicate that the EPA intends to initiate a dramatic restructuring of the DERA program.

The most recent DERA reauthorization reauthorized DERA grants to state, local, and tribal governments for programs to reduce emissions from existing diesel engines through 2016. Does EPA have the legislative authority necessary to restructure DERA from a grant program to a rebate and revolving loan program?

Answer: The Diesel Emissions Reduction Act of 2010, which modifies and reauthorizes the EPA's Diesel Emission Reduction Program through FY 2016, added rebates to the grants and loans already authorized under the initial authorization of DERA. EPA will utilize rebates, grants and loan programs under the reauthorized DERA language, and match those mechanisms to the needs of fleets and communities in their quest to reduce emissions from the legacy diesel engines.

Question 12: Why has EPA chosen to restructure DERA in such a way? How will this restructured program be an improvement over the current DERA program in terms of making these DERA dollars available to the areas and programs where the program will do the most to clean the air?

Answer: As mentioned above, the Diesel Emissions Reduction Act of 2010 added rebates to the grants and loans already authorized under the initial authorization of DERA, thus expanding the options for targeting certain types of engines, model years and fleets for retrofit or replacement. Use of the rebate option would make DERA funding available directly to private fleet owners for retrofit or replacement of older, high-pollution engines. Similar to how a rebate works in a retail situation, the Agency would use rebates as an efficient incentive mechanism to turn over the older fleets sooner in areas of need than through natural attrition. The program could specify the most cost-effective and beneficial type of engines and technology solutions, in locations of greatest need. EPA expects grants to also play a large role by providing funds for recipients in part to establish revolving loan and other programs that will subsidize retrofits and replacements of older engines. At the same time, rebates offer a specificity and simplicity which would be welcomed by stakeholders and policy leaders alike.

ASSOCIATION OF IRRITATED RESIDENTS V. EPA

Question 13: In *Association of Irrigated Residents v. EPA*, the 9th Circuit decided that extreme and severe non-attainment areas under the Clean Air Act have a responsibility to reduce both emissions from mobile sources and to reduce vehicle miles traveled (VMTs). It is my understanding that EPA believes the CAA does not require VMTs to be regulated when aggregate motor vehicle emissions are actually decreasing. Does EPA plan to petition for appeal of the 9th Circuit's decision or does EPA plan to use the regulatory process to address the court's decision with regard to VMT?

Answer: In approving in part and disapproving in part California's State Implementation Plan (SIP) for the Los Angeles-South Coast Air basin (South Coast), EPA had applied its longstanding interpretation under Clean Air Act (CAA) section 182(d)(1)(A) that if an area shows that its aggregate motor vehicle emissions continued to decline, notwithstanding VMT growth that might slow the rate of such decline, the area would not need to adopt transportation control measures (TCMs) to offset that growth. In *Association of Irrigated Residents v. EPA*, 9th Cir. No. 09-71383, the U.S. Court of Appeals for the 9th Circuit ruled that EPA's interpretation was an impermissible reading of the phrase "growth in emissions from growth in VMT" under the plain language of the CAA, and that the phrase, supported by congressional legislative history, can only mean "any increase in the level of emissions emanating solely from VMT in a prior year." EPA sought rehearing on this issue by the three-judge panel that decided the case. On January 27, 2012, the panel denied EPA's petition for rehearing, but issued a slightly amended opinion that did not change the court's "plain language" ruling on the VMT-TCM issue. Notably, the court recognized it "cannot ignore the possibility that with advances in clean car technology, one day VMT could increase without a corresponding increase in emissions. If that happens, under the statute, EPA would not need to impose TCMs even though VMT increased." Rather than seek further review of the panel's ruling, EPA intends to work with the South Coast to conduct additional rulemaking to address the court's remand of the SIP and identify any needed offsetting TCMs and transportation control strategies (TCSs) for the South Coast.

SULFURYL FLUORIDE

Question 1: As I understand it, naturally occurring fluoride is not a “pesticide chemical residue” under the Federal Food, Drug, and Cosmetic Act, so I would like to know why EPA has included exposure to naturally occurring fluoride from certain public drinking water systems in its risk assessment of the pesticide SF?

Answer: In assessing the safety of the sulfuryl fluoride tolerances, EPA aggregated fluoride exposures resulting from pesticide use with all other sources of fluoride exposure including drinking water and dental products because the Federal Food, Drug, and Cosmetic Act (FFDCA) directs that we take this approach. Section 408(b)(2)(D)(vi) of the FFDCA provides that in establishing a tolerance, EPA shall consider “available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue *and to other related substances . . .*” (emphasis added). Thus, FFDCA section 408 expressly widens the scope of aggregate exposure assessments beyond a narrow focus on pesticide chemical residues alone.

Question: Also, why has EPA not used the Safe Drinking Water Act to address this overexposure problem, since this law expressly grants EPA the tools and the authority to mitigate exposure to naturally occurring fluoride?

Answer: In the case of fluoride, several sources contribute to overexposure. These sources include drinking water (from naturally-occurring fluoride in the water or fluoridated water), food, beverages, toothpaste, fluoridated mouthwashes, etc. As announced in January 2011, EPA is currently using its Safe Drinking Water Act (SDWA) authority to review the drinking water standard for fluoride to determine whether it is appropriate to take steps to revise the standard to reduce exposure from drinking water. Even if EPA were to revise the drinking water standard, this step alone may not sufficiently reduce overall exposure to fluoride to allow EPA to retain the sulfuryl fluoride tolerances. Further reductions would take a coordinated effort among several federal programs and agencies.

It is important to note that most public water systems that have naturally occurring fluoride tend to be small groundwater systems. If EPA decides to revise the standard for fluoride in an effort to reduce overexposure, the Agency will need to consider benefits, as well as the costs. EPA is committed to reviewing the regulation to determine how best to ensure that the standard for fluoride in drinking water is protective of public health.

GREAT LAKES ENVIRONMENTAL FINANCE CENTER

Question 2: Your budget request proposes a reduction of \$ \$14,000 for Environmental Finance Centers, which have been funded at \$2 million since FY02, with the exception of FY12, when it was funded at \$1.75 million. Can you provide some information on the rationale behind this reduction, as well as clarification of how EPA proposes to restructure this program without threatening the services that these Centers provide?

Answer: The proposed reduction in FY 2013 reflects hard choices in a difficult budget environment and the Agency's commitment to maintain support for its core programs.

When the program was funded at the \$2 million dollar level, nine of the ten EFCs received \$190 thousand in funding for FY 2011 with one Center that supports two Regions receiving \$290 thousand. The \$250 thousand reduction in FY2012 was allocated equally to the each of the ten Centers. With the proposed additional reduction in FY2013, the agency remains committed to use the remaining \$1 million in grants to maintain an effective Finance Center presence in the Regions. The Agency final funding determinations for the individual Centers will be made based on evaluations of work plans proposed by the Centers.

EFC grants were established in FY1993. Over the 19+ years, the Centers have matured and have been successful in leveraging other resources to support working with stakeholders to evaluate and identify financing options for continued environmental improvements.

Regional Haze

Concerning regional haze, Oklahoma worked hard to create a State Implementation Plan (SIP) to combat regional haze. The EPA denied the SIP and implemented a Federal Implementation Plan (FIP). It is my understanding that the SIP would have met goals for combating regional haze.

Question 1: If the State SIP achieved the regional haze visibility objectives what is the defensible rationale for making the state incur the significantly greater costs associated with the FIP's mandate for scrubbers?

Answer: EPA concluded that Oklahoma's SIP would not have met the requirements of the Clean Air Act. When determining the appropriate air pollution controls for large industrial sources that have been in existence for 25 years or more, the Clean Air Act requires the State (or EPA when the State fails to do an adequate job) to take into account cost effectiveness and degree of visibility improvement. These are two of the five factors that the State (or EPA) is required to analyze under the Best Available Retrofit Technology (BART) provisions of the Clean Air Act. Oklahoma determined that no SO₂ controls were justified to reduce regional haze for the six AEP/PSO and OG&E units. Oklahoma's cost estimates were flawed to a degree that prevented reasoned decision making, and as a result EPA could not approve the SIP. EPA determined that these scrubbers were cost-effective and that the installation of SO₂ scrubbers at these six units would result in significant visibility benefits at several Class I areas. Because we were under a consent decree deadline, we were unable to provide Oklahoma the additional time that would have been needed to revise its cost analysis and resubmit its plan (as we have done, for example, for Arkansas for which the terms of the consent decree were necessarily different as a legal matter) before we adopted BART requirements in a federal plan. However, Oklahoma may submit a new plan, which if approved will replace the federal plan.

Cross State Air Pollution Rule

It is my understanding that Oklahoma was included in the Cross State Air Pollution Rule based on Oklahoma's activity impacting a county in Michigan currently in attainment status.

Question 2: How do you credibly impose huge regulatory costs on Oklahoma's economy based on such schizophrenic science?

Answer: For CSAPR, EPA performed updated modeling based on the latest science to assess the impacts of emissions in upwind states on air quality at downwind locations. The upwind-downwind "linkages" EPA identified in its CSAPR air quality analysis are necessarily focused on downwind areas that were projected to have trouble either attaining or maintaining attainment of the relevant ozone or fine particle National Ambient Air Quality Standards (NAAQS) in 2012. EPA determined that an upwind state is "linked" to ozone nonattainment or maintenance at a downwind location of concern if the amount of the contribution from emissions in the upwind state was greater than or equal to a threshold of 1 percent of the relevant NAAQS. For ozone, the 1 percent of the NAAQS threshold is 0.8 ppb. These "linkages" identified upwind states whose emissions warranted further consideration.

In its July 2010 proposal, EPA proposed to include Oklahoma in CSAPR due to Oklahoma's contribution to air pollution at nonattainment and maintenance locations in Texas. EPA received numerous comments on the July 2010 proposal and updates to the data used as modeling inputs. In response, EPA made numerous updates to the emission inventories used in the modeling performed for the final rule. The updated modeling identified Allegan County, Michigan as an area that is projected to have difficulty maintaining the relevant ozone NAAQS when historic variability in air quality is taken into consideration. This updated air quality modeling also showed that, in this location, Oklahoma's emissions contribute more than double the threshold amount of 1%, which was similar to the amount Oklahoma's emissions contributed to this location in the proposal modeling. Based on this demonstration, EPA proposed to and ultimately did include Oklahoma in CSAPR through a supplemental rulemaking.

Finally, the analyses EPA conducted that informed our determination to include Oklahoma in CSAPR are scientifically defensible. The emission inventories used for the final rule modeling were updated based on public comment received on the proposed rule. Furthermore, EPA issued the supplemental proposal explicitly allowing for an additional round of public comment on the finding that Oklahoma's emissions significantly impact ozone concentrations in Allegan County, Michigan. EPA conducted its CSAPR analyses using state-of-the-science models that are regularly subject to peer review and public comment. EPA used an air quality model, the Comprehensive Air Quality Model with extensions (CAMx), that has been subject to independent review through peer-reviewed journal publications and through public comments submitted to EPA in response to notice-and-comment rulemakings. A peer review of CAMx source apportionment tools is available online at:

<http://www.epa.gov/scram001/reports/SourceApportionmentPeerReview.pdf>

In addition, EPA's power sector emissions model, the Integrated Planning Model (IPM), as well as its regulatory applications are regularly reviewed by the public and benefit from detailed public comments submitted to EPA in response to notice-and-comment rulemakings and Notice of Data Availability (NODA). Along with other features of IPM, its algorithms, processes, and functions have been peer reviewed by panels of independent outside experts who focus on IPM's coal supply and transportation assumptions, natural gas assumptions, and power sector model formulation, among other areas. Moreover, EPA explicitly solicited a broad range of public review and input on IPM modeling inputs and assumptions for use in developing the final CSAPR by publishing a NODA that appeared in the Federal Register on September 1, 2010 (75 FR 53613).

Question 3: Does it make any sense that in claiming that Oklahoma's emissions impact that lone county in Michigan there is no assertion that those emissions impact any of the presumably hundreds of other counties that lie between Oklahoma and that one county identified in Michigan? How is that reflective of sound science?

Answer: EPA does not assert that Oklahoma's emissions only impact a "lone county in Michigan." EPA's final rule analysis shows that Oklahoma's emissions also contribute above the threshold to ozone concentrations in other locations throughout the region including Oklahoma and Texas. However, those locations were not identified as having NAAQS attainment or maintenance concerns. Thus, Oklahoma's emissions have much broader impacts on air quality in Oklahoma and throughout the region, but many of the impacts are on areas that are not projected to have nonattainment or maintenance problems with respect to the relevant NAAQS. Our finding that Oklahoma contributes to the maintenance receptor in Allegan County, Michigan is reasonable and fully consistent with the methodology used for identifying all upwind-downwind state linkages in the CSAPR.

EO 13563

I have heard from industry that the EPA has not fully complied with the President's Executive Order 13563 in terms of using a more realistic cost-benefit analysis.

Question 4: What steps has your office taken to comply with this Executive Order and can you give me an example of changes in regulations based on compliance with this Executive Order.

Answer: EPA will provide response as soon as possible.

New Rules Impacting the Electric Utility Industry

I know you are well aware of the concerns in the electric utility industry that compliance with the myriad of recent EPA pronouncements on the timelines contemplated by the rules is either impossible or incredibly more expensive than necessary; and that there is genuine concern that the timelines are likely to create reliability problems.

Question 5: What studies, reviews or other actions is your agency undertaking to investigate and assess these concerns? What mitigation measures are you considering if you determine these concerns are legitimate?

Answer: Before the Mercury and Air Toxics Standards (MATS) were finalized, EPA and the Department of Energy (DOE) conducted several analyses of its effects on electric generation resources.¹ EPA's and DOE's analyses demonstrated that the vast majority, if not all, sources will be able to meet the MATS requirements within the time frames provided under the Clean Air Act.

EPA took steps in the final MATS to address stakeholder concerns that compliance with MATS could not be achieved within the maximum three-year compliance date authorized under the statute. In the final rule, EPA described in detail the wide range of situations where we believe an additional year for compliance could be granted by permitting authorities. This fourth year - in addition to the three years provided to all existing sources - is provided by the Clean Air Act as needed to complete installation of control technologies. EPA suggests that permitting authorities make this fourth year broadly available to sources that require it to complete their compliance activities, including installing pollution control equipment and constructing on- or off-site replacement power. EPA is also encouraging the fourth year to be available as needed to units that continue to operate for reliability purposes while other units are installing pollution controls or while transmission upgrades are taking place. As described in more detail below, EPA will engage in outreach to states and permitting authorities to help ensure that the fourth year for compliance is broadly available and that the process for sources to request and states to grant the extensions is clear and straightforward; if necessary we will issue guidance to accomplish that. As a result, EPA estimates that sources generally will have until spring of 2016 to comply – one year longer than our analysis indicates is necessary for most sources.

Although EPA's analysis indicates that most, if not all, sources can comply within three years, and that the fourth year should be available in the broad range of situations described above, EPA is also providing a clear pathway for units that are shown to be critical for electric reliability to obtain a schedule to achieve compliance within up to an additional year beyond the four years mentioned above. This pathway is set forth in a policy memorandum from EPA's

¹ Environmental Protection Agency (2011). "Resource Adequacy and Reliability in the IPM Projections for the MATS Rule" http://www.epa.gov/ttn/atw/utility/revise_resource_adequacy_tsd.pdf
Department of Energy (2011). "Resource Adequacy Implications of Forthcoming EPA Air Quality Regulations" http://energy.gov/sites/prod/files/2011%20Air%20Quality%20Regulations%20Report_A_120911.pdf

Office of Enforcement and Compliance Assurance. As stated above, EPA believes there will be few, if any, situations in which this pathway will be needed. In addition, in the unlikely event that there are situations where sources cannot come into compliance on a timely basis that do not fall into any of these categories, EPA will address them on a case-by-case basis, at the appropriate time, to determine the appropriate response and resolution. This is consistent with its longstanding historical practice under the Clean Air Act.

As part of the Administration's commitment to maximize flexibilities under the law, MATS was accompanied by a Presidential Memorandum that directs EPA to take a number of steps to ensure continued electric reliability. These steps include: 1) working with State and local permitting authorities to make the additional year for compliance with MATS provided under section 112(i)(3)(B) of the Clean Air Act broadly available to sources; 2) working with the Department of Energy, the Federal Energy Regulatory Commission, State utility regulators, Regional Transmission Organizations, the North American Electric Reliability Corporation and regional electric reliability organizations, other grid planning authorities, electric utilities, and other stakeholders, as appropriate to promote early, coordinated, and orderly planning; and 3) making available to the public, including relevant stakeholders, information that describes the process for identifying circumstances where electric reliability concerns might justify allowing additional time to comply. EPA is in the process of taking a number of steps to implement the directives in this memo.

EPA is actively engaging power plants and other entities that will be involved in getting power plants retrofitted while maintaining the reliability of the electric grid. EPA has held, and will continue to hold, a series of discussions with the Department of Energy, the Federal Energy Regulatory Commission, State utility regulators, Regional Transmission Organizations, the North American Electric Reliability Corporation, regional electric reliability organizations, and other grid planning authorities to promote early compliance planning, to support orderly implementation of the MATS standards, and to ensure that any potential, localized reliability concerns are identified and addressed. EPA has started and will continue discussions with power plant owners and operators to help them understand their responsibilities under the standards and their role in early, coordinated, and orderly planning. EPA is conducting specific outreach to stakeholders with unique concerns such as rural electric cooperatives, public power facilities, and investor-owned utilities. In addition, EPA will also engage in outreach to states and permitting authorities to help ensure that the fourth year for compliance is broadly available and that the process for sources to request and states to grant the extensions is clear and straightforward.

The nation's power grid is strong and resilient because numerous agencies and organizations fulfill their obligations to maintain the nation's electric reliability. As discussed above, EPA has already been working and will keep working with these organizations so that they can take the necessary steps to continue to fulfill this obligation while ensuring smooth implementation for MATS. Key steps include early planning and early notification of compliance plans by affected sources, system operators, and state and federal regulators. One regional transmission organization, PJM Interconnection, which operates a competitive wholesale electricity market and manages the high-voltage electricity grid to ensure reliability for more than 58 million people in the eastern U.S., has already begun asking its members for MATS compliance planning information. Over the 40 year history of the Clean Air Act, these

stakeholders – working together with State and Federal regulators – have had an outstanding track record of substantially reducing pollution while maintaining reliability. We remain confident that, together, we have the tools to address any challenges that may arise in connection with the implementation of the MATS standards.

TRIBAL PERMITS

Question 6: What efforts are you making to ensure that permitting for tribal development, specifically development of energy resources, are prioritized, and what are you doing to make it easier for tribes to get permitting for new energy projects?

Answer: EPA continues to foster more responsible production and use in America's energy future. There are several ongoing programs in EPA that assist Tribes in their efforts in developing energy resources.

For example, air permitting is required only if the project's uncontrolled emissions exceed certain thresholds. In several cases the recent New Source Performance Standard (NSPS) for the oil and gas sector will require emission controls that can be counted before determining whether permitting is necessary. These controls make it less likely that natural gas projects will be subject to major source permitting requirements.

Additionally, for projects in Indian country that do exceed major source thresholds, EPA has now made "synthetic minor" permits available. This streamlined permitting mechanism has previously been available in states, but only recently became available in Indian country with the publication of the Review of New Sources and Modifications in Indian country (also known as the Tribal Minor New Source Review Program) in July 2011. Smaller projects that exceed certain thresholds will be permitted under the minor source provisions of this rule beginning in 2014. During this phase-in, EPA is working to develop general permits, including one for oil and gas operations, that will further streamline the process for these small sources and provide a level playing field for sources in Indian country and those in surrounding states.

For oil production sources that are not required to install controls under the NSPS, and that are major sources of air pollution (specifically those located on the Ft. Berthold Reservation), EPA has been working to issue permits for these sources while working with industry and affected Tribes on additional ways to implement controls for these sources without the need for additional permits.

Also, Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) permits are generally required if a pollutant from a point source will be discharged to a water of the United States. Most onshore oil and gas facilities do not discharge. There are, however, some less common activities that may discharge wastewater and thus need a permit. These include some cases in the arid west where produced water from oil and gas operations is of suitable quality for agricultural or wildlife uses. Also, produced water from unconventional gas extraction, such as coal bed methane, has been permitted. In cases where such activities take place in Indian country, mostly in Wyoming and Montana, EPA is working to issue NPDES permits in a timely manner as a part of its efforts to ensure timely permit issuance.

Finally, in the April 13 Executive Order Supporting Safe and Responsible Development of Unconventional Domestic Natural Gas Resource, the President calls for coordination of all hydraulic fracturing activities across the Federal government, including policy. Federal agencies will coordinate and align all research associated with development of our nation's abundant unconventional natural gas and oil resources. The direction of this executive order will help coordinate current and future research and scientific studies undertaken by the U.S. Department of Energy, the U.S. Environmental Protection Agency and the U.S. Department of the Interior.

HYDRAULIC FRACTURING

Question 7: Why do you continue to rely on your hydraulic fracturing study that has been labeled scientifically questionable? Do you stand by the objectivity of the study?

ANSWER: EPA stands by the objectivity of the study of the potential impacts of hydraulic fracturing on drinking water resources. EPA is committed to carrying out a scientifically sound and objective drinking water study. In their review of EPA's initial scoping study design and the full draft study plan, the Agency's Science Advisory Board – an independent panel of experts representing a wide range of scientific disciplines – concluded that EPA's research scope, objectives, and approach were scientifically sound. In conducting the drinking water study, EPA is adhering to the highest standard of scientific integrity and transparency, and we will follow a rigorous, transparent peer review of the data and conclusions.

Question 8: Is it typical for scientific studies to look back at samples that all have specific results in order to use those results to support theories like in your current fracking study?

ANSWER: It is standard scientific practice to consider retrospective data in studies and assessments. In their review of EPA's Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources, the Agency's Science Advisory Board supported the use of retrospective case studies to "look back" at the data where contamination of drinking water resources has been reported. The objectives of these studies are to first ascertain if contamination has occurred, and if so, to determine the source(s) of the contamination.

EPA's drinking water study is being carried out in a scientifically rigorous, objective, and transparent manner. The drinking water study has not been designed, nor is it being conducted, to support any foregone conclusions or preconceived theories about the potential impacts of hydraulic fracturing on drinking water resources. EPA will interpret the results based on an objective process that adheres to the highest level of scientific integrity. Furthermore, the Agency will conduct a rigorous, independent and transparent peer review of the drinking water study methods, results, and conclusions.

Tribal/Rural Water Infrastructure

Question 9: What is the EPA doing to help tribes improve drinking water and waste water infrastructure?

Answer: EPA will provide response as soon as possible.

Question 10: How does the EPA prioritize water infrastructure on reservations where little or no infrastructure exists?

Answer: EPA will provide response as soon as possible.

Navajo Generation Station BART Decision Timing

In 2009, EPA announced its intention to issue a rule for controlling emissions from the Navajo Generating Station that could affect visibility in Class I Areas under the Clean Air Act (CAA). Since that time, EPA has collected information to consider on the five statutory factors the CAA requires it to consider in determining which technologies constitute the Best Available Retrofit Technology (BART) for NGS. In an effort to supplement EPA's collection effort, and because the Department of the Interior's missions and responsibilities will be affected by the BART determination, it commissioned the National Renewable Energy Laboratory to conduct an independent analysis focused on these statutory factors and candidate BART control options. EPA previously indicated promulgation of a rule to determine what control technology constitutes BART for NGS was imminent and that it would be issued early in 2012; to date, however, EPA has not issued a final rule.

In response to a question regarding EPA's timeline for a final rule, you indicated your intention to meet with Secretaries Chu and Salazar to find a path forward on NGS. You also stated that there was plenty of time, since EPA did not plan to issue a final rule on BART for NGS until late this summer. Your response was disconcerting as it implied that EPA either does not have all of the information it needs to make a BART determination, or that it is delaying promulgating a final rule to explore issues unrelated to the BART determination itself.

Question 1: Does EPA have the information it needs to issue a final rule on what control technology constitutes BART for NGS?

Answer: EPA must issue a proposed rulemaking before we can issue a final rulemaking. At this time, EPA believes we have all of the information we need to complete our own analysis and to propose a BART determination for NGS this summer.

Question 2: If so, why is the EPA delaying issuing a final rule till "*late this summer?*" and if not what additional information is needed and what steps does EPA plan to take to obtain that information in a timely manner in order to issue the final rule?

Answer: EPA intends to issue a proposed BART determination this summer. EPA does not intend to issue a final rule this summer. As stated in the previous response, EPA must issue a proposed rulemaking before we can issue a final rule.

As you are aware, the study commissioned by the Department of Interior and conducted by the National Renewable Energy Lab was released on January 18, 2012 and the compendium of public comments on the NREL report was provided to EPA on March 29, 2012. EPA received additional information from Salt River Project and the Gila River Indian Community in March and April, 2012.

In developing our proposed rulemaking, EPA must critically review all of the information submitted to EPA on NGS and complete our own analysis and write a Federal Register Notice

and Technical Support Document for public comment. EPA is actively working to complete the analysis and the documents required for a proposed rulemaking. Our proposed BART determination for NGS will be followed by a public comment period and public hearings in Arizona and on the Navajo Nation. Due to the substantial interest in this action, we anticipate a longer than average public comment period on the proposed BART determination. EPA will respond to all public comments received before finalizing this action.

Navajo Generation Station BART Decision Considerations

As you may know, the six owners of NGS are working to extend the initial term of the plant site lease, which expires in 2019. If EPA requires additional controls beyond those that have been voluntarily implemented as BART before the lease is renewed, it may be difficult for each owner to justify such a significant capital investment in the plant without certainty that it will continue to operate beyond 2019. According to a recent ASU study, Arizona could stand to lose \$18 billion in gross state revenue between 2017 and 2044 – including up to 3,400 jobs each year – if the plant does not run beyond 2019.

Question 3: It is my understanding that the Clean Air Act requires the agency to “take into consideration the costs of compliance” and “the energy and nonair quality environmental impacts of compliance.” Would the potential for causing the plant to shutter as a result of costly pollution control mandates be among those considerations?

Answer: EPA is considering the potential for plant closure in our analysis.

Question 4: Does the agency plan to take into consideration the potential for increased pressure on groundwater resources as a result of significant water rate increases from additional costly pollution control mandates?

Answer: EPA is considering potential water-related impacts to Arizona in our analysis.

Question 5: The Clean Air Act also requires in consideration of “the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.” Are you aware that a recent study failed to reach any clear conclusions about whether installing costly Selective Catalytic Reduction (SCR) would result in any noticeable improvements in Grand Canyon visibility?

Answer: EPA is aware that the NREL report concludes that the “body of research to date is inconclusive as to whether removing approximately two-thirds of the current NO_x emissions from Navajo GS would lead to any perceptible improvement in visibility at the Grand Canyon or other areas of concern.” EPA is conducting our own critical review of the modeling analyses available, including those referenced in the visibility section of the NREL report as well as the additional modeling analyses submitted by Salt River Project to EPA. We will consider the available information on potential visibility changes in class 1 areas resulting from emission reductions at NGS in our proposed BART determination.

Exceptional Events

In an October 14, 2011 letter to Senator Stabenow, EPA indicated “steady progress” in reducing emissions of particulate matter from many different natural and manmade sources is being made. EPA intends to propose retention of the current PM-10 standard and I applaud that decision, yet areas like my district are continuing to struggle to maintain the existing standard and often from things that are beyond their control.

In 2005, Congress amended the Clean Air Act so states and localities could get off the regulatory hook when so-called “exceptional events,” or events they simply cannot control or prevent, impact air quality. In 2007, the EPA adopted the Exceptional Event Rule, implementing Congress’ amendment to the Clean Air Act. Sadly, this rule has proven flawed, costly, and inconsistently implemented. It is my understanding that the agency is in the process of providing clarifying guidance, but I fear that will simply not be enough to fix the problems.

Question 6: On a basic level, would you agree that areas should not be penalized for natural and manmade exceedances of the PM-10 standard that they cannot reasonably control?

Answer: Yes, with two qualifications. First, under the Clean Air Act, 24-hour PM-10 exceedances caused by manmade events that are likely to recur in the same location cannot be excluded from determinations of whether the area is meeting the PM-10 standard on a 3-year basis. The state is thus responsible for adopting and implementing a prospective plan that attains the standard despite such events even if they are not reasonably controllable. However, even in this case, a failure to actually meet the PM-10 standard because of such events would not necessarily lead to “penalties” in the sense of Clean Air Act sanctions. Clean Air Act sanctions apply only for failure to have a good plan, not failure to actually meet the standard. Second, it can be a difficult matter of definition as to whether some events are natural or manmade, because past and ongoing human actions (such as disturbing the natural soil) can greatly affect how much dust is generated by a natural process (such as winds in a certain range of speeds). This difficulty matters because of the “likely to recur” qualification for manmade events.

Question 7: From a practical standpoint, I understand that the San Joaquin Valley Unified Air Pollution Control District has suggested that the paperwork for just one high wind exceptional event takes more than 400 staff hours to prepare. With the Maricopa area having seen more than 100 exceedances of the PM10 standard last year with all but one being from an exceptional event, will your agency address the intensive and costly aspects of attempting to have events that are outside an areas control excluded?

Answer: We are currently doing exactly that. Arizona’s Department of Environmental Quality, the Maricopa Association of Governments, and EPA’s Region 9 office have been working closely on developing approvable exceptional event demonstration packages for the 2011 wind events. We have focused first on five particular days in July 2011, knowing that most of what is needed for other days could be quickly copied from the materials created for these days. This work has involved significant effort by staff in all three agencies, in order to be as certain as

possible that EPA's eventual actions on all of the days will withstand legal challenges.

Question 8: It is clear that for areas like the one I represent, an approach to excluding exceptional events that is predictable, equitable, and based in commonsense is critical. Is it within your authority to achieve that goal?

Answer: It is within the EPA's authority to create such an approach. Our new guidance will go a long way in this direction and if necessary we will undertake rule amendments to provide more legal certainty to agencies relying on our recommendations. With regard to a particular natural or manmade event in a particular area, the responsible state or local agency will need to do its part to assemble the reasonably available technical information needed to apply the approach. As all the involved agencies gain more experience and have more previous examples to follow, the effort needed to do this will decline.

Aquatic Resources of National Importance

I am aware that EPA plays an oversight role in the Corps of Engineers wetlands permitting process and that, based on a memorandum of understanding; EPA can deem an aquatic resource an “aquatic resources of national importance.” It is my understanding that once that occurs, a higher level of scrutiny and often a higher level of regulatory cost is associated with the permitting process.

Question 9: Given that the designation of “aquatic resource of national importance” can have real and significant impacts on the regulated community; could you please point me toward clearly articulated selection criteria for such resources?

Answer: In the 1992 EPA/Department of the Army Memorandum of Agreement regarding 404(q) of the Clean Water Act (MOA), the agencies articulated procedures for coordinating timely resolution of permitting issues. The agencies agreed that the only permit applications subject to elevation under these procedures are those involving aquatic resources of national importance (ARNI). Factors used in identifying an ARNI include: economic importance of the aquatic resource, rarity or uniqueness, and/or importance of the aquatic resource to the protection, maintenance, or enhancement of the quality of the Nation’s waters. Cases that do not meet this resource threshold may not be elevated under the MOA. The EPA estimates that we use the ARNI designation in approximately 1% of all comment letters we send annually to the US Army Corps of Engineers.

The following documents include the term ARNI and/or provide guidance as to the application of the term:

- 1992 CWA Section 404(q) MOA between EPA and Army: <http://water.epa.gov/lawsregs/guidance/wetlands/dispmoa.cfm>
- 2002 Memo from EPA Assistant Administrator G. Tracy Mehan to the Field regarding Designation of ARNI under the CWA Section 404(q) MOA with Army: <http://water.epa.gov/lawsregs/lawsguidance/cwa/wetlands/upload/404qCoordinationMemo2002.pdf>

Question 10: Could one safely assume, given that “aquatic” is in the name, that a primary selection parameter would be that such a resource would in fact have to have water in it?

Answer: The resource would have to be a “water of the United States” subject to Clean Water Act jurisdiction.

Confined Animal Feeding Operations

It is my understanding that late last year the Environmental Protection Agency issued a proposed rule under Clean Water Act Section 308 that could result in confined animal feeding operations across the country being required to electronically upload what has been referred to as “a laundry list of information about their operation.” Once finalized, EPA is presumably going to receive a tremendous volume of as an estimated 20,000 to 60,000 thousand or more farms respond to EPA.

Question 11: What does EPA actually intend to do with the data it receives and is there an estimate for the cost to the agency of this exercise?

Answer: EPA will provide response as soon as possible.

Question 12: How does EPA intend to address the concerns related to privacy associated with the proposed rule?

Answer: EPA will provide response as soon as possible.

Electricity Generation from Coal

It is my understanding that during a speech at Howard University last November, you made comments regarding what you seemingly perceived as a historic lack of environmental stewardship by coal-fired utilities. Specifically, you stated that: “*in their entire history — 50, 60, 70 years, or even 30 ... they never found the time or the reason to clean up their act.*” “*They’re literally on life support,*” you continued, “*and the people keeping them on life support are all of us.*”

Question 13: Has not the coal-fired electricity generators invested as much as \$95 billion over the last thirty years for emission controls to meet clean air requirements, with these investments having reduced emissions of sulfur dioxide, nitrogen oxides, and particulate matter alone by nearly 90 percent per kilowatt-hour and mercury emissions having been reduced by more than 60 percent over that same time period?

Answer: In terms of emissions over time, data from the EPA’s National Emissions Inventory and other EPA data from 1970 to the present, in combination with data from the Energy Information Administration on energy generation show that key pollutant coal-fired utility emission rates have decreased substantially. The sulfur dioxide rate in 1970 was 44.9 lb/KWh and in 2011 is estimated to be currently 4.8 lb/KWh (based on 2011 data), a reduction of about 90%. The nitrogen oxides rate in 1970 was 11 lb/KWh and is estimated to be currently 1.9 lb/KWh, a reduction of about 80%. Data on particulate matter (PM) emissions are not available back to 1970 and are available only up through 2008. A review of PM_{2.5} data shows that from 1999 to 2008, the rate has decrease from 0.6 lb/MWh to 0.3 lb/MWh, a decrease of about 50%.

Data from EPA’s National Emissions Inventory shows that mercury emissions from electric generating units (EGUs) have decreased from about 60 tons in 1990 to about 30 tons in 2008; a decrease of 50%. The 1990 baseline data are used here because they are the baseline year by which EPA’s Hazardous Air Pollutant (HAP) program is typically evaluated and after the passage of key HAP legislation contained in the 1990 Clean Air Act Amendments.

Despite these reductions, power plants continue to be the largest emitter of mercury in the U.S. as well as significant contributors to other harmful emissions. Specifically, power plants continue to emit over 75% of this country’s acid gas emissions, about 60% of arsenic emissions and about 50% of mercury emissions. Data from the EPA’s National Emissions Inventory for 2008 shows that the next 3 highest mercury emitters, electric arc furnaces, industrial, commercial, institutional boilers and process heaters, and portland cement manufacturing, each contribute to less than 8% of the nation’s mercury emissions. And, though some power plants have made significant investments in pollution control equipment, nearly 40% of power plants in this country have yet to invest in advanced controls. The fact remains that many old power plants continue to operate without having made the investments necessary to protect public health. For example, 83% of units built before 1950 and 60% built between 1950-1959 have yet to install advanced controls for SO₂ and/or NO_x.

TIER 3 REGULATION PROPOSALS

Question 1: Thank you for your clear answer that you do not intend to tighten the Reid Vapor Pressure guidelines when you begin your Tier 3 emissions rule. Does the EPA intend to do a comprehensive study on the effects of any Tier 3 proposals on the price of gasoline for the American consumer?

Answer: The Tier 3 proposal does contain a comprehensive assessment of both the costs and benefits of the standards, including the impact of more stringent gasoline sulfur standards on refinery costs.

NEW SOURCE PERFORMANCE STANDARDS

Question 2: With the recent release of the New Source Performance Standard (NSPS) rules for future electricity generation, can we expect a separate rule for existing plants to be finalized? If so, when do you expect that rule to be finalized?

Answer: The agency does not have plans for an existing source GHG NSPS.

Question 3: Did the EPA analyze the economic impact of NSPS? What were the results of that analysis?

Answer: Yes, as part of the rulemaking record for the GHG NSPS, EPA has developed a regulatory impact analysis that analyzes the economic impact of the GHG NSPS. In that analysis, EPA found that because of the increasing price of coal relative to natural gas, the fuel of choice for new fossil fuel-fired generation is likely to be natural gas; therefore, the GHG NSPS should have little, if any economic impact. The conclusion that natural gas is likely to be the fuel of choice is consistent with the Energy Information Administration's (EIA) analysis, EPA's analysis for other rules, and the statements of many utilities. Recognizing, however, that there are concerns about potential natural gas price volatility, EPA performed additional analyses to understand the potential impact of higher-than-projected gas prices. Even in these types of cases, EPA saw little, if any, new coal-fired generation even in the absence of this rule and therefore little, if any, economic impact associated with this rule.

Question 4: Did the EPA analyze the impact of the NSPS rule on the nation's energy portfolio? If so, what were the findings? If not, why was this not analyzed?

Answer: EPA did analyze the impact of the NSPS rule on the nation's energy portfolio and found that because this standard is in line with current industry investment patterns, this proposed standard is not expected to have notable impacts on the country's energy portfolio.

MERCURY AND AIR TOXICS ASSESSMENT AND CUMULATIVE IMPACTS

I am frustrated by the EPA's inability or unwillingness to assess the cumulative impacts of the various rules imposed on the nation's energy and power industries. I understand that retrofitting a coal fired plant to comply with the new Mercury and Air Toxics rule could, in and of itself, trigger the new NSPS regulations. Because the costs of these two rules cannot be separated for industry, the analysis of economic, reliability and rate payer impacts should not be separated by the EPA either.

Question 5: Is it true that complying with the Mercury and Air Toxic Rules could in some cases trigger the NSPS rule?

Answer: Presuming this question refers to the NSPS EPA proposed for GHGs from new fossil fuel-fired power plants, this will not impact existing units that install pollution controls to meet the emission reduction requirements for MATS or any other project involving the installation of emission controls on an existing power plant.

Question 6: Does your NSPS economic impact analysis take into account the combined costs of the Mercury and Air Toxics rule and the NSPS, since they are so intertwined?

Answer: The economic impact analysis for the proposed greenhouse gas (GHG) NSPS regulation estimates the additional impact of the NSPS rule, compared to a baseline scenario that already includes the impact of the final MATS and the final Transport Rule (finalized as CSAPR). In addition to MATS and CSAPR, the baseline takes into account the projected implementation of all finalized federal rules, state rules and statutes, and other binding, enforceable commitments that are applicable to the power industry and which govern the installation and operation of pollution controls during the timeframe covered in the analysis (up to 2020). Thus, the NSPS economic impact analysis presents impacts as incremental to the effects of the final MATS and CSAPR. Results for the analyses for those two rules can be found at <http://www.epa.gov/airquality/powerplanttoxics/> and at <http://www.epa.gov/airtransport/pdfs/FinalRIA.pdf>, respectively.

It should be noted that the proposed GHG NSPS does not include requirements for modified or reconstructed sources, therefore there is no impact on sources that will apply controls in order to comply with the final MATS. The impacts associated with the proposed GHG NSPS, which are incremental to the final MATS and CSAPR as just mentioned, are predicted to be negligible by 2020, because by that time other regulatory and market-related factors will have washed out any residual impacts of the GHG NSPS rule. Accordingly, EPA also does not anticipate this rule will have any impacts on the price of electricity, employment, energy or labor markets, or the US economy by 2020. The GHG NSPS economic impact analysis is available at <http://www.epa.gov/ttn/ecas/regdata/RIAs/egughgnspsproposalria0326.pdf>

ASSESSMENT OF REGULATORY IMPACT TO DATE

The EPA's assessment of the Mercury and Air Toxic rule estimated it would force the retirements of approximately 4.8 to 9.5 GW of smaller and older coal-burning units. However, several utilities like Luminant, AEP, First Energy, Midwest Generation, GenOn and Black Hills Power and others all have announced closures of coal-fired plants and have cited EPA's regulations as a major, if not primary reason for those closures. The combined retirements represent over 25.1 GW of power and climbing.

Question 7: Does the EPA plan to revise its estimates of the impact on electricity prices and reliability based on the actual consequences of the Mercury and Air Toxic Rule and other rules that have forced the retirement of 25.1 GW of power? If not, please justify the EPA's estimate in light of the announced retirements.

Answer: Many of the recently announced power sector retirements indicating the significant influence of other factors unrelated to MATS in these retirement decisions. Electric power generators weigh many factors in their business decisions about which plants to operate and which to retire. Environmental regulations are a factor but in most instances they are not the major factor. The principal drivers of recent retirement decisions are the low price of natural gas, the rising price of coal, and excess capacity in light of low electricity demand. These current trends in power sector economics, independent of EPA regulations, are increasingly leading utilities to retire coal-fired plants. Often, the plants that are retiring are older, less efficient units that are located in areas of excess capacity and many of these units have hardly operated in the last few years. For example, in March 2012, GenOn announced that they will retire units at 8 power plants, totaling over 3,000 MW of capacity in the next three years. While GenOn cites environmental regulations, including MATS, as contributing to this decision, these facilities have seen drastically reduced utilization in recent years, dwindling from a peak of 60% in the 1990s to less than 20% in 2011.

Additionally, EPA's analysis of MATS specifically quantified *incremental* retirements attributable to the rule's impacts, a distinct concept from retirements that would occur due to market forces with or without MATS. EPA's modeling projected that MATS would result in only a modest level of incremental retirements in 2016 (less than 5 GW – or less than 0.5% of the nation's generating capacity). The result of this assessment is not properly compared to announced retirements that are based on a multitude of market factors unrelated to EPA that have continued to trend in a direction unfavorable to older, inefficient coal units, including falling natural gas prices, rising coal prices, and low electricity demand.

FUNDING OF NON-PROFIT ORGANIZATIONS

Question 8: Please supply to my office a comprehensive list of the grants given by the EPA to non-profit, non-governmental organizations from FY09 – FY12. Included in the list please provide the name of the non-profit, non-governmental organization; the amount given; the program within the EPA from which the grant originated; a justification for the grant; and how the grant money was expended. Any grants made to states as a result of each fiscal year appropriation, and directed to the states as part of federal law; and any grants made to Colleges and Universities, need not be included in the list.

Answer: The enclosed list provides comprehensive information available from the EPA's grants data systems on grants awarded to non-profit/ non-governmental organizations from FY09 to date, excluding grants to states, colleges and universities. The list contains the following data fields: 1) Grant Number; 2) Award Fiscal Year; 3) Program Office (by AAship or Region); 3) Applicant Name; 4) Applicant Type; 5) Catalog of Federal Domestic Assistance (CFDA) Number; 6) CFDA Description; 7) the EPA Award Amount; 8) Project Title; and 8) Project Description. Project Description provides a justification for the grant as well as explanation for how the grant money was expended. Detailed information on each of the grant programs noted on the list can be found at the CFDA website, www.cfda.gov. The CFDA is a government-wide compendium of Federal assistance programs.

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