

**NOMINATIONS OF
BALASH, GLICK, McINTYRE AND NELSON**

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

FIRST SESSION

TO

CONSIDER THE NOMINATIONS OF JOSEPH BALASH TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR LAND AND MINERALS MANAGEMENT; RICHARD A. GLICK TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION; KEVIN J. McINTYRE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION; AND RYAN NELSON TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR

SEPTEMBER 7, 2017



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**NOMINATIONS OF
BALASH, GLICK, McINTYRE AND NELSON**

THURSDAY, SEPTEMBER 7, 2017

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

The Committee met, pursuant to notice, at 10:38 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

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

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

We are here today to start off the September session by considering four nominations; two for the Department of the Interior (DOI) and two for the Federal Energy Regulatory Commission (FERC). Our Interior nominees are Joe Balash, to be the Assistant Secretary for Land and Minerals Management, and Ryan Nelson, to be the Solicitor. Our FERC nominees are Rich Glick and Kevin McIntyre, who is slated also to be designated as the Commission's Chairman upon confirmation. I want to thank all four of our nominees for their willingness to serve or continue serving our country.

Each of you has been nominated for a critical leadership position at an agency or department that is very important. You will certainly have the power to affect millions of American lives.

As we have noted here many times before, FERC has significant reach into the national economy. According to the Congressional Research Service, the value of energy commodities flowing through FERC-regulated wires and pipes is approximately three percent of the nation's GDP. Of course, what those commodities go on to fuel and power make up an even larger component of our broader economy.

Just before the August state work period we approved two FERC nominees and restored a working quorum for the Commission. After six months with just one confirmed commissioner, the nominees before us today will provide this agency with a full complement of five members. They have their work cut out for them as they address—

[Protester interrupting.]

The CHAIRMAN. The Committee will come to order.

As I was saying, the FERC will have their work cut out for them. They have to address a significant backlog of pending matters, but

with these nominees FERC will be back up to speed with a full roster.

I am confident that Mr. McIntyre will be a capable Chairman upon his confirmation. He has significant experience and strong qualifications for the role.

Mr. Glick, who is Senator Cantwell's General Counsel here on the Committee, is certainly well known to many of us. I will let Senator Cantwell speak to his background and qualifications, but I, personally, want to thank him for his service to this Committee, including his role in shaping our bipartisan energy bill and many other matters. Mr. Glick, I truly appreciate the working relationship that we have had and what you have contributed to the Committee.

Given the extraordinary scope of the Interior Department's responsibilities, including its administration of more than a quarter of the land in our nation and about two-thirds of the land of Alaska, we also recognize that it is well past time that Secretary Zinke and Deputy Secretary Bernhardt have the help that they need.

I welcome the nomination of Ryan Nelson of Idaho, a Westerner and a seasoned General Counsel. Mr. Nelson is returning to Washington, DC, to resume his already notable public service, this time as Solicitor. Senator Risch will have a few words as he will introduce him shortly.

I will focus my own introduction on our fourth nominee, Mr. Joe Balash of the great State of Alaska. I am delighted to have Joe before the Committee today. He is a fellow Alaskan which should be enough to convince everyone to just vote yes on his nomination.

[Laughter.]

Mr. Balash hails from North Pole, not "The" North Pole, but from North Pole, Alaska. He is currently serving as Senator Sullivan's Chief of Staff. He previously ran Alaska's Department of Natural Resources.

I have worked closely with him in both of these roles, and I truly cannot say enough about his understanding and, certainly, knowledge of these issues. I think he will be an excellent Assistant Secretary, overseeing the Bureau of Land Management (BLM), the Bureau of Ocean Energy Management (BOEM) and several other key agencies within the Department of the Interior.

Senator Sullivan did want to be here today to introduce Mr. Balash but that wasn't possible due to a death in his family, so I will read a short statement that Senator Sullivan wrote before submitting his full statement for the record.

Senator Sullivan says, "Joe Balash currently serves as my Chief of Staff. While we are sorry to lose him, the job that Secretary Zinke has tasked him with is one that, I believe, he is uniquely qualified for. Joe was my Deputy Commissioner of Alaska's Department of Natural Resources and then he became the Commissioner of DNR. Alaska's DNR manages one of the largest portfolios of land, water, oil, gas, renewables, timber and minerals in the world. Responsible development of Alaska's resources requires working closely with all groups that have a stake in Alaska's lands and waters, including environmentalists, conservationists, hunters, tribes, energy companies and citizens. Joe understands how to work to develop our resources while always understanding that our

lands sustain us and stringent environmental safeguards are absolutely necessary for all Americans. Joe Balash is a hard worker, a great father and husband and a good friend. I hope this Committee can vote him out favorably to be considered by the full Senate.”

[The information referred to follows:]

**Statement for the Record
Joe Balash to be DOI's Assistant Secretary for Land and Minerals Management
Senator Dan Sullivan
September 7, 2017**

I'm sorry I couldn't be there with you today to proudly introduce Joe Balash, but I had a death in my family and had to fly out for a funeral.

Joe Balash currently serves as my Chief of Staff. He's done a great job as chief. He has done exceptional work hiring the right people to fill a new office, and organizing all of us, including me—no easy task.

He is a man of integrity, honor and loyalty.

And while we are all sorry to lose him in the Senate, the job that Secretary Zinke has tasked him with as the Department of the Interior's Assistant Secretary for Land and Minerals Management is one that I believe he's uniquely qualified for. I say this with the utmost confidence.

I know Joe in his current role here in the Senate, but I also know him as a colleague in Alaska, first as my deputy commissioner of Alaska's Department of Natural Resources, and then he became the Commissioner of DNR—one of the most important jobs in Alaska.

Alaska's Department of Natural Resources manages one of the largest portfolios of land, water, oil, gas, renewables, timber, and minerals in the world.

Our resources are our lifeblood and the responsible development of those resources requires working closely with all groups that have a stake in Alaska's lands and waters, including environmentalists, conservationists, hunters, tribes, energy companies and citizens.

Joe understands how to build consensus, how to navigate state and federal interests, and importantly, how to work to develop our resources, and grow our economy while always understanding that our lands sustain us and stringent environmental safeguards are absolutely necessary for all Americans.

While I'm sad to see Joe leave my office and the Senate, his departure is a big gain for Secretary Zinke, the Department of the Interior, the United States and Alaska. His wealth of knowledge and passion for my state – and more broadly, federal land issues – will be invaluable to Secretary Zinke.

Joe Balash is a hard worker, a great father and husband, and a good friend. I hope that this committee can vote him out favorably to be considered by the full Senate

The CHAIRMAN. Well, Joe, like Senator Sullivan, I certainly look forward to having you at the Department of the Interior. I know a lot of Alaskans, a lot of Westerners, feel the same way. Again, thank you for your willingness to step up in this capacity.

Now, to a little bit of the business. For members who will have questions for our nominees, I will be here for as long as possible today. I am bouncing in and out of committees, as I know other members are, but if any members have additional questions after the hearing, questions for the record will be due at the close of business today. Finally, I would advise members to be prepared to report these nominees as soon as possible.

With that, I turn to Senator Cantwell for her opening remarks. After that we will have brief remarks from Senator Risch to introduce Ryan Nelson, and then we will swear in all the witnesses.

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

Senator CANTWELL. Thank you, Madam Chair, and thanks for scheduling this hearing and congratulations to all the nominees on being nominated for your posts.

Because of the recess, I have not had a chance to meet with three of the nominees, Mr. McIntyre, Mr. Nelson and Mr. Balash, but I look forward to doing that now that we are back. So I look forward to your comments this morning as well.

I did want to say something, though, this morning about our FERC nominee to the Commission. I am particularly pleased by the President's nomination of Rich Glick to the Federal Energy Regulatory Commission. Rich has worked, as the Chairwoman just said, most recently for us on the Committee for the past 18 months, but he brings a rich wealth of knowledge about electric utility, natural gas and a myriad of other energy issues working in both the public and private sectors. He gained that knowledge working for Senator Dale Bumpers, one of our former colleagues, as Legislative Director and Chief Counsel, and as Policy Advisor to Energy Secretary Bill Richardson during the Western energy crisis. He has also worked for two major electric utility companies, PacifiCorp and Iberdrola, which is now Avangrid.

He understands the complex issues that come before the Commission because he has spent 25 years working on them. He also understands the importance of FERC and its role in protecting the public interest and ensuring that just and reasonable rates for natural gas and electricity help keep the markets fair and free of market manipulation.

[Protestor interrupting.]

Senator CANTWELL. Rich's appointment to the Commission certainly will be a loss for us here but it will be a gain for FERC. I look forward to an opportunity for him to elaborate more on that experience during today's hearing.

So, thank you, Madam Chair, for scheduling this hearing so promptly as we have returned and, obviously, we have a lot of work to do.

The CHAIRMAN. Thank you, Senator Cantwell.
Senator Risch.

**STATEMENT OF HON. JAMES E. RISCH,
U.S. SENATOR FROM IDAHO**

Senator RISCH. Thank you very much, Madam Chairman.

It is my honor and privilege today to introduce Ryan Nelson who is here with us today, and he has been nominated by the President to serve as Solicitor of the Department of the Interior.

Ryan, we are glad you have agreed to do this, and we are appreciative of that.

Mr. Nelson lives in Idaho Falls, Idaho, and is General Counsel for an Idaho-based company. All of you are familiar with Idaho Falls, Idaho, because you have listened to me wax on and on about the merits of the Idaho National Laboratory (INL) and INL is located in Idaho Falls.

Most importantly to me today, Mr. Nelson's family is here. His wife and his seven children, all seven children, are here today for this hearing. So we are so honored that you would bring your family along.

Mr. Nelson graduated from the Brigham Young University (BYU) Law School with honors and clerked immediately thereafter for Judge Henderson in the DC Circuit. He has had other clerkships, but most notably he was a clerk on the Iran/U.S. Claims Tribunal in The Hague in the Netherlands.

He has served as Deputy Assistant Attorney General in the Environment and Natural Resources Division of the Department of Justice, and he has served as Special Counsel here in the United States Senate for the U.S. Senate Judiciary Committee.

I think the President has made an excellent choice for the Solicitor's job, so I commend him to the Committee and I have confidence that after we hear from him the Committee will be well disposed to send his nomination to the Floor.

I want to yield some time to my seatmate here, Senator Lee, who is modestly acquainted with the nominee.

STATEMENT OF HON. MIKE LEE, U.S. SENATOR FROM UTAH

Senator LEE. Thank you, Senator Risch, and thank you Madam Chair for letting me break in for a brief moment of personal privilege.

Ryan Nelson and I have been friends for over 20 years. I got to know him in law school. He was known as a brilliant law student and he absolutely was.

I helped recruit him to the law firm of Sidley Austin where I was working as Ryan completed his clerkships, and it was a real pleasure to work with him. We have remained friends ever since then. Ryan is known throughout the country as a lawyer who is dedicated to the rule of law and he was willing to do the hard work to figure out what the law requires and to advise his clients accordingly, to seek justice at every turn.

In addition to his many other accolades and the fact that he is a father of seven, which Senator Flake will tell you, is actually a fairly small family, but—

[Laughter.]

He also is fluent in Dutch and Flemish. I am sure both of those talents will come in handy in his new position, should he be confirmed.

Thank you very much. We look forward to hearing from you, Ryan.

Senator RISCH. Thank you, Madam Chairman, we yield back.

The CHAIRMAN. Thank you, we appreciate that introduction and appreciate, again, the willingness of all of you to be with us today.

The rules of the Committee which apply to all nominees require that they be sworn in connection with their testimony. So, I would ask that you all please rise and raise your right hand.

Do you solemnly swear—

[Protester interrupting.]

The CHAIRMAN. Gentlemen, do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth and nothing but the truth?

[Nominees answer, yes.]

The CHAIRMAN. Before you begin your statement I will ask—you can go ahead and be seated. I will ask three questions addressed to each of you before this Committee.

Will you be available to appear before this Committee and other Congressional Committees to represent departmental positions and respond to issues of concern to the Congress?

[Nominees answer, yes, we will.]

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

[Nominees answer, no.]

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

[Nominees answer, no.]

The CHAIRMAN. At this point in time we will lead off with Mr. Balash, again, who has been nominated to be the Assistant Secretary of the Interior for Land and Minerals Management.

Mr. Balash, welcome to the Committee. To each of you as you begin your statements, if you would care to introduce any family members that you might have here with you today, we would certainly welcome that opportunity as well.

STATEMENT OF JOSEPH BALASH, NOMINATED TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR LAND AND MINERALS MANAGEMENT

Mr. BALASH. Chairman Murkowski, Ranking Member Cantwell, members of the Committee, I'm humbled to appear here today as President Trump's nominee for the position of Assistant Secretary for Land and Minerals Management of the Department of the Interior. It is an honor to be asked to serve in this role, and I thank Secretary Zinke for the opportunity to work for the people of the United States. Thank you as well for your remarks, Madam Chair, as well as those on behalf of Senator Sullivan.

I could not be here today without the support of my wife of 21 years, Brenda, who's here with me, seated behind me along with our youngest child. Our oldest child, our teenager, has elected to stay in school today since classes just began on Tuesday. My par-

ents are also in the hearing room, Larry and Janie Balash, as well as a couple of my sisters.

The CHAIRMAN. We welcome them.

Mr. BALASH. I grew up in a large Air Force family moving all around the United States. One of the rules my dad instilled in us was to leave a place better than we found it, whether it's a picnic area at a park or the family visiting center for those times he was called to alert duty.

In the early 1980s, we were able to visit my grandparents' homes in the Pittsburgh area twice a year, and on those trips I observed the deterioration of the mighty steel industry that my grandpap, Dick Sharkins, cherished. At the time, he used to curse the EPA for shutting down the mills that employed him and his brother teamsters. At the time, I concluded the only choice we had was either good jobs or a clean environment.

My dad's next duty station, however, was at Eielson Air Force Base in the interior of Alaska. This was truly a life-changing event for me. We spent my early teenage years chasing salmon wherever his Subaru could take us. As I learned about the spawning cycle of salmon and their dependence on an entire system of water bodies, my appreciation for the value of clean water grew, and at the same time I began to learn about the permanent fund dividend program and where our state's wealth came from.

The reality of how Alaska managed to produce so much oil while sustaining healthy salmon populations caused me to revisit those earlier conclusions. I realized that with the right approach, you can have responsible development without sacrificing clean air and water.

As I wrapped up my collegiate education, I had an opportunity to work for my hometown legislator in Alaska's capital. I spent the next eight years working as a Legislative Aide and learned that our ability to get things done in public service depends on relationships across regions, across party lines and despite differences on separate issues.

In 2006, I made my way from the Legislative Branch to the Executive Branch of state government, and at the Department of Natural Resources (DNR) I was charged with managing and leading an organization that manages one of the largest portfolios of land and water in the world. While I was there we resolved disputes that bedeviled the state for decades, established new standards for the transfer of ownership in oil and gas properties. We oversaw the placement of the first offshore platform in state waters in nearly 20 years, we opened the first state park in decades with a view of Denali that rivals any other I've seen and we published maps with clear delineations of trails to enable hunters and anglers to access public lands while respecting private property.

I'm proud of what we accomplished at DNR while I was there, but all of this was really done by the people who carry out the day-to-day functions of the Department.

During my time, I learned that managing people who are smarter than you and know more about the details, requires an open management approach in order to drive the organization toward complex decision-making. You have to provide a transparent view into what you're trying to do and why you want to do it. I believe

that an approach like this helps ensure the organization, as a whole, focuses on the bigger picture. If confirmed, I would take such an approach at the Department of the Interior.

The public lands of the United States contain a tremendous bounty of natural resources, resources that represent the assets of the American people. When managed effectively, these assets can deliver opportunities to recreate, appreciate and generate wealth. Under Secretary Zinke's leadership and the goals established by President Trump, I believe the Department of the Interior can deliver on this promise.

My background and the experiences I've gained managing the assets of my home state have prepared me well to serve as the Assistant Secretary for Land and Minerals Management and it would be my honor to do so.

If confirmed, I will work relentlessly to produce the value the American people deserve from their public lands and this includes recreational access, responsible energy development and active management of the Department's assets. I'll do so within the confines of the laws established by the Congress and with the dedication to transparent leadership and accountability.

Chairman Murkowski, thank you for the opportunity to appear before the Committee today.

I look forward to your questions.

[The prepared statement of Mr. Balash follows:]

Statement of Joseph Balash
Nominee for the Position of Assistant Secretary for Land and Minerals
Management of the Department of Interior
Before the Committee on Energy and Natural Resources
United States Senate
September 7, 2017

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, I am humbled to appear here today as President Trump's nominee for the position of Assistant Secretary for Land and Minerals Management of the Department of the Interior. It is an honor to be asked to serve in this role and I thank Secretary Zinke for this tremendous opportunity to work for the people of the United States.

Thank you as well to Senator Sullivan for your introduction, and for the opportunity you gave me to serve you and the people of Alaska in your Senate Office.

I could not be here today without the support of my wife of 21 years, Brenda, who is with me here, along with our youngest child. Our teenager has elected to stay in school since classes just began on Tuesday. My parents are also in the hearing room, Janie and Larry Balash, as well as some of my siblings.

I grew up in a large Air Force family, moving all around the United States. One of the rules my dad instilled in us was that we leave a place better than we found it, whether a picnic area at a park or at the family visiting center for those times he was called to alert duty.

In the early 1980s, we were able to visit my grandparents' homes in the Pittsburgh area twice a year. On those trips, I observed the deterioration of the mighty steel industry that my Grandpap, Dick Sharkins, cherished; at the time, he used to curse the EPA for shutting down the mills that employed him and his Brother Teamsters. At the time, I concluded that the only choice we had was either good jobs or a clean environment.

My dad's next duty station was at Eielson Air Force Base in the Interior of Alaska. This was truly a life-changing event for me. We spent my early teenage years chasing salmon wherever his Subaru could go. As I learned about the spawning cycle of salmon and their dependence on an entire system of water bodies, my appreciation for the value of clean water grew.

At the same time, I began to learn about the Permanent Fund Dividend and where our state's wealth came from. The reality of how Alaska managed to produce so much oil while sustaining healthy salmon populations caused me to revisit those earlier conclusions. I realized that with

the right approach, you can have responsible development without sacrificing clean air and water.

As I wrapped up my collegiate education, I happened upon an opportunity to work for my hometown legislator in Alaska's capital. As I spent the next eight years working as a legislative aide, I learned that our ability to get things done in public service depends on relationships—across regions, across party lines, and despite differences on separate issues.

In 2006 I made my way from the legislative branch to the executive branch of State government. At the Department of Natural Resources, I was charged with leading the organization that manages one of the largest portfolios of land and water in the entire world. While I was there, we resolved disputes that had bedeviled the State for decades; we established new standards for the transfer of ownership in oil and gas properties; we oversaw the placement of the first offshore platform in State waters in nearly 20 years; we opened the first State park in decades with a view of Denali that rivals any other I've seen; and we published maps with clear delineations of trails to enable hunters and anglers to access public lands while respecting private property.

I'm proud of what was accomplished at DNR while I was there, but all of this was really done by the people who carry out the day-to-day duties of the Department. During my time, I learned that managing people that are smarter than you and know more details than you requires an open management approach in order to drive these organizations toward complex decision-making. You have to provide a transparent view into what you are attempting to accomplish and why you want to do it. I believe that an approach like this helps ensure that the organization, as a whole, focuses on the big picture. If confirmed, I would take such an approach at the Department of the Interior.

The public lands of the United States contain a tremendous bounty of natural resources—resources that represent the assets of the American people. When managed effectively, these assets can deliver opportunities to recreate, appreciate, and generate wealth. Under Secretary Zinke's leadership, and the goals established by President Trump, I believe the Department of the Interior can deliver on this promise. My background and the experiences I've gained in managing the vast public resources in my home State have prepared me well to serve as the Assistant Secretary for Land and Minerals Management and it would be my honor to do so.

If confirmed, I will work relentlessly to produce the value the American people deserve from their public lands. This includes recreational access, responsible energy development, and active management of the Department's assets. I will do so within the confines of the laws established by the Congress and with a dedication to transparent leadership and accountability.

Chairman Murkowski, thank you for the opportunity to appear before the Committee today. I look forward to your questions.

The CHAIRMAN. Thank you, thank you very much.
Mr. Glick, welcome.

**STATEMENT OF RICHARD A. GLICK, NOMINATED TO BE A
MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION**

Mr. GLICK. Thank you.

Chairman Murkowski, Ranking Member Cantwell and members of this Committee, thank you for the opportunity to appear this morning as a nominee to serve on the Federal Energy Regulatory Commission.

Senator Cantwell, I want to begin by thanking you so much for the very generous statement that you made. I really appreciate everything you've done for me. I want to thank you and Senator Schumer for the confidence you all have shown in me by putting my name forward for this position.

I'm especially grateful to Senator Cantwell for bringing me back to work in the United States Senate, where I spent six-and-a-half years in the 1990s. Although the faces have changed and some of the issues have changed, the Senate, particularly the Senate Energy and Natural Resources Committee, remains a special place. It has been a privilege to work for this Committee and Senator Cantwell over the last 18 months and with this Committee's extremely professional staff on both sides of the aisle.

I also want to thank Chairman Murkowski for working tirelessly to expedite this nomination process.

And I would be remiss if I failed to mention Senator Dale Bumpers, who served as a senior member of this Committee and the Ranking Democrat when I worked for him in the 1990s. I owe so much to Senator Bumpers for taking a chance on me and for serving as a mentor on politics and life, but especially for instilling in his staff the notion that public service is a noble calling.

I also want to recognize my wife, Erin, and our son Alexander, who have joined me here today. Alexander just started third grade a couple days ago, and he's already enjoying his first day off for the year.

[Laughter.]

They are both a constant reminder of what is really important in life.

I have had the opportunity to work on a number of major energy issues over my career. As a young lawyer at a Washington, DC, law firm I helped to represent public power utilities and utility regulators. As a Legislative Director and Chief Counsel to Senator Bumpers, I worked on several provisions that were included in the Energy Policy Act of 1992 and helped to draft bipartisan legislation addressing electric industry restructuring. As a Senior Policy Advisor to Energy Secretary, Bill Richardson, I worked on the Clinton Administration's response to what at the time was known as the "western energy crisis". Thereafter I worked for a multistate electric utility in the West with a significant amount of baseload electric generation, PacifiCorp. I then went to work for what is now known as Avangrid, an energy holding company that is one of the biggest renewable electricity generators in the U.S. and operates several gas and electric distribution utilities in the Northeast. And

most recently, I have had the honor of serving as a General Counsel for the Minority on this Committee where I have worked on several energy policy issues, including the bipartisan energy bill that's currently pending on the Senate calendar.

On each occasion, I have witnessed the important roles that FERC plays. FERC's decisions can have a significant impact on the lives of everyday Americans.

For instance, the Commission's inability to come together on a unified response during the height of the western energy crisis in 2000 caused consumers to pay more for electricity and natural gas than they should have. If I am so fortunate to be confirmed by the Senate to serve as a FERC Commissioner, I intend to work with my colleagues to safeguard the public's interests.

I also look forward, if confirmed, to working with my fellow commissioners to help facilitate the ongoing dramatic transformation to the ways Americans produce and consume energy. This revolution has the potential to substantially improve our energy efficiency, reduce emissions, grow the economy and create millions of new jobs. FERC, working with state regulators, can help eliminate barriers to the adoption of these new technologies and processes.

Senator Cantwell and Chairman Murkowski, thank you again for the opportunity to appear before this Committee today. I also look forward to answering your questions and the questions of your colleagues.

[The prepared statement of Mr. Glick follows:]

Statement of Rich Glick
Nominee for the Federal Energy Regulatory Commission
Senate Committee on Energy and Natural Resources
September 7, 2017

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee. Thank you for the opportunity to appear this morning as a nominee to serve on the Federal Energy Regulatory Commission (FERC).

I want to thank both Senator Cantwell and Senator Schumer for the confidence they have shown in me by putting my name forward for this position. I especially am grateful to Senator Cantwell for giving me the opportunity to come back to work in the U.S. Senate, where I spent six-and-a-half years in the 1990's. Although the faces and some of the issues have changed, the Senate, particularly the Energy and Natural Resources Committee, remains a special place. It has been a privilege to work for the Committee and Senator Cantwell over the last 18 months and with this Committee's extremely professional staff on both sides of the aisle. I also want to thank Chairman Murkowski for working tirelessly to expedite this nomination process.

And I would be remiss if I failed to mention Senator Dale Bumpers, who served as a senior member of this Committee and then the Ranking Democrat when I worked for him in the 1990's. I owe so much to Senator Bumpers for taking a chance on me and for serving as a mentor on politics and life, but especially for instilling in his staff the notion that public service is a noble calling.

I also want to recognize my wife Erin and our son Alexander, who have joined me here today. They both are a constant reminder of what is really important in life.

I have had the opportunity to work on a number of major energy issues over my career. As a young lawyer at a Washington, D.C. law firm I helped to represent public power utilities and utility regulators. As a Legislative Director and Chief Counsel for Senator Bumpers I worked on several provisions included in the Energy Policy Act of 1992 and helped to draft bipartisan legislation addressing electric industry restructuring. As a Senior Policy Advisor to Energy Secretary Bill Richardson I worked on the Clinton Administration's response to what at the time was known as the "western energy crisis". Thereafter I worked for a multistate electric utility in the West with a significant amount of baseload electric generation -- PacifiCorp. I then went to work for what is now known as Avangrid -- an energy holding company that is one of the biggest renewable electricity generators in the U.S. and operates several gas and electric distribution companies. And, most recently, I have had the honor of serving as a General Counsel for the Minority on this Committee where I have worked on several energy policy issues, including the bipartisan energy bill currently pending on the Senate calendar. On each occasion I have witnessed the important roles that FERC plays.

FERC's decisions can have a significant impact on the lives of everyday Americans. For instance, the Commission's inability to come together on a unified response during the height of the western energy crisis in 2000 caused consumers to pay more for electricity and natural gas than they should have. If I am so fortunate to be confirmed by the Senate to serve as a FERC Commissioner, I intend to work with my colleagues to safeguard the public's interests.

I also look forward, if confirmed, to working with my fellow commissioners to help facilitate the ongoing dramatic transformation to the ways Americans produce and consume energy. This revolution has the potential to substantially improve our energy efficiency, reduce emissions, grow the economy and create millions of new jobs. FERC, working with state regulators, can help eliminate barriers to the adoption of these new technologies and processes.

Senator Cantwell and Chairman Murkowski, thank you again for the opportunity to appear before the Committee today. I look forward to answering your questions and the questions of your colleagues.

Senator BARRASSO [presiding]. Thank you and congratulations, Mr. Glick.

Mr. McIntyre, please proceed.

STATEMENT OF KEVIN J. McINTYRE, NOMINATED TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. McINTYRE. Thank you, Senator.

Good morning. Good morning, Ranking Member Cantwell and members of the Committee on Energy and Natural Resources.

I am honored to address you today as a nominee to a vital independent agency that has been the principal focus of my career, the Federal Energy Regulatory Commission.

I begin by thanking the President of the United States for this nomination. I am humbled by the confidence that he has placed in me, and if confirmed by the Senate, I will do my utmost to exceed the high standards that the American people expect of their public servants.

Thirty years ago this summer, I first discovered FERC when, as a law clerk at an energy law firm here in Washington, I was assigned to a natural gas rate matter. What I encountered in that first brush with FERC was a bustling, multifaceted agency with a language all its own and a mission whose importance was obvious to me even then as a young novice. That first experience triggered a lifelong passion for the field of energy law and policy, and it set me on course for a career in the field of energy regulatory law.

Over the past three decades, I have counseled and represented clients in nearly all industry sectors, with many different market roles, including transmission and transportation providers, customers of such entities, generators of renewable, nuclear- and fossil-fueled electricity, integrated utility companies, energy producers, marketers and traders, a Native American tribe, and many others. This diverse experience has prepared me for the scope and variety of matters within FERC's jurisdiction and has helped me to appreciate the broad range of perspectives on the complex economic, environmental, community and national security issues that come before FERC.

It is impossible for me to separate my enthusiasm for energy law and policy from my equally fervent passion for the practice of law, a profession that is honorable and essential for its role in giving voice to the rights and interests of all, and ultimately for advancing the cause of justice in cases large and small.

I have the privilege of serving as co-head of the global energy practice of Jones Day, and in that capacity working with and learning from colleagues whom I regard as among the finest lawyers in the world. I have observed first-hand how excellence in legal advocacy has led to significant improvements in law and policy.

My belief in the importance of excellence in legal practice and processes and their role in bringing about a more just society goes hand-in-hand with my belief in the importance of the rule of law, which my firm has worked to strengthen through pro bono and charitable efforts around the world.

I raise this background and these beliefs because they have engendered in me a philosophy of governance that I would bring to

FERC, if confirmed. Specifically, I believe that any consideration of potential action by FERC, or by any governmental body, must begin with a firm understanding of the applicable legal requirements and that any action taken must satisfy those requirements in full. Because many situations permit a range of equally lawful decisions, including some with profound policy implications, it is also critical to ensure a full airing of all views on the matter, with input by stakeholders, including the public.

If confirmed, I would be guided by these principles, rooted in the rule of law and in a commitment to processes that are open, transparent and fair, with an insistence on excellence in the workings of government. I would strive to bring an even-handed and judicious approach to each matter, with a focus on listening, which is indispensable to fairness and sound decision-making.

I would like to thank my family and others who are here with me today. I begin with my dear wife Jenny, who, besides being a heroically supportive spouse and mother to our children, is also a terrific lawyer, on whose counsel I rely daily. I am delighted that our children are here. Lizzie, a second-grader at St. Thomas More Cathedral School in Arlington; Tommy, a new kindergartener, also at St. Thomas More; and wee Annie, in pre-K at the Reed School in Arlington. I also thank my parents, Jack and Alice McIntyre, for being here, and, yes, for enduring my early years with love and patience. My views on the importance of public service were formed in observing my dad's long career in the U.S. Air Force and my mom's own sacrifices as a military spouse in service of our country. Finally, allow me to acknowledge my parents-in-law, Irene and Leger Brosnahan, and the other family members, dear friends and colleagues who are here today. I thank them all for their enduring support.

With that, I thank you for this opportunity to appear before the Committee, and I look forward to answering your questions.

[The prepared statement of Mr. McIntyre follows:]

Opening Statement of Kevin J. McIntyre
Nominee to the Federal Energy Regulatory Commission
U.S. Senate Committee on Energy and Natural Resources
September 7, 2017

Good morning Chairman Murkowski, Ranking Member Cantwell, and members of the Committee on Energy and Natural Resources. I am honored to address you today as a nominee to a vital independent agency that has been the principal focus of my career, the Federal Energy Regulatory Commission.

I begin by thanking the President of the United States for this nomination. I am humbled by the confidence he has placed in me, and, if confirmed by the Senate, I will do my utmost to exceed the high standards that the American people expect of their public servants.

Thirty years ago this summer, I first discovered FERC when, as a law clerk at an energy law firm here in Washington, I was assigned to a natural gas rate matter. What I encountered in that first brush with FERC was a bustling, multifaceted agency with a language all its own and a mission whose importance was obvious to me even then. That first experience triggered a lifelong passion for the field of energy law and policy, and it set me on course for a career in the practice of energy regulatory law. Over the past three decades, I have counseled and represented clients in nearly all industry sectors, with many different market roles, including transmission and transportation providers, customers of such entities, generators of renewable, nuclear and fossil-fueled electricity, integrated utility companies, energy producers, marketers and traders, a Native American tribe, and others. This diverse experience has prepared me for the scope and variety of

matters within FERC's jurisdiction and has helped me to appreciate the broad range of perspectives on the complex economic, environmental, community and national security issues that come before FERC.

It is impossible for me to separate my enthusiasm for energy law and policy from my equally fervent passion for the practice of law – a profession that is honorable and essential for its role in giving voice to the rights and interests of all – and ultimately for advancing the cause of justice in cases large and small. I have the privilege of serving as co-head of the global energy practice of Jones Day – and in that capacity working with and learning from colleagues whom I regard as among the finest lawyers in the world. I have observed first-hand how excellence in legal advocacy has led to significant improvements in law and policy. My belief in the importance of excellence in legal practice and processes – and their role in bringing about a more just society – goes hand in hand with my belief in the importance of the rule of law, which my firm has worked to strengthen through pro bono and charitable efforts around the world.

I raise this background and these beliefs because they have engendered in me a philosophy of governance that I would bring to FERC if confirmed. Specifically, I believe that any consideration of potential action by FERC, or by any governmental body, must begin with a firm understanding of the applicable legal requirements – and that any action taken must satisfy those requirements in full. Because many situations permit a range of equally lawful decisions, including some with profound policy implications, it is also critical to ensure a full airing of all views on the matter, with input by stakeholders, including the public. If confirmed, I would be guided by these principles, rooted in the rule of law and in a commitment to processes that are

open, transparent and fair, with an insistence on excellence in the workings of government. I would strive to bring an even-handed and judicious approach to each matter, with a focus on listening, which is indispensable to fairness and sound decisionmaking.

I would like to thank my family and others who are here with me today. I begin with my dear wife Jenny, who, besides being a heroically supportive spouse and mother to our children, is also a terrific lawyer, on whose counsel I rely daily. I also am delighted that our children are here: Lizzie, a second-grader at St. Thomas More Cathedral School in Arlington; Tommy, a kindergartener also at St. Thomas More; and Annie, in pre-K at the Reed School in Arlington. I also thank my parents Jack and Alice McIntyre for being here, and, yes, for enduring my early years with love and patience. My views on the importance of public service were formed in observing my dad's long career in the U.S. Air Force and my mom's own sacrifices as a military spouse in service of our country. Finally, allow me to acknowledge my parents-in-law, Irene and Leger Brosnahan, and the other family members, dear friends and colleagues who are here today. I thank them all for their enduring support.

With that, I thank you for this opportunity to appear before the Committee, and I look forward to answering your questions.

Senator BARRASSO. Thank you very much, Mr. McIntyre. Congratulations, again, on your nomination.

Mr. MCINTYRE. Thank you, Senator.

Senator BARRASSO. Mr. Nelson, we welcome your comments.

**STATEMENT OF RYAN NELSON, NOMINATED TO BE SOLICITOR
OF THE DEPARTMENT OF THE INTERIOR**

Mr. NELSON. Senator Barrasso, Ranking Member Cantwell and members of the Committee, I am honored to appear before you as the President's nominee to be Solicitor at the Department of the Interior. I ask for your consent to the President's nomination.

I am joined today by my lovely, ever supportive and eternally patient wife, Barbara, and our seven kids—my son, Baerett, who is interning here at the Senate; and then Ashley, Sophie, Savannah, Olivia, Russell and Lucy. Also with me are my parents, Doug and Billie Nelson. My father is currently fighting and winning his battle with cancer, and I am very grateful that he can be here today. My father-in-law, Mark Baer, and his wife, Shirl, are also here. They are serving collectively their seventh mission for the church at Fort Lee Army Base in Prince George, Virginia. My sisters, Angela Groberg and Hayley Potter, are also here with their sons, Jack and Isaac. And other family friends are present and watching this hearing online.

I'm grateful to Senator Risch for his kind words of introduction. I have long admired Senator Risch as a great Idaho leader, and he has brought his tenacity to the Senate where he gets great work done for the American people.

I'm grateful for the public support of Senator Crapo. He is from my hometown, and I was at his home or he was at our home when I was just 16 and gave me a great early interest in legal and political issues.

And I do want to thank Senator Lee for his kind introduction. He's been a great friend and colleague over the years as well.

I've been nominated to serve as Secretary Zinke's Chief Counsel and lead the legal team at the Department of the Interior, a team of 300 lawyers, who serve 67,000 employees and manage 20 percent of the land of the United States. I welcome the opportunity, if confirmed, to further the mission of the Department, to protect and manage the nation's lands, natural resources and cultural heritage.

I was born and raised in Idaho, a sixth-generation Idahoan. My playground growing up was Yellowstone and Grand Teton National Parks, Island Park, where our family cabin was on leased federal land, and Craters of the Moon National Monument and Preserve. I have used federal lands in Idaho and most of the states for a wide variety of outdoor activities including boating, skiing, hiking, camping, hunting and fishing.

Growing up in Idaho, I, in Shakespeare's words, found "tongues in trees, books in running brooks, sermons in stones and good in everything."

Although I grew up and was educated in the West, I spent my early legal career here in Washington. I first came to DC to work for the Senate Legal Counsel right after President Clinton had been impeached by the House of Representatives. I recall walking up to Capitol Hill for my first time to start work on December 28th,

with the city cold, dark and empty and a deep sense of awe for this Senate body, which I hold today. I was grateful to assist the Senate Legal Counsel team that was calm and even-handed in a hot, political environment as we provided quick, unbiased and accurate legal advice to enhance the political process.

After an appellate clerkship and several years practicing as an appellate lawyer, I was appointed Deputy Assistant Attorney General for the Environment and Natural Resources Division (ENRD) at the Department of Justice. There, I gained a deep understanding and respect for natural resource and environmental law as well as the important mission of the Department of the Interior, which is, by far, the Division's largest client.

I managed some of the most complex and natural resource legal questions and argued several cases and appeals. The ENRD political team developed productive working relationships with the exceptional career attorneys, relationships which, if confirmed, I hope to call on as a colleague, client and friend.

In 2009 I returned home and have since served as General Counsel for one of Idaho's largest corporations, Melaleuca, a \$1.75-billion worldwide company.

I have seen first-hand the impact government policies have on working citizens and families. I am proud that much of my efforts have been spent protecting the "little guy," the average American who is working hard and trying to get ahead.

If confirmed, I am committed to use my extensive legal background to accurately interpret the law, follow it and fulfill the Department of the Interior's vital mission, to protect our country's resources and heritage for the next generation.

I am convinced that President Trump's and Secretary Zinke's goals for the Department will not only preserve, but will increase our value of our natural resources for future generations.

Thank you.

I look forward to your questions.

[The prepared statement of Mr. Nelson follows.]

Statement of Ryan Douglas Nelson
Nominee for the Position of Solicitor of the Department of the Interior
Before the Committee on Energy and Natural Resources
United States Senate
September 7, 2017

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, I am honored to appear before you as the President's nominee to be the Solicitor of the Department of the Interior. I ask for your consent to the President's nomination.

I am joined today by my lovely, ever supportive and eternally patient wife, Barbara, a native Coloradan. Everyone should be so lucky to have a spouse like Barb. My seven children are also here: my son, Baerett, who is currently interning here at the Senate; my daughter, Ashley, Student Body President at Idaho Falls High School; my daughter, Sophie, an Idaho state champion gymnast; and then Savannah, Olivia, Russell and Lucy.

Also with me are my parents—Doug and Billie Nelson—the best parents a son could ask for. My father is currently fighting—and winning—a battle against cancer and I am particularly grateful that he could be present today between his chemotherapy treatments. My father-in-law, Mark Baer, a native Coloradan, and his wife Shirl, are also here. They are currently serving collectively their seventh mission for the LDS Church, just down the road at Fort Lee Army Base in Prince George, Virginia. I am also grateful to my sisters, Angela Groberg and Hayley Potter, who are here with their sons Jack and Isaac; and for my other family and friends present and watching this hearing online.

I am especially grateful to Senator Risch for his kind introduction. I have long admired Senator Risch as a great Idaho leader. He accomplished more as Idaho Governor in seven months than most Governors do in multiple terms. And he has brought his tenacity to the Senate where he accomplishes great work for the American people.

I am also grateful for the public support of Senator Crapo, who cannot be present at this hearing. He is from my hometown and I met him in our home when I was 16, which sparked an early interest in legal and political issues. Together, Senator Crapo and Senator Risch are a model of what a state Senate delegation should be; not just because they are both smart lawyers, but because they are caring leaders who work well together.

I also want to thank Senator Lee for his public support of my nomination. I have known Senator Lee since my first year of law school and am grateful for his longstanding friendship. He may not recall, but as a third year law student, he gave me the highest score on my moot court brief. I have ever since considered him the best writer I know.

I have been nominated to serve as Secretary Zinke's chief counsel and to lead the legal team at the Department of the Interior, a team of about 300 lawyers who serve a Department with 67,000 employees that manage about 20 per cent of the land in the United States. I welcome the

opportunity, if confirmed, to use my legal skills to further the Department's mission to protect and manage the Nation's lands, natural resources and cultural heritage.

I was born and raised in Idaho Falls, Idaho. I am a sixth-generation Idahoan; my family has lived in Idaho since Idaho was a Territory.

My playground growing up was Yellowstone and Grand Teton National Parks; Island Park, Idaho, where our family cabin was on leased federal land; and Craters of the Moon National Monument and Preserve. More than half of the nearly 1.2 million acres in Bonneville County is owned and managed by the federal government.

I have used federal land in Idaho and most of the states to run, hike, climb, ski, cross-country ski, boat, canoe, waterski, swim, mountain bike, road bike, camp, hunt and fish, ride horses, snowmobile, snowshoe and ride ATVs. I earned many of my Boy Scout merit badges on federal lands on my way to becoming an Eagle Scout. More importantly, I have gone to the woods often to pray for myself, for my family and for this country. Growing up in Idaho, I, in Shakespeare's words, found "tongues in trees, books in running brooks, sermons in stones, and good in everything." *As You Like It*, Act 2, scene 1.

I am proud of my Western roots and have a deep understanding of the vital and often overlooked role the Department of the Interior plays in the daily lives of Americans, especially in the West.

Although I grew up and was educated in the West, I spent my early legal career here in Washington, DC. I first came to Washington, DC, on December 28, 1998, just a few days after President Clinton had been impeached by the House of Representatives. I had been hired by the Senate Legal Counsel to help prepare for the first impeachment trial of a President in 130 years. I recall walking up to Capitol Hill for my first time to start work, with the entire city entirely empty, dark, and cold, and a deep sense of awe for this Senate body, which I carry today.

As you know, the Senate Legal Counsel advises the entire Senate, including Republican and Democratic senators, sometimes with competing interests. The Senate Legal Counsel at the time was Tom Griffith, now a DC Circuit judge. I am grateful that he mentored me as a law student. He was calm and evenhanded in a hot political environment and we provided quick, unbiased and accurate legal advice to enhance the political process.

After graduating from BYU law school with Honors, I clerked for Judge Karen Henderson on the DC Circuit, where I gained a love of administrative law that has served me through my legal career. I was also a Legal Advisor on the Iran-U.S. Claims Tribunal in The Hague, The Netherlands, for Richard Mosk, later appointed to the California appellate court by Governor Gray Davis. And I worked for five years for a major law firm in Washington, DC, where I practiced appellate law.

I then had the great fortune to be appointed Deputy Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice, overseeing the Appellate, Natural Resources and Wildlife Sections. I gained a deep understanding and respect for natural resource and environmental law, as well as the important mission of the Department of the Interior, one of the Division's largest clients. I managed some of the most complex

natural resource questions related to the Endangered Species Act, Indian law, NEPA and dozens of complex environmental laws. I helped draft water compacts and land use management agreements.

I oversaw more than 500 appeals in all appellate courts in the United States and personally argued 13 appeals in nine of the circuit courts in the country, representing the United States' interests on natural resource, Indian law, constitutional, administrative law and complex environmental statutory questions. In one appeal, of potential interest to the Chairman, I successfully defended, before a unanimous Ninth Circuit panel, a permit issued to Alaska Gold Company for a gold-mining operation near Nome, Alaska. *See Bering Strait Citizens for Responsible Resource Dev. v. United States Army Corps of Eng'rs.*, 524 F.3d 938 (9th Cir. 2008). The ENRD political team developed productive working relationships with the exceptional career attorneys; relationships for which I remain grateful and, if confirmed, upon which I hope to call as a client, colleague and friend.

I also served as Deputy General Counsel at the White House Office of Management and Budget, managing, among other subject areas, the environment and natural resources docket, in coordinating agency regulations and Executive Orders for final approval. As a result, I understand agency rulemaking and executive action from many points of view.

Before leaving DC, I returned to the U.S. Senate as Special Counsel to the Ranking Member on the Judiciary Committee vetting the Supreme Court nomination of Justice Sotomayor. I am proud that our legal team was noted for its professionalism in another potentially hot political environment.

While I was clerking at the DC Circuit as a new lawyer, Justice Scalia told me so many of the clerks feel the need to stay in DC, but what the nation really needs is great lawyers in the local communities. I ultimately heeded Justice Scalia's advice and headed home to Idaho Falls.

Since 2009, I have served as General Counsel for one of Idaho's largest companies and one of the largest private companies in the world, Melaleuca, a \$1.75 billion worldwide company. During my tenure, I have seen first-hand the impact government policies have on working citizens and families. I am proud that much of my efforts as General Counsel has been spent protecting and speaking up for the little guy—the average American who is working hard and trying to get ahead.

One of my best legal wins involved protecting the livelihoods of some of the 200,000 independent contractors who rely on Melaleuca for supplemental income, against unethical business practices of a competitor company. After we obtained a preliminary injunction, the competitor quickly fired its CEO and President, issued a public apology and settled the claim for \$1.2 million. Melaleuca, with no legal obligation to do so, distributed the funds to those who had been harmed, more than 220 checks up to \$24,000 each. That made a powerful impact in the lives of those who have put their trust in our company. I intend to bring that same determination to help implement policies and fulfill the mission of the Department in a way that never forgets or takes advantage of the little guy—the average American.

If confirmed, I am committed to using my extensive legal background to accurately interpret the law, follow it and fulfill the Department of the Interior's vital mission to protect our country's resources and heritage. I believe our natural resources were divinely created and given as a gift for our benefit, enjoyment and use, consistent with the laws adopted by this body. If confirmed, my mission as Solicitor will be to ensure that the Nation's natural resources are put to productive use and preserved and that our cultural heritage is protected and passed on to the next generation. I am convinced that President Trump's and Secretary Zinke's goals for the Department will not only preserve but increase the value of our natural resources for future generations.

Thank you and I look forward to your questions.

The CHAIRMAN [presiding]. Thank you.
 Again, gentlemen, I apologize that I had to step out.
 I am going to defer to Senator Cantwell.
 Senator CANTWELL. Thank you, Madam Chair.

I want to say, again, congratulations to all of you on your nominations. Each of you come with a deep resume of experience. I think it is important. So thank you for that.

I wanted to ask you, Mr. McIntyre, obviously, FERC is an agency that can play such an important role in prohibiting manipulation. We saw in the Western energy crisis, the manipulation to a great degree of electricity with various schemes that I can still recall. Fat Boy, Get Shorty, a whole variety of things that were just about moving power in and out of markets as a way to spike rates.

Since we have given the Commission authority, they have investigated over 100 cases of alleged manipulation and collected a half a billion dollars in civil penalties for market manipulation. Are you committed to policing the energy markets and keeping them free from this kind of manipulation?

Mr. MCINTYRE. Thank you for the question, Senator.

Yes, I absolutely am. FERC's role in enforcement is a very important one, and I believe in a robust program of enforcement. If confirmed, I would bring that view to my work at the FERC.

Senator CANTWELL. So you do not believe that it is just calling balls and strikes but protecting the public interest standard as it relates to just and reasonable rates for electricity and natural gas?

Mr. MCINTYRE. I think it goes beyond just just and reasonable rates. As you suggested in your question, the Congress did, in the Energy Policy Act of 2005, give express authority to the FERC to police market manipulation in energy markets regulated by the FERC. That's something that comes up in a number of different contexts, and I think it's essential that the FERC get that right. This goes back to my assistance on the rule of law.

Senator CANTWELL. Thank you.

Mr. Balash, can you talk to me about royalty rates? Where do you think we are on royalty rates and whether you think that they are, on coal and oil and gas leases, too high, too low? Will you seek to lower them? What is your philosophy on that?

You and I have not had a chance to meet yet, so—

Mr. BALASH. Thank you, Senator.

When it comes to the collection of royalties and rents, you know, that is the public's ownership interest in the subsurface, the mineral estate that belongs to all of us. And when it comes to establishing those rates it needs to be done with an eye toward not only earning a return for the American people but also with an eye toward the circumstances and economic conditions under which that particular resource can be extracted.

In some cases, depending upon the price environment, the specific geological challenges and also the access to infrastructure, sometimes those rates need to be higher relative to other places and sometimes lower.

In my experience at DNR, we increased the minimum bid due on bonuses paid at the time of an auction. We also increased annual rental rates and, in some circumstances, very tightly controlled and

defined, according to statutes, reduced royalties. So, it really does depend on the circumstance at the time.

Senator CANTWELL. Well, I will follow up on that. In what areas were they reduced and why? Maybe that is something you and I can either talk about or follow up on.

Mr. Nelson, how do you look at this as Solicitor? The Obama Administration had said that we had outdated rules on royalties because they had not been updated in 34 years. How do you look at this issue in the agency's responsibility on royalties?

Mr. NELSON. Senator, I think the agency needs to look at the rules and review them and make sure that they are adequately providing value for the American people. Obviously, any new rules would have to be adopted consistent with the APA, and I would take a hard look at that once I get in.

Senator CANTWELL. Do you think after 34 years—is it time to update, to look at the environment?

Mr. NELSON. I really don't have an opinion on that, Senator. I think it depends on the circumstances. It could be okay, but maybe there is a need to update.

Senator CANTWELL. Okay.

I think I will follow up with you on that.

Mr. Glick, cyberattacks on our electric utilities and grid are a constant and growing threat. Are you satisfied that we are doing enough here? Do you think that there is more that needs to be done to protect the grid?

Mr. GLICK. Well, thank you, Senator.

Clearly, there's more that does need to be done. Utilities are under, the grid is under constant attack from both nation states but other bad actors as well. And we saw a report that just came out yesterday that indicated that more utilities were—systems were penetrated. That is something we need to take a look at.

I think that the FERC has, along with NERC, pursuant to its reliability authority, subjected utilities to various standards, cybersecurity standards, physical security standards as well, to hopefully prevent and limit the ability of others to attack.

But also, we need to take a look at our supply chain. FERC asked NERC, I think it was last year, to come up with a rule-making to address the supply chain of utilities, especially as it relates to their industrial control systems. And it's something, I think, we need to follow through on. So if I am confirmed, I certainly will want to work on that.

Senator CANTWELL. Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Senator Barrasso.

Senator BARRASSO. Thank you very much, Madam Chair.

Mr. Glick, I sure appreciated your comments there about the threats, the attacks on the grid and supply chain and reliability.

I am going to ask you a question first, Mr. McIntyre, and then you, Mr. Glick.

Wyoming is the nation's leading coal-producing state. The coal industry is responsible for thousands of certainly, Wyoming jobs, and billions in state and local government revenues. But coal also plays a critical role in electric grid reliability and resilience.

Unlike other generation sources, coal-fired power plants have fuel storage on site and the ability to generate power 24 hours a day, 7 days a week.

In a recent FERC podcast, Acting Chairman Neil Chatterjee recognized the importance of maintaining the nation's coal fleet. Specifically, he said that the baseload generation resources, such as coal power plants, should be recognized as an essential part of the fuel mix for power generation.

So Mr. McIntyre, first to you. Do you share the Acting Chairman's views and do you have any comments you would like to make about that?

Mr. MCINTYRE. Thank you for the question, Senator.

I confess, I did not see the podcast or hear the podcast. However, as you suggest, coal, historically, has played an enormously important role in our nation's generation of electricity. And you use the term baseload, the concept being the electric generating plants that can essentially run full tilt, around the clock, often nuclear-fueled power plants are mentioned in this context as well. The importance of such resources cannot be denied; however, FERC is not an entity whose role includes choosing fuels for the generation of electricity. FERC's role, rather, is to ensure that the markets for the electricity generated by those facilities proceed in accordance with law.

I think, overall, the FERC's role should be to take a hard look at these very important questions and determine where FERC's jurisdiction actually gives it a role in making decisions that could ensure that there is proper attention to the reliability and resilience impacts of what have traditionally been thought of as baseload generation.

Senator BARRASSO. Alright, thank you.

Mr. Glick?

Mr. GLICK. Well, Senator, as Mr. McIntyre suggested, coal certainly makes up a significant portion of the grid. And, as I understand it, coal and natural gas combined make up about 64 percent of all electric generation. So, for me, it's a question of reliability.

The Department of Energy Grid Study that was released recently, I had a chance to review it, essentially suggested that the significant loss of baseload generation of both coal and nuclear has not impaired reliability to date, but they also suggested it's something we need to keep an eye on and look for in the future. And so, I think it's both, both FERC and the Department of Energy need to keep an eye on that and continue to study the matter.

Senator BARRASSO. Great. Thank you.

Mr. McIntyre, the Department of Energy recently released the staff report to the Secretary on electricity markets and reliability, known as the Grid Study. The study expresses concerns that wholesale electricity markets do not adequately compensate coal and nuclear baseload power generation resources. If this problem continues, baseload plants continue to be taken offline. This study concludes that the reliability and resilience of the nation's power grid may be at risk. To fix the problem the study recommends that the FERC take steps to improve how electricity markets compensate baseload power.

As incoming FERC Chairman, what action would you take to improve how electricity markets compensate this baseload power generation?

Mr. MCINTYRE. Thank you for the question, Senator.

I should note that the FERC already has a good bit of work underway in this area. They convened a series of conferences earlier this year on price formation in energy markets with a particular eye toward issues along those lines. And if confirmed to the FERC, I would commit to looking very carefully at these issues and giving them the attention they deserve.

Thank you.

Senator BARRASSO. Mr. Balash, on July 6th Secretary Zinke issued an order to streamline the Bureau of Land Management's review process for applications to drill oil and gas on federal land. I am encouraged by his order.

As Secretary Zinke explained, BLM has nearly 3,000 pending applications and takes an average of 250 days to process an application. Oil and gas permitting delays directly threaten our energy security. It threatens American jobs. It threatens economic stability in many small communities.

As Assistant Secretary for Land and Minerals Management, it will be your responsibility to implement Secretary Zinke's orders. What steps will you take to ensure that the BLM field offices have the resources that they need to relieve this incredible backlog of oil and gas permit applications?

Mr. BALASH. Thank you, Senator Barrasso.

When I assumed the position at the Alaska Department of Natural Resources in 2010, along with Senator Sullivan, we found ourselves in a circumstance not unlike this, with a tremendous backlog of applications for permits, rights-of-way authorizations. We immediately undertook a review, along with the leadership of the Department, the career professionals, to understand what the cause of that backlog was, why they weren't able to process them in a timely manner, what some of the administrative cycles and appeals might be and also what resources they needed additionally. We came up with a specific, robust plan to address all of those questions, including funding positions, accounts and even worked with our legislature to identify opportunities to, maybe, streamline statutory procedures in a more modern way.

The advent of information technology really enables us to speed up some of those processes that used to require on a more mundane, sort of, paper format. So I'm pleased to say that we were able to eliminate more than 50 percent of that backlog and ultimately, I would seek to perform a similar review and result here at the Department of the Interior.

Senator BARRASSO. That is very encouraging.

Thank you, Madam Chairman.

The CHAIRMAN. Thank you, Senator Barrasso.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

Mr. Balash, I want to bring your attention to the area around Chaco Culture National Historic Park as we spoke a little bit in my office yesterday and the role, in particular, that BLM plays in managing that surrounding area.

As I mentioned to you, it is a very complicated location. There are BLM lands and minerals, Navajo tribal lands and minerals, as well as individual Indian allotments, all mixed together in a very complex, sort of, checkerboard pattern. And that is not to mention the state lands and state sections, the private lands that are also mixed into this area.

Chaco is a truly unique site. It is recognized internationally for its cultural resources, and it has been a sacred site for both the Pueblo tribes as well as the Navajo nation for as long as anyone can remember.

Last year the BLM and the BIA signed an agreement to be co-lead agencies on the Resource Management Plan (RMP) Amendment that is currently underway for this area. Having both of these agencies at the head of the table, working together, I believe, is critical to protecting the important cultural resources and religious sites while also planning for future energy development in this basin.

Will you commit to working with the New Mexico delegation to keep that agreement and working relationship intact and to ensure that the tribal interests are given full consideration in this RMP process?

Mr. BALASH. Thank you, Senator Heinrich.

Having worked on a smaller level, but equally complex basis in multiple locations around my home state I understand the value of bringing everybody to the table and working in a very collaborative manner. You do have my commitment to reach out and work with the leadership at BIA to continue the agreement, assuming it works for both parties.

There's a lot, I'm sure, to review upon confirmation, and I look forward to working with your office on that.

Senator HEINRICH. Thank you, and I as well.

I want to switch over real quick to our two FERC nominees, and I want to follow up on some questions from Senator Barrasso.

I, too, have been following very closely DOE's recent staff report on power markets. I was pleased that they concluded that the grid is operating reliably. I am concerned that the term baseload power has potentially become a bit of, less of an engineering term and more of a political term in recent years. In particular, the indication within that report that potentially FERC should modify existing competitive markets for bulk power as an attempt to either prop up or even subsidize central generation technologies that are no longer cost competitive in current market conditions.

Would each of you care to share your thoughts, in particular, on this DOE report and, in particular, suggestions to FERC?

You can flip a coin for who goes first. Mr. McIntyre, it looks like you are ready.

Mr. MCINTYRE. Thank you, Senator.

It's a complex area and it touches upon a couple of different aspects of the FERC's jurisdiction, not just the oversight of energy markets and the assurance of just and reasonable rates in those markets, but also the reliability component of protection of the grid and the issues go to both of those areas of FERC's jurisdiction.

What I would assure you, if confirmed by the Senate, is that I would give the matter very careful consideration. It does also over-

lap with work that's currently underway at the FERC. In light of that it wouldn't be appropriate for me to suggest a specific policy position on it here.

Senator HEINRICH. Mr. Glick?

Mr. GLICK. Senator, like Mr. McIntyre, I'm reluctant to comment too specifically because it's a pending matter. I will note that the Commission had a 2-day technical conference on this matter both, I think, on May 1st and 2nd of this year and there's been a number of comments filed since. So it's worth looking at the record.

I will say your comment about prop up, I think, is very important. The Commission doesn't have the authority nor should it prop up failing technologies or technologies that are uneconomically competitive. I think the DOE Grid Study suggests that there are some reliability attributes that those technologies provide.

I think so far, as I mentioned earlier, the Grid Study found that the loss of those technologies, the loss of some baseload generation hasn't had an impact on reliability. But as I said before, it's worth looking at. I think it's certainly worth studying, continuously studying, but certainly the Commission shouldn't be in the business of propping up technologies.

Senator HEINRICH. Thank you both.

The CHAIRMAN. Thank you.

Senator Flake.

Senator FLAKE. Yes, Mr. Balash, Secretary Zinke has frequently spoken of restoring trust between the BLM, those who use federal lands and those who live near those lands. Coming from a state that is roughly 42 percent federally owned, only about 18 percent of Arizona is privately owned, I understand the actions of BLM have significant impacts on the economies in rural Arizona. I often hear from constituents about issues such as BLM mismanagement of wild burrows, problems with access to federal lands and slow permit processing times.

What opportunities do you see for the Bureau to improve engagement with local stakeholders in actions such as developing land management plans and cooperatively managing these critical resources in Arizona?

Mr. BALASH. Thank you, Senator Flake.

As a former adjacent landowner and manager in my home state, I got to experience first-hand various planning processes and NEPA reviews with BLM and other federal agencies. And I would say that more than anything I hope to instill, as a Westerner, the perspective of being, not just a good neighbor, but a quality neighbor in the Western part of our nation.

These reviews and processes conducted with cooperating agency recognition of these other governments needs to be more than just a paper exercise. There needs to be real consideration given to the comments that come in from those state, local and tribal governments that we will work with in these processes.

Senator FLAKE. Thank you.

Regarding BLM permit processing, Arizona has a long history, as you know, of responsible mining that has taken place on BLM, Forest Service and private lands. Because of the prevalence of BLM lands throughout the state, many mines on private lands need BLM permits for access or relating land disturbance activities.

It is shocking to hear stories about the length of time it takes to get the most straightforward mining permit in Arizona. For example, there is a proposed gold mine near Quartzsite that they have been trying to get up and going for years. That is a very small, simple mine using no toxic chemicals on a few acres far away from the nearest settlement. It took them several years just to get their BLM permits in what can only be described as a very haphazard process.

We cannot afford to have land management agencies be so slow to work with those who want to pursue much needed economic activity on these public lands.

I hope that with your experience at the Alaska Department of Natural Resources, you can bring to bear those experiences on this agency. Do you think that you can speed up the permit time?

Mr. BALASH. Well, thank you, Senator Flake.

I believe that the overall management approach needs to reflect the fact that these lands belong to the public, not necessarily to the agencies that manage them, and with that change in perspective or attitude we can be timely, efficient and certain in the administration of permit applications and adjudications.

Senator FLAKE. Right. Well, thank you.

Mr. Nelson, your position on BYU football ought to be enough to secure your nomination, I am sure. But be that as it may, one area that we want to talk about is cooperation between Arizona and the Department on tribal water right settlements.

Just this morning I reintroduced the Hualapai Tribes Comprehensive Water Rights Settlement Act. We have several settlements that are in need of legislative action this year, some are in the negotiation phase, others are being implemented. Can you explain how your previous experience at DOJ will help guide you as you work with us on these water right settlements?

Mr. NELSON. Thank you, Senator, for the question.

When I was at the Department of Justice I had the opportunity to work with Michael Bogert, who was Counselor to Secretary Kempthorne, and he was heavily involved on these Indian water rights settlements and they are complicated, to say the least.

You have a situation where there's sometimes more claims on the water than there is water and the tribes, their rights, often predate many of the other water rights that exist and may be being used. So everyone needs to come to the table. What I found and what I saw was that the settlement discussions were much more beneficial than years of protracted litigation that ultimately, in many cases, didn't actually work to any good.

There are guidelines on how to settle those, and I would intend to follow those and help expeditiously push those forward.

Senator FLAKE. Right. Thank you.

The CHAIRMAN. Senator King.

Senator KING. Thank you, Madam Chair.

Mr. Balash, I understand that as Commissioner of Natural Resources in Alaska you filed some claims with regard to ANWR for exploratory drilling and other claims. Now in your new position you would be in a position to grant those claims. Do you intend to recuse yourself? How are you going to handle this, what looks to me like, conflict?

Mr. BALASH. Thank you, Senator King.

The actions that we took at the Department of Natural Resources in this particular context, as I recall, were directed at the Fish and Wildlife Service. That is not going to be one of the bureaus or services that reports to the position I hope to be confirmed to.

Nevertheless, I absolutely commit to seek all the guidance and advice I can get from our ethics counselor at the Department of the Interior and follow that guidance to ensure that there is no conflict in any particular decision that might come—

Senator KING. And I do not know the details of the issue, but I think this is a question of appearance and public confidence in our governmental process. So, I hope you will consult with the ethics folks on that. Thank you.

On the baseload issue that Senator Heinrich mentioned, I am also disturbed that the term baseload is becoming a political term and not necessarily a scientific term. My only request is when you are making these kinds of decisions, let's just go with the science. I mean, I think that is obvious, but I think that is the fall back. We will go with the science in terms of what the grid can stand and what it cannot and where reliability is, but I think that it is important that FERC not get tangled up in, advertently or inadvertently, favoring one technology over another and getting involved in the politics of generation. I hope, Mr. McIntyre, that is the position you will take.

Mr. MCINTYRE. Thank you, Senator.

Yes, I mean, FERC does not pick fuels among different generating resources, and so it is important that it be open to, as you say, the science which I would expand somewhat to include also the characteristics of reliability and the characteristics of economics and the other features that are very important to satisfying the energy needs of our nation. But yes, I absolutely commit to making decisions on those bases.

Senator KING. Mr. Glick, FERC has taken preliminary steps over the past couple of years to reduce barriers preventing distributed energy resources including, particularly energy storage, to reducing those obstacles. Do you believe that FERC has a continuing role in being sure that all resources can compete equitably and evenly and the full value should be provided for things like storage or distributed energy or demand response kinds of resources?

Mr. GLICK. Yes, Senator.

You know, much of distributed energy resources is regulated at the state level. It's behind the meter technology, in many cases, whether it be rooftop solar in some cases, storage or even demand response.

On the other hand, those technologies also provide benefits or can provide benefits at the wholesale market. So, for instance, energy storage plays a potential to provide significant reliability benefits at the wholesale electric markets.

As you know, the Commission proposed a rulemaking recently that would allow the storage facilities, as well as distributed energy resources, an aggregate to participate in wholesale energy markets. I don't want to comment on a specific matter that I might be called upon to vote, but I will say that the Commission does have a responsibility to prevent undo discrimination against technologies.

It's something, I think, the Commission needs to take a look at. If I'm confirmed, I certainly will do that.

Senator KING. Well I think for both of you, you are entering into these positions, assuming you are confirmed, at a time of tremendous dynamism in the industry; an industry that essentially was unchanged for 100 years, and now, suddenly, there are so many different options.

That is going to be a real challenge to be sure that a regulatory system that was established 70 or 80 years ago can meet the needs and respond to the technologies of this, of the coming decades, both in terms of economics but also in terms of environmental externalities.

Mr. McIntyre, your thoughts?

Mr. MCINTYRE. I agree fully with that perspective, Senator. The—

Senator KING. This is not your grandfather's FERC.

Mr. MCINTYRE. It is not.

The FERC operates under statutory standards that were set in law decades ago, justness and reasonableness, avoidance of undo discrimination, and yet our energy industry has, of course, modernized itself significantly since then. And so, the challenge at the FERC is to determine how to apply these statutory standards to today's energy industry.

Senator KING. I would hope that as you work through these issues if you see areas where those statutes, which as you point out are decades old, could stand some upgrading or improvement or modernization, you will let this Committee know so that we can work with you to be sure you have the legislative and statutory tools necessary to respond to today's market conditions. I hope you will do that.

Mr. MCINTYRE. Yes, thank you, Senator.

Senator KING. Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator King, that was absolutely right in line with what I was going to be asking next. I was going to raise it in the context of—

Senator KING. I was afraid you were going to say absolutely wrong.

The CHAIRMAN. Oh, no, no.

[Laughter.]

You are right on the money this time.

Senator KING. That long pause made—

The CHAIRMAN. Yes, yes, yes. I wanted you to think about it. But you mentioned the evolving nature of the energy markets and where we are and an agency that is somewhat locked into your father's energy world. So whether it is the energy storage that you have raised, the integration issues that we know present themselves, the siting infrastructure—

Siting has become more and more difficult and certainly more complicated whether it is for a wind farm, transmission lines, natural gas pipelines, whatever it may be, and so how you define or arrive at the appropriate balance of the environmental concerns that need to be addressed with the needs of the public to have ade-

quate infrastructure, these are important. These are imperatives, and finding that balance is important.

We expect that you do that in your role. But to Senator King's point, I would certainly want your assurance that where you see whether it is the bureaucratic red tape or just the overlay of regulations that have come over the years that have not yet been, kind of, cleaned out, that we can have your commitment to be working with the Committee to let us know how we can make the process better. I am very worried that we do not have alignment here with where the industry is going and where our regulatory structure is currently. I am assuming you both agree with that and recognize that we need to be working together on this?

Mr. MCINTYRE. Yes, Madam Chairman, I absolutely do. And if confirmed, I would look forward to playing a role in that.

The CHAIRMAN. Great.

Mr. Glick, because of your experience on this Committee you have particular insight, I think, that you can hopefully share with us.

Mr. GLICK. Yes, Madam Chairman, I'd be glad to do that. As my colleagues behind the dais there know, I already have a lot of ideas that I'd like to put forward.

The CHAIRMAN. Yes.

Mr. GLICK. But I would certainly be glad to work with you all on that.

The CHAIRMAN. Good, good.

Mr. Nelson, let me ask you a question, and this relates to some of what we have seen in the news of late. The Park Service, some of the other agencies within DOI have been the subject of numerous investigative reports from Interior's Inspector General, subjects of which have even included the previous Park Director himself, topics ranging from sexual misconduct to really some major ethical violations.

What do you think needs to be done to improve not only the Park Service but within the Department of the Interior as a whole to avoid this kind of conduct by employees in the future and to really make sure that there is a more positive and conducive work environment for the employees and those who visit our public lands?

Mr. NELSON. Yes, thank you.

I fully support Secretary Zinke's zero tolerance policy regarding that type of behavior and those employees need to be put on notice that if they get out of line then they will be terminated. There is no way that the Department can operate looking the other way on any of that type of behavior, and I would fully support that.

I'd have to get in to see. I've read the public reports, but I don't know exactly all of the details. So once I get in, I'd be more than willing to work to stamp that out. I totally agree that that type of behavior is unacceptable, particularly as a public servant.

The CHAIRMAN. Well, we would certainly hope you make that a priority. Thank you.

Mr. Balash, I do not need to remind you of the important, the critical, commitment that we have to our nation's first peoples. Alaska is home to half of the tribes in the country. Through the Alaska Native Claims Settlement Act there is a unique relationship between our tribes and the Federal Government.

There has been a lot of discussion coming out of leaders in the State of Alaska that have been concerned that consultation between our tribes and the Federal Government and our agencies has been more of a, just a check the box exercise. There has been frustration on many levels. I know that this is not just out of Alaska but in other parts of the country as well.

I would like your commitment to conduct meaningful and consistent consultation with the tribes and native organizations, not only in Alaska but across the country, and to really involve them in appropriate decision-making that is relevant to them. I would ask you to provide that level of commitment to us.

Mr. BALASH. Madam Chair, I'm fully committed to making sure that we follow all of the law, but more importantly, that we actually pay attention to what we're told in those consultation sessions and that we take into account those very real needs and concerns of the people who are most affected by the decisions made by the Department.

The CHAIRMAN. Thank you. I appreciate that.

Next, let us go to Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Madam Chair.

Gentlemen, welcome and thank you for your willingness to serve. Welcome to your families who I think have taken over the whole room. It is wonderful to see you all here.

I am from Nevada and just came back from touring rural Nevada. If you do not know, about 85 percent of the land in Nevada is owned by the Federal Government. I think the Federal Government owns more land in Nevada than any other state. Because of that we interact on a regular basis with the BIA, BLM, Bureau of Reclamation, DoD, Department of Energy, Fish and Wildlife Services, Forest Services and the National Park Service.

Mr. Balash, I would like to start with you because the number one topic of conversation as I went around our rural communities where there is farming and ranching and mining is the BLM.

What I would really like to just get a commitment on, I have already heard it but I just want to make sure that I can hear it for purposes of Nevadans, is that you are willing to work with all of those federal agencies. Number one, when an issue comes up that we are dealing with, whether it is addressing fire services or wild horses or sage grouse or lands in Nevada, that you are willing to come to the table and be not only a part of that discussion but bring your federal agencies and work with them where we can streamline issues that we are dealing with, work together for those resources and help us bring those other federal agencies to the table. Are you willing to do so?

Mr. BALASH. Senator Cortez Masto, absolutely.

Senator CORTEZ MASTO. Great.

The second question would be are you also willing then to also come to the table when we have issues at a state, local level, whether it is our state officials, local officials or our tribes that are in Nevada, Native American tribes or key environmental stakeholders to really find solutions? That is typically how we work in Nevada, bringing everybody together to find solutions to the issues and hoping that you would be at the table and would be willing to do so. Is that a yes?

Mr. BALASH. Yes, ma'am.

Senator CORTEZ MASTO. And then I am curious about your position on state's rights because of the positions you have held before in Alaska. How do you see the role between the states and the Federal Government and that interplay, particularly where you are now?

Mr. BALASH. Thank you, Senator.

Having previously served in a capacity where I managed a large portfolio of land, water and a variety of resources, the need to work with other agencies and specifically, federal agencies, was something that we had to undertake on a regular basis in nearly every case.

And I believe that you get much further when people come to an understanding, jointly, collaboratively, by first understanding the problems that each other has and then identify solutions together.

That's an approach that I have seen work in my prior positions, and I'm committed to doing that at the Department of the Interior as well.

So as far as the words, state's rights, that's something for the attorneys to argue about. And what I can tell you is that I learned a lesson from a colleague long ago that just because you can do something, doesn't mean you should. There may be things that BLM or any of the other agencies in the portfolio I hope to be confirmed to administer that there are decisions that they can make unilaterally, but that doesn't mean that they should and taking into account the views.

I'm going to be very deferential to the views of state and local governments, also their elected Members of Congress. And while I use the word, deferential, that's not an absolute. There will be times when there's a pressing national interest or concern that has to be taken into account, but it's going to need to be a compelling one for me to be willing to even consider going a different way.

Senator CORTEZ MASTO. Thank you. Thank you for your response.

Mr. Glick and Mr. McIntyre, let me, because I am running out of time here, say just very quickly. I agree with everything that I have heard here from my colleagues and the need to recognize the evolving and changing markets that we have out there. Electricity, what is happening with the new technology. In Nevada alone, we are moving down the path of renewable energy and renewable energy resources, and we are very excited about it. So I have a couple questions, very briefly—yes or no answers.

In the State of Nevada, we have a successful renewable portfolio standard and have made great strides in creating a clean energy economy. Do you agree that states have the authority to establish the resource mix that best serves their customers? Yes or no?

Mr. GLICK. Yes.

Mr. MCINTYRE. Senator, I also say, yes.

Senator CORTEZ MASTO. Do you agree that the evidence shows that solar and wind power can be reliably integrated into the power grid?

Mr. GLICK. Yes, Senator. There are over nine states that get more than 15 percent of their power from renewable energy today, and none have had any reliability problems.

Mr. MCINTYRE. Yes, Senator, in part due to actions taken in recent years by the FERC, renewable energy resources are making their way, reliably, to our grid.

Senator CORTEZ MASTO. Great. Thank you very much.

I know I am out of time. Thank you very much, Madam Chairman.

The CHAIRMAN. Thank you, Senator.

Senator HIRONO.

Senator HIRONO. Thank you, Madam Chair. Welcome to all of you and a special Aloha to my fellow GULC graduate, Mr. McIntyre.

Mr. MCINTYRE. Thank you so much, Senator.

Senator HIRONO. I will start with Mr. Balash. Hawaii has the most ambitious renewable electricity goal in the country of 100 percent reliance on renewable sources by 2045 for electricity, and the state has already attained 26 percent of renewable electricity. Hawaii is exploring its marine energy resources, including at the Hawaii National Marine Renewable Energy Center, operated by the University of Hawaii in partnership with the Department of Energy.

Now, the Department of the Interior's Bureau of Ocean Energy Management, BOEM, would be responsible for leasing offshore areas for development of offshore wind, wave energy or ocean thermal energy generation systems. In 2012, BOEM established the BOEM/Hawaii Intergovernmental Renewable Energy Task Force to promote planning and coordination and effective review of requests for commercial and research leases. I want your commitment to continue the Renewable Energy Task Force with Hawaii.

Mr. BALASH. Senator Hirono, thank you for the question. I'm not familiar with that specific task force, but I look forward to reviewing it and working with your office to make sure that its work continues.

Senator HIRONO. Good.

I want to also ask that you get back to me if you can make that commitment which is what I am seeking, but not only to commit, but to think about expanding BOEM's engagement with the public marine renewable energy resource development and continuing BOEM's support for ocean science to expand our knowledge of the marine and coastal environments. So not only to commit to what you are already doing in Hawaii but to expand BOEM's efforts. So, we will chat about that, should you be confirmed.

Another question for you, Mr. Balash. There are concerns that have been expressed about this Administration's balancing of commercial interests over conservation efforts, and these concerns have been voiced by a number of groups and individuals. And indeed, actions such as Secretary Zinke's, basically, unprecedented review of national monuments have raised concerns all across the country, including in Hawaii which has a very large monument called Pu'ukohola Heiau.

During your time as Commissioner, and Senator King did address this, you were involved in laying Alaska's claim to 20,000 acres of land. I think I heard you say that you would take the appropriate actions to recuse yourself. I am assuming that the De-

partment has recusal and conflict of interest guidelines that you would follow.

Mr. BALASH. Senator Hirono, I'm absolutely committed to following the guidance proffered by the Department's attorneys.

Senator HIRONO. As I said, because there have been concerns raised about how the Department or how your agency would balance environmental, for example, versus commercial interests, I would want your commitment that in future actions you would bring to the table the stakeholders, such as the environmental people and the commercial people, before you take action.

Mr. BALASH. Thank you, Senator Hirono.

In my prior post at the State of Alaska we regularly brought in the various environmental organizations to make sure that we had an open dialogue, were aware of the issues of concern that they were monitoring, not only on state lands but also federal lands and other private adjacent lands. So that is a practice that is going to require a bigger scale in this position, if confirmed, but I would seek to have a similar open channel with those communities.

Senator HIRONO. Yes. I think what we are looking for is an open commitment to that kind of a process because apparently that has not always been thus at your Department.

For Mr. McIntyre, you may know that Hawaii does not fall within FERC's jurisdiction over interstate energy transactions because there is no other contiguous state. But in 2012 the FERC and Hawaii Pacific Utilities Commission signed an agreement to share information on energy issues and regulatory practices. At the time of the agreement, FERC recognized that Hawaii could provide special insight into integrating high levels of renewable energy, demand response, microgrids and energy storage. From Hawaii's perspective, FERC's knowledge and resources are especially helpful in adapting regulations to fit the state's shift to 100 percent renewable electricity by 2045. If you become Chairman of FERC, will you commit to continuing FERC's information sharing with Hawaii?

Mr. MCINTYRE. Thank you, Senator.

FERC shares information and collaborates with various levels of government and indeed, with other countries as well. I think it's an important part of FERC's role. And if confirmed, I would hope to continue in that tradition.

Senator HIRONO. As I mentioned, I think Hawaii has some unique experiences to offer in the areas that I talked about. So it is not just an arrangement that you have with just anybody, but Hawaii is uniquely positioned, perhaps, to provide insights and allowing us to go forward with renewable energy development and grid development.

Mr. MCINTYRE. Yes, I understand. Thank you, Senator.

Senator HIRONO. Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Hirono.

Senator Duckworth.

Senator DUCKWORTH. Thank you so much, Madam Chair.

To date, gentlemen, 30 states have passed renewable portfolio standards, and I would like to return the conversation back to state's rights.

Never thought you would hear so much about state's rights from Democrats, huh? But here we are. Multiple states, including Illinois, have adopted policies to support existing nuclear power plants. We have more nuclear power plants than any other state in the nation. States are enacting these policies for a wide variety of reasons, ranging from improving energy diversity to helping the environment and boosting economic development.

Mr. Glick and Mr. McIntyre, you have answered this before with my colleague from Nevada, but I just want to be sure that I can get your reassurance that you would agree that state level energy policies, as passed by the duly elected legislators and governors of each state, that this is the appropriate place for these policies to be decided, in the states.

Mr. GLICK. Senator, Congress has left for the states the authority over utility resource decision-making, so that's not in FERC's role.

I think the Supreme Court in the Hughes case essentially outlined how states could make resource decisions and not interfere with FERC's jurisdiction, and I think, without prejudging any particular matter, I think the Hughes case is something I will certainly follow.

Senator DUCKWORTH. Thank you.

Mr. McIntyre?

Mr. MCINTYRE. Yes, thank you, Senator.

We do have a federal system of law. The FERC has its role and the states have theirs and there is no question the states have the absolute right to implement these renewable portfolio standards.

Senator DUCKWORTH. Thank you.

Certainly those as applied in Illinois fall under that Supreme Court decision.

Infrastructure has been at the front of the mind for us here in Congress. I believe the right kind of the infrastructure does not just have the capacity to create thousands of jobs in the short-term but also should have the capacity to deliver economic opportunity in the very long-term as well.

Mr. Glick and Mr. McIntyre, if confirmed, how would each of you work through FERC to promote greater investment that will both modernize and expand our nation's energy transmission infrastructure?

Mr. MCINTYRE. Thank you, Senator.

FERC's role in energy infrastructure is what I think of as its original jurisdiction, going back to hydroelectric power in 1920 and then expanded to natural gas facilities in the 1930s.

States here have a role as well. Generally speaking, electric transmission infrastructure is cited at the state level. So that, of course, is something that the FERC must continue to respect.

I can commit to you that, if confirmed, these are areas that are important issues and I would hope to bring the attention that these issues deserve to them.

Senator DUCKWORTH. Thank you.

Mr. Glick?

Mr. GLICK. So Senator, there are a number of various infrastructure investments that we're talking about in the energy industry. As Mr. McIntyre mentioned, some are more within FERC's jurisdiction than others, but I want to talk about electric transmission for

a second because we clearly need additional electric transmission, both to access remotely located renewable resources but also to reduce congestion and allow consumers to have greater access to less expensive power. I think the Commission's siting authority is very limited there. That's mostly an issue left up to the states, but the Commission does have other authorities.

For instance, in Order 1000 it required utilities to engage in regional transmission planning. I think that's worked pretty well. It also has various incentive rate authorities that Congress gave it, I think, in 2005 that would encourage the investment in additional transmission resources.

So I think it's something that the Commission does have a broad set of policies that can produce increased investment, it's just not on the siting front.

Senator DUCKWORTH. That is a real concern of mine, the balancing of what consumers can afford against what, really, are tremendous costs that are required to upgrade existing facilities. I do not see how we, as a nation, compete on a global scale when we have aging infrastructure at all levels.

That is a real concern that I would ask both of you to really think about how we balance that out and yet still be able to make the commitments to investment and promoting investments so that we can truly compete on a global scale when it comes to our energy infrastructure. In fact, you know, energy and energy infrastructure also have a tremendous impact on our environment. Given that, what role should FERC play toward securing a cleaner environment?

Mr. GLICK. Well, Senator, I'm not aware FERC has much of a straightforward, direct role in promoting environmental enhancement. That's certainly left up to the EPA and other agencies, as well as the Congress. But I would say that FERC has, in terms of, and I mentioned this in my opening statement, in terms of reducing barriers to cleaner technologies such as distributed generation or energy storage could help promote, enhance environmental benefits, but also economic benefits as well.

Senator DUCKWORTH. Thank you.

Mr. McIntyre?

Mr. MCINTYRE. Senator, I agree with the suggestion that the FERC is not an environmental regulator per se. I think it's important for FERC to keep its eyes open to opportunities to advance public policies in areas where there are, where the FERC's jurisdiction does extend, including in through our relevant environmental aspects to look at. This is something that has been growing recently in the FERC's consideration of natural gas pipeline applications.

Senator DUCKWORTH. Well, I agree with both of you and I think it is important for FERC to remain, to keep, a non-discriminatory attitude toward any specific energy, as long as we can continue to move the ball forward in that.

Thank you so much.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Duckworth.

Senator Franken.

Senator FRANKEN. Thank you, Madam Chair.

We are seeing devastating wildfires across the West right now. I have heard from colleagues about the effects in California and Washington and Oregon and Montana, just to name a few.

Now, about a month ago, this Committee held a hearing on wildfire technology and we heard a lot about the importance of hazardous fuels treatment. We know that removing hazardous fuels lowers wildfire risk, but we also know that right now it is not economical to do so and we have so much fire borrowing that the economy here is an issue. So we have to find a market for these fuels, if we can.

Now in the past I have discussed the possibility of hazardous fuel management supplying biomass for district energy projects or combined heat and power plants, especially in the wildland urban interface because, stay with me here, you have the wildland and you have the urban, and the wildland would have the forests, say, and the hazardous fuels and the urban part would need electricity and heat and cooling in the summer and also their houses they are in and that you do not want to burn up.

To me, doing this would expand distributed energy systems which would boost grid reliability and resilience but it would also lower the risk of wildfires significantly. It seems like, kind of, a win/win to me.

Now, Mr. Balash, if you are confirmed for this position you would be responsible for overseeing the Bureau of Land Management and dealing with thousands of wildland fires that occur on BLM land every year.

So my question is, and especially in the wildland urban interface, do you think that we can find a way to incentivize the use of hazardous fuels to generate electricity? In other words, can we recognize the co-benefit of wildfire risk reduction in these cases you see there?

Mr. BALASH. Senator Franken, I look forward to reviewing the particulars that relate to locations across the United States, but I know in my home state, in the community of Tok, a remarkable demonstration has occurred there where fire breaks around the surrounding community to protect it against wildfires from the Tanana Valley State Forest have been used successfully to generate heat in the core of the community for the school district and also for some of the residential and commercial buildings in the nearby area. So not only district heating but also power gen has been done effectively and economically through the use of biomass collected from these fire breaks.

Senator FRANKEN. So you like this idea?

Mr. BALASH. I love it.

[Laughter.]

Senator FRANKEN. Okay.

The CHAIRMAN. That is good to know.

Senator FRANKEN. Madam Chair, thank you. Because I know the Chairwoman has also been very interested in this.

I will move on to my next point. Distributed energy and energy storage technologies help improve the reliability and resiliency of the electric grid. This is especially true in disaster situations.

During Superstorm Sandy, large sections of the grid went down; however, some communities were able to keep the lights on because

of distributed generation, like combined heat and power. With Hurricane Harvey last month and Hurricane Irma now, I think this is more important than ever. FERC can play an important role in promoting these technologies. Late last year FERC started a rule-making to “remove barriers to the participation of electric storage resources and distributed energy in electricity markets.”

Mr. McIntyre, what role do you see energy storage playing in the future in the electricity markets and transmission systems and how can FERC help ensure that energy storage is receiving proper compensation for the benefits that it provides to the grid?

Mr. MCINTYRE. Thank you for the question, Senator.

Energy storage’s role in satisfying our nation’s energy needs is growing year after year irrespective of any action by the FERC. Your question recognizes that there is a pending matter before the FERC looking at storage’s role in energy markets overseen by the FERC, so it wouldn’t be appropriate for me to indicate a specific position on that.

But as a general philosophical matter, I’m very much an all-of-the-above person when it comes to the resources that we need to satisfy our energy needs and energy storage should validly be recognized as a growing part of that.

Senator FRANKEN. I am very glad to hear you, well, I know you cannot take a position. If you are confirmed, will you finalize the rulemaking for storage and distributed resources?

Mr. MCINTYRE. Senator, I have not had an opportunity to review the record of it. I certainly can commit that I would look at that record and determine, for starters, whether it needs to, whether it’s a good record on which to proceed to a decision, and if not, take stock from there as to any additional record steps that would be needed. But I absolutely commit to you that, if confirmed, I would give the matter the attention it deserves.

Senator FRANKEN. Okay, thank you, thank you very much.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Franken.

I have just about one question for each of you.

Let me begin with a question directed to our FERC nominees. This relates to the Alaska gas line project. I am not going to ask you to prejudge any pending application out there, but I am sure you are aware back in 2015 the Department of Energy granted a conditional authorization for the Alaska gas line to export LNG to countries that do not have a free trade agreement with the United States. This was a pretty big milestone in our efforts to advance a gas line, and then in April of this year, the Alaska Gas Line Development Corporation filed their application with the FERC. It may be the largest application ever. I am told it is about 58,000 pages. I bet you just cannot wait to jump into this.

[Laughter.]

But I know that all applications, particularly applications of this size, take a significant amount of work by staff and by the Commissioners and I had an opportunity, prior to the submission of the application, to speak with those that were at FERC at the time about just the ability of the Commissioners and the staff to wade through an application of this size in a way that gives it the thorough consideration that I think it deserves but to do so in a timely and a

predictable way. I would just ask the two of you, assuming that you are going to be confirmed, which I believe you will and I look forward to that, but that you would give it the same considered effort, even though it may be just physically daunting to even look at.

Mr. MCINTYRE. Well, thank you, Senator.

Let me say that I believe that FERC's role in approving energy infrastructure projects, including specifically natural gas facilities along the lines that you referenced, is one of its most important roles. I'm not surprised by the 58,000 page figure you cite. These are inherently complex matters. They're not only highly technical facilities involved, but they raise complex environmental and community issues, all of which need to be considered carefully. If confirmed, you have my commitment. I will give the matter the full attention it deserves.

The CHAIRMAN. I appreciate that.

Mr. GLICK. Yes, Madam Chair.

I think it's important, not only for the applicant, but for all stakeholders involved in the process that FERC act in a timely and predictable manner. And 58,000 pages certainly sounds like a daunting matter, but I think the Commission has a lot of staff, a lot of responsibility, a lot of history with regard to these efforts and I think certainly there are ways to expedite this matter.

The CHAIRMAN. I agree and thank you for that.

Just as a follow-on, more as a principle, as a policy matter. Again, without asking you to prejudge anything here, do you support Alaska's efforts to advance its stranded gas?

Mr. MCINTYRE. Madam Chairman, I'm concerned that commenting on it might cross the line into suggesting a position on the Alaska gas line project, so I prefer to refrain from doing that. But certainly as to any state, I support the efforts of each and every state to advance its energy cause.

The CHAIRMAN. Yes, I do not want to put you in a situation where you do not feel comfortable in answering that.

Mr. Glick, I will assume that you are going to tell me a similar response here.

Mr. GLICK. Yes, I would, but I'd just add a note. The Department of Energy has already acted. The Department of Energy determines whether natural gas should be exported. FERC's authority is very limited—

The CHAIRMAN. Right.

Mr. GLICK. In terms of just assessing the facilities whether they qualify for a certificate of public convenience and necessity.

The CHAIRMAN. Fair enough. Fair enough.

Mr. Balash, we recognize that in Alaska everybody thinks about our oil and our gas assets. We know that they are considerable, but we always remind folks that we have more than just oil and gas. Our coal is considerable, our mineral wealth is considerable, but we also have extraordinary opportunities when it comes to renewables. You, in your position as Commissioner of Natural Resources for the State of Alaska, had an opportunity to work to advance some of our other considerable resources.

I want to give you just a quick moment here to speak to your involvement with advancing renewable resources within the state

at the same time that we were working to advance our oil and gas and coal and mineral resources.

Mr. BALASH. Thank you, Madam Chair.

Even before my appointment at the Department of Natural Resources, when I was working in the Office of the Governor, I was part of the team that helped deliver a goal for the State of Alaska to achieve 50 percent of its electric generation by renewable sources.

At the same time, we were working with our legislature to establish a renewable energy fund to help bring capital to the table for communities and regions that we're seeking to provide renewable sources of power generation as an alternative to the diesel that is used in most parts of our state.

At the Department of Natural Resources, I had the opportunity to work on a variety of renewable energy projects, including in support of the exploration at Mount Spur for geothermal resources. We conducted a lease sale for Mount Augustine to also lease out the geothermal rights for that particular volcano. And in what I consider to be my own backyard, for Golden Valley Electric Association there was the Eva Creek Wind project where it was state property that had the best potential in proximity to interties to put up and erect wind turbines that we first had to wrangle through what the proper valuation methodology was to ensure that the public received a fair share, so to speak, of the value of its real estate that happened to be in a nice, consistently windy place near Healy. So I think if you take a clear-eyed look at our track record as a state, we have a very balanced approach and one that I've been proud to be a part of.

The CHAIRMAN. Good. I appreciate that, and I appreciate your leadership, certainly, at the time.

I do want to include as part of the Committee record today some letters of support that we have received on your behalf, Mr. Balash. So we will include that as part of the Committee record today.

[The information referred to follows:]



Interstate Mining Compact Commission

445-A Carlisle Drive, Herndon, VA 20170
 Phone: 703/709-8654 Fax: 703/709-8655

Web Address: www.imcc.isa.us E-Mail: gconrad@imcc.isa.us or bbotsis@imcc.isa.us

August 21, 2017

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 Colorado

EXECUTIVE DIRECTOR

GREGORY E. CONRAD

The Honorable Lisa Murkowski
 Chairman
 Senate Energy and Natural Resources Committee
 Room 304 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Murkowski:

I am writing to you in my personal capacity to recommend Mr. Joe Balash for the position of Assistant Secretary for Land and Minerals Management within the U.S. Department of the Interior. I have known Joe for about 5 years and have had the opportunity to work with him in a variety of capacities over that time. Most recently, I worked with Joe to develop and pass legislation bringing Alaska into our organization as a full member state. Joe is a true professional in every sense. He is well respected in the regulatory and mining communities. He is very approachable and a good listener. I have found Joe to be articulate, sincere and of the highest integrity. I believe he would serve as an effective leader at the Interior Department given his people skills, his knowledge of the subject matter, his ability to reach out to all stakeholders, and his commitment to good government.

Should you have any questions, please feel free to contact me.

Sincerely,

Gregory E. Conrad
 Executive Director

N.B. This endorsement is a personal one and does not reflect the position of the Interstate Mining Compact Commission. IMCC as a matter of policy does not endorse candidates or nominees for government positions.

"Serving the States for Over 40 Years"

SCI Alaska Chapter
PO Box 770511
Eagle River, AK 99577
(907) 980-9018
admin@aksafariclub.org



September 1, 2017

The Honorable Lisa Murkowski, Chair
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Murkowski:

I am writing to respectfully ask that you support Mr. Joe Balash's confirmation as Assistant Secretary for Lands and Minerals Management in the Department of Interior.

Mr. Balash has a proven track record supporting responsible resource management, both as staff to key legislators here in Alaska and as staff to Senator Dan Sullivan. He also managed the vast resources of the state of Alaska as Commissioner of the Department of Natural Resources.

Our nation is running record deficits and it is imperative we return to those economic pursuits that made this one of the wealthiest nations in history. The American people need jobs and natural resource based jobs not only help build our nation's economy, they provide wage levels that can sustain American families.

As a long time hunter conservationist I understand the connection between national wealth and wildlife management. Conservation works as a national strategy only if there is a strong economy. It is difficult if not impossible for nations struggling with poverty to pursue adequate measures to preserve fish, wildlife and their habitat.

For the reasons stated above and many others I strongly support the Mr. Balash's confirmation. He is well qualified to help lead the effort within the Department of Interior to rebuild America's economy while ensuring our public resources are managed wisely.

Sincerely,

A handwritten signature in cursive script that reads 'Eddie Grasser'.

Eddie Grasser
Director of Government Affairs

SCI's Top Gun Chapter



August 30, 2017

The Honorable Lisa Murkowski
Chair, US Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC, 20510

Dear Chairman Murkowski,

Kenai River Sportfishing Association (KRSA) is a 501 c 3 charitable non-profit in Alaska, dedicated to the sustainability of one of the world's great sportfishing rivers, the Kenai. Over the years, through our fundraising efforts, KRSA has raised millions to support projects in habitat protection, angler access, fisheries management, research and education. KRSA works closely with federal, state, local and private entities to ensure the Kenai River remains a conservation success story. Today the Kenai is recognized as a crown jewel for fisheries and public lands management.

KRSA is pleased to provide this letter of support for the nomination of Joe Balash to the position of Assistant Secretary for Land and Minerals Management in the Department of the Interior. Through years of engagement with Mr. Balash in a variety of positions – former Chief of Staff for the Alaska Senate President, former Commissioner of the Alaska Department of Natural Resources, and most recently as Chief of Staff for U. S. Senator Dan Sullivan – he has demonstrated a widespread understanding of public policy, an expertise in land management, both state and federal, and a keen sense of political savvy to navigate through difficult processes. Mr. Balash understands the complexity and challenges of land management in Alaska. On the Kenai and elsewhere in Alaska, he has shown an aptitude in bringing together diverse groups of people to resolve issues related to responsible resource development. In our interactions with Mr. Balash, he has been fair-minded, responsive, sensible and focused on finding practicable, effective solutions to issues.

Additionally, I serve on the board of directors for Alaska's Resource Development Council (RDC), where I have also become more aware of the complexity of issues involved in responsible oil and gas development in Alaska, both onshore and offshore. His in-depth knowledge of this critical industry in Alaska, such as with the 10-G2 area in the National Petroleum Reserve (NPR), will serve well in connecting Alaska's efforts and linking his skill set to the broader national agenda of America's independent energy policies, which are crucial to our economic health as well as our national security.

Mr. Balash has our highest recommendation to the position of DOI's Assistant Secretary for Land and Minerals Management. His skills and depth of experience will be an invaluable asset to the Department and the nation. KRSA strongly support his nomination and urge the Senate to confirm him without delay.

Respectfully,

Ricky Gease, KRSA Executive Director

MANAGEMENT • EDUCATION • HABITAT • RESEARCH

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030



Office of the Executive Director
CHRIS W. COX

September 6, 2017

The Honorable Lisa Murkowski
Chairman, U.S. Senate Committee
on Energy & Natural Resources
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member, U.S. Senate Committee
on Energy & Natural Resources
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell,

I am writing to express the National Rifle Association's support for Joe Balash for the Assistant Secretary for Land and Minerals Management, Department of the Interior (DOI).

The DOI manages some 500 million acres of surface land, or about 20% of the U.S. landmass, through its various components. The Assistant Secretary for Land and Minerals Management in particular focuses on public land use. Accordingly, this position is critical to the interests of America's hunters and shooters.

I am confident that Mr. Balash will discharge his duties with due regard to the importance of land access for traditional uses, including hunting and recreational shooting. He is a native of North Pole, Alaska, and would bring to the office nearly two decades of experience in land and natural resource management.

As a former Commissioner of the Alaska Department of Natural Resources and current chief of staff to Alaska Sen. Dan Sullivan, Joe Balash understands the importance of state and federal partnerships in the stewardship of America's outdoor heritage. He also understands that America's hunters, anglers, and recreational shooters play a critical role in preserving our natural resources for future generations. This nomination underscores President Trump and DOI Secretary Ryan Zinke's understanding of the vital role America's hunters and shooters play in the management of public lands.

For these reasons, the NRA is proud to support Joe Balash's nomination for this important position.

Sincerely,

A handwritten signature in black ink that reads "Chris W. Cox".

Chris W. Cox

North Slope Borough
OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907 852-2611 or 0200
Fax: 907 852-0337 or 2595



Harry K. Brower, Jr., Mayor

Dear Senator Murkowski:

I applaud and welcome the recent announcement and nomination of Alaska's very own, Joe Balash to serve as assistant secretary for land and minerals management for the U.S. Department of the Interior.

I had the pleasure of getting to know Joe, while he was commissioner of the Alaska Department of Natural Resources under Governor Sean Parnell. We at the Borough are sorry to see him leave his current job as chief of staff for Senator Dan Sullivan, but Alaska's loss is also Alaska's gain. Joe's experience is second to none when it comes to resource development and land management.

We respectfully submit that the U.S. Department of the Interior has never needed more the unique combination of character, experience, and passion for Alaska that Joe Balash brings to the table as our country continues to promote balanced and responsible energy development and land management.

The North Slope Borough is proud to support the nomination of Joe Balash, we have no doubt he will serve our Nation well. We recommend Joe receive the earliest possible approval by the Senate Energy Committee and rapid confirmation by the Senate.

Sincerely,

A handwritten signature in cursive script that reads "Harry K. Brower, Jr.".

Harry K. Brower, Jr.
North Slope Borough, Mayor

The CHAIRMAN. I think we should note for the record that as we have our two FERC nominees and the one who has been named to head up the FERC and we are talking about reliability that we seem to be going in and out of the lights here today. I do not understand why. We have checked and nobody is leaning against the light switch. So, I do not know whether you should take this as an omen, good or bad.

[Laughter.]

That is up for you to determine.

But reliability, it is all key.

I am going to ask the last question to you, Mr. Nelson. When we spoke in my office, and I thank you for the conversation, I mentioned ANILCA, the Alaska National Interest Land Conservation Act. In Alaska that is, kind of, our manual of operations almost.

There are contained within ANILCA several provisions that we collectively refer to as the "no more" clauses and there are sections specific to withdrawal of lands, public lands, in Alaska. New withdrawals cannot be in excess of 5,000 acres in aggregate. If a withdrawal exceeds that, it cannot be effective unless and until Congress acts affirmatively. And it goes further than that. It disallows certain studies of federal lands in the state for establishing conservation system units, national recreation areas, national conservation areas or other areas that are prohibited or, excuse me, they are prohibited unless authorized by Congress.

Again, I am not asking you to whip out your ANILCA here and tell me word for word how you interpret the new "no more" clause, but I would ask you, generally, if you can share with me how you view the meaning of these various clauses within ANILCA and what it means for Alaska when it comes to for purposes of withdrawal.

Mr. NELSON. Thank you, Senator.

I am familiar with ANILCA and, obviously, this is a complicated question. I fully understand how unique Alaska is and the protections that were granted to Alaska in the negotiation that was done in adopting that statute. As to the "no more" clause, I think the language is pretty clear that if it's a withdrawal that it's not permitted and then you get into a legal discussion of what a withdrawal is.

And you know, not being at the Department at this point it's hard for me to go much further than that, except to say, we certainly, I'm certainly aware of the commitments that were made to Alaska and have every intention of keeping that and reviewing the statute and giving it full consideration.

The CHAIRMAN. Good. I appreciate that.

We look at it pretty literally. No more means no more, and we wish that we could get a more clear interpretation more often out of our agencies.

As you review, again, I mentioned to you that I think it is important that those in our agencies, who are implementing provisions under ANILCA, know and understand and really appreciate.

So there are ANILCA backgrounder trainings that certainly those in Alaska have undergone, but I think even more significant than those in Alaska, those here in Washington, DC, that are making decisions that have impact on us back home, have that under-

standing, that knowledge, that awareness and would certainly encourage that within the Solicitor's Office.

Mr. NELSON. Senator, you've got my commitment that I will make sure that all 300 attorneys have read ANILCA within a month of me being confirmed, if that happens.

The CHAIRMAN. I am pretty sure most of them have, but a little refresher is not a bad thing. Again, we can certainly provide some level of expertise, but thank you for that.

Gentlemen, I thank you for the time that you have given the Committee this morning and appreciate all that you are offering of yourself, your professionalism, your expertise, your time.

To the families that are sitting behind you, who are the support for these leaders, thank you, because it means that there is going to be less time at home doing some of the family things that one would like. This is an important service to our country and we, certainly, appreciate that.

As I mentioned at the outset, it is my hope that we will be able to advance your names out of Committee here shortly.

I do think it is important that whether it is the FERC and restoring FERC to a full quorum or providing the Secretary, in this case the Secretary of the Interior, his team to be working on these issues that we all recognize are very important. We cannot get you there fast enough. So know that it is my intention to urge my colleagues to get their questions for the record in and ask you to be rapid with your responses so we can get your names moved through so that you can get to work.

With that, I thank you and thank those who have joined us today.

The Committee stands adjourned.

[Whereupon, at 12:23 p.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

**U.S. Senate Committee on Energy and Natural Resources
September 7, 2017 Hearing: Pending Nominations
Questions for the Record Submitted to Mr. Joseph Balash**

Questions from Chairman Lisa Murkowski

Question 1: Ambler Mining District — Mr. Balash, I want to ask you a question about the Ambler Road Project. As you know, the Alaska Industrial Development and Export Authority, or AIDEA, submitted an application to the Department of the Interior for an access road over a short stretch of Park Service and BLM lands more than a year ago. I've heard concerns about the timelines for the project, the lack of adequate interagency coordination, and the failure of the Department to align the permitting process with the requirements of the Alaska National Interest Conservation Lands Act (ANILCA) that require the project to be expedited.

- a. If confirmed, will you make it a priority to get the environmental reviews, project scoping, and other requirements on track so we can get this project moving and—hopefully—approved on an appropriate time scale?

Response: Yes - if confirmed, I will get up to speed on the Department's work on this issue. I will also focus on making coordination, analysis, and permitting processes under the auspices of the Assistant Secretary for Land and Minerals Management more efficient and timely.

Question 2: Ambler Mining District — Another aspect of this Ambler Road project that I want you to review is the addition of broadband infrastructure. It makes good sense to look at this kind of thing at the same time as the access road and it should not be a cause of delay. It is my understanding this once part of the project, but at some point the Department determined it had to be handled separately.

- a. Will you commit to review the project to look at whether broadband infrastructure can be added back in?

Response: Yes. If confirmed, I commit to looking into this issue in greater detail.

Questions from Ranking Member Maria Cantwell

Question 1: The Secretary's recent Secretarial Order and implementation memorandum regarding the greater sage-grouse indicate an attempt to shift focus from improving and conserving habitat to using narrow population targets and breeding programs. Sustainable population levels and goals are critical, but the science is clear that the way to actually reach these levels is to restore sufficient sage grouse habitat.

Will you commit to follow the science and ensure that conserving sage grouse habitat is a priority under your leadership?

How will you ensure that the Bureau of Land Management follows a range-wide, science-based, collaborative approach to conserving sage grouse habitat?

U.S. Senate Committee on Energy and Natural Resources
September 7, 2017 Hearing: Pending Nominations
Questions for the Record Submitted to Mr. Joseph Balash

Response: While I am not at the Department and not familiar with this policy, as a general matter, I recognize that science is critical to the Department's mission, and scientific integrity should underpin the Department's actions.

Question 2: In January, the Bureau of Land Management (BLM) issued over 1,000 pages of analysis of the inadequacy of the coal leasing program. Before the completion of that analysis, coal leasing had not received a comprehensive review since the 1970s. Since the Administration lifted Secretary's Jewell's suspension of new coal leasing and suspended the preparation of a new programmatic environmental impact statement, the BLM is once again authorized to lease coal under assumptions informed by the 1973 oil embargo and using science that pre-dates our modern understanding of climate change. Independent observers, including the Government Accountability Office, have identified several ongoing problems in the leasing program. For example, the western coal industry is structurally non-competitive: nearly every lease sale since the 1990s has had only a single bidder.

Are you aware of any existing deficiencies in the coal leasing program, and how do you plan to address them?

Response: One of Secretary Zinke's priorities is to support the Administration's energy plan and increase development of coal resources on public lands as well as look at improvements in the program to benefit the public interest. If confirmed, I would look forward to becoming more informed on this issue.

Question 3: The Surface Mining Control and Reclamation Act (SMCRA) allows but does not require states and the federal government to accept self-bonds from some companies as a form of financial assurance for coal mine reclamation. In the last several years, over \$3 billion of self-bonds under SMCRA were affected by industry bankruptcies. The GAO reported earlier this year that coal is the only onshore federal commodity that can self-bond. Oil and natural gas cannot. Wind and solar cannot. Hardrock mines cannot. The GAO is currently conducting an audit of federal and state self-bonding practices.

Are you aware of how exposed taxpayers have recently been to potentially picking up the cost of reclaiming mines covered by self-bonds?

Will you commit to reviewing the GAO's final audit, upon its completion, and supporting potential changes to reduce the risk to taxpayers of private companies with self-bonds going bankrupt?

Response: If confirmed, I will commit to get informed on this issue, to review the GAO's final audit when it is completed, and to consider appropriate audit recommendations.

**U.S. Senate Committee on Energy and Natural Resources
September 7, 2017 Hearing: Pending Nominations
Questions for the Record Submitted to Mr. Joseph Balash**

Question 4: As you know, in 2014 the State of Alaska sent the Bureau of Land Management a request to modify the western boundary of the Arctic National Wildlife to exclude approximately 20,000 acres of land and to make those lands available for selection by the State. You are quoted in the Alaska Journal of Commerce as saying “our hope is that the BLM will move quickly to convey the lands so we can offer them for leasing.” Given your role with the State of Alaska in advocating the transfer of these lands to the state, will you recuse yourself from any matters or deliberations involving this issue or from any reconsideration of the State’s claim by the Department of the Interior?

Response: As I indicated at the hearing, I will consult with the Department’s Designated Agency Ethics Official regarding this matter and fully comply the ethics rules of the agency.

Questions from Senator Ron Wyden

Question 1: When working on difficult forestry issues, which I’ve been doing for over 20 years, you learn that no one gets everything they want but everyone must get something they need. My O&C bill brings people together, it gets the harvest up, and it protects bedrock environmental laws. I understand the urge to streamline process, but forestry policies that stack the deck in favor of one side won’t work, particularly if you’re interested in rebuilding faith in the federal government.

Litigation reform bars the path to the courthouse and sufficiency language essentially hands forests over to just one side of the debate. Coupled together, you create a scenario where the actions of one side are deemed automatically compliant and the other side has no way of challenging the action. That’s the definition of stacking the deck and it will drive the two sides of an issue further apart, rather than bringing them together in a collaborative way.

How would you encourage collaboration in forestry while balancing the needs of all interests and avoiding reforms, like sufficiency language, that hand the entire deck over to one side?

Response: I believe in the value of bringing all interested parties to the table and working in a collaborative manner to identify common ground and solutions to complex issues. If confirmed I commit to employ this sort of collaborative approach to complex issues like management of the O&C lands.

Question 2: I have a bill, the Recreation Not Red-Tape Act, that cuts the bureaucratic red tape that stands in the way of getting more people outdoors and opening access to America’s special

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places. Recreation is an economic driver, particularly in rural areas, with studies showing recreation is a \$646 billion economy.

As Assistant Secretary, will you commit to working with me on my bill and prioritizing outdoor recreation and its vast economic potential on public lands, without sacrificing critical environmental protections?

Response: If confirmed, I commit to working with you and other members of Congress to ensure appropriate access for outdoor recreation on our public lands.

Question 3: I have a bill, the Wildfire Disaster Funding Act that I initiated the last several congresses. It's an unfortunate reality that the cost of fighting fires climbs every year as fires get bigger and hotter. Our legislation would end the practice of "fire borrowing" and ensure stable and predictable funding for fire prevention and forest health activities going forward. But by funding efforts to fight the largest and most destructive wildfires from emergency accounts, federal agencies can stop raiding their own accounts and instead, use those funds as they were intended - to cover hazardous fuel and other forest health treatments that can make the forests healthier and less prone to fires.

While the issue of wildfire funding has been primarily a Forest Service issue, wildfires don't pay any attention to jurisdictional borders and they don't care who manages the land they're burning, so as Assistant Secretary, this is an issue you'll have to address.

Do you think the practice of fire borrowing should be ended?

Do you think controlling the 10-year average cost of fires by freezing it at a certain level, or using some other budget control tool so it doesn't continue to erode the agency budgets, help the agencies better budget for and fund fires in the future as well as fund other non-fire programs in forest management and recreation?

Response: I believe a long-term solution to this problem is needed, and if confirmed I commit to working with Congress on seeking a solution.

Question 4: I'm sure you're aware of the situation that unfolded at the Malheur National Wildlife Refuge in Harney County Oregon last year and the disruptions it caused in the local communities. I was grateful that federal officials coordinated closely with the County Sheriff and Commissioners to ensure that community members were safe and that the rule of law was preserved. Incidents like this, led by extremists, that compromise our public lands are very concerning and I'm just glad it ended without escalating further.

If you are confirmed as the Assistant Secretary of the Interior for Land and Minerals Management, you will be in charge of managing National Wildlife Refuges, Wilderness Areas,

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and recreation lands, in an era where hostility toward federal lands and federal officials is all too common.

What will you do to ensure the protection of not only our incredible public lands that have been set aside by Republican and Democratic Presidents and Congresses, but also the protection of your employees, like the employees at the Malheur Refuge, who are not just federal employees, but Oregonians?

Can you help me understand your stance on public land ownership and tell me whether you think that public lands should remain in federal ownership or be sold or transferred to states or other jurisdictions?

Response: To clarify, the National Wildlife Refuge System is managed by the U.S. Fish and Wildlife Service and is not under the jurisdiction of the position for which I have been nominated. To the larger point, Secretary Zinke and President Trump have both made clear the policy of this administration is to retain federal ownership of public lands with few exceptions or qualifications. I fully understand this and commit to work in support of their guidance.

In order to mitigate the calls for transferring ownership to states, counties, and private individuals, the BLM and other federal agencies need to restore trust and confidence in their ability to manage these holdings. I know that Secretary Zinke has stated that he wants the Department to be a good neighbor, and if confirmed, I will coordinate with our staff on the ground to identify and resolve matters and grievances similar to those encountered at Malheur National Wildlife Refuge.

Question 5: I think it is about time the American taxpayer get a fair, market-value, return on the coal, oil and natural gas extracted from public land. The Government Accountability Office (GAO) found, that in order to get a fair return on oil and gas from public lands, the BLM should update its more than 30-year old rules on the venting and flaring of gas.

Using GAO's estimates about the amount of federally owned natural gas that is wasted due to venting and flaring, over \$63.5 million in royalties was lost, over \$31.1 million to individual states in 2013 alone. A federal court in Wyoming refused to enjoin the BLM's wasted gas rule on January 16. The court found that the rule was "unambiguously" within the BLM's authority to regulate oil and gas development for the prevention of waste, has economic and environmental benefits, will not impinge on states' sovereign interests, and will not cause significant economic burden to states or oil and gas companies. This is millions of dollars that could go to state infrastructure needs, schools, and emergency services.

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Do you believe that states should be receiving this money instead of allowing companies to waste American energy resources and not give the American public their due?

Do you believe the BLM has the authority to regulate oil and gas production on federal lands so as to prevent waste? If so, how do you plan to make sure that states are getting the money they should from wasted natural gas?

Response: As I stated at the hearing, royalties and rents collected represent the public's ownership interest in the subsurface mineral estate that belongs to all of us. I believe establishing what is charged for produced resources has to be done with an eye toward earning a return for the taxpayers, but in a way that also keeps in mind the circumstances under which those resources can be extracted.

Question 6: The Land and Conservation Fund (LWCF) has been an important source for state and local outdoor recreation facilities, state park improvements, and public park land acquisition. However, federal funding programs like the LWCF often involve a lot of "red tape" which can make them inaccessible to small rural communities with limited staff and resources.

Would you be willing to re-examine any of the rules and regulations related to applying for and using federal funds such as the LWCF monies?

Response: The Secretary supports the LWCF and has recognized the good work that has been accomplished for local communities and outdoor recreation across the nation with this program. If confirmed, I will support the Secretary's goals and priorities for this important program.

Question 7: Renewable energy projects can be important drivers of economic development in rural communities, often supplementing the income of farmers and ranchers and raising needed tax revenue for small towns. In fact, 79% of electricity power generation jobs in Oregon are in wind and solar, according to the Energy Information Administration. Yet we must balance the need for clean energy with the need to protect wilderness and fragile habitat.

What will you do to ensure the Department of Interior continues to support the responsible construction of renewable energy projects on public lands?

Response: This is an issue with which I have considerable experience. As I indicated at the hearing, during my time working for the State of Alaska I was part of a team that helped to deliver a goal for the State to achieve half of its electric generation by renewable sources; I worked with the legislature on a renewable energy fund to help raise capital for communities interested in developing renewable sources of power as an alternative to the typical diesel power; and I have worked on wind and a variety of geothermal projects. I have taken a balanced approach to energy development and would continue that approach, if confirmed.

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What are your plans for the siting and leasing processes for offshore renewable energy development, such as wind and marine hydrokinetic? How do you plan to involve other maritime industries, such as fishing and shipping, to ensure that the development of offshore renewable energy is collaborative?

Response: I am not at the Department and would need to learn more about the specific processes currently in place in order to have an informed response. However, as Commissioner of the Alaska Department of Natural Resources I had success working in a collaborative manner, with entities within and outside the DNR, to streamline and reform programs. I would carry that experience to my position within the Department of the Interior.

Question 8: The American Association for the Advancement of Science (AAAS) and American Geophysical Union has made the following statement: “The scientific evidence is clear: global climate change caused by human activities is occurring now, and it is a growing threat to society.” When former DOI Secretary Sally Jewell spoke of scientific integrity policies, she stated that the Department must be a leader in the federal efforts for robust scientific integrity policies because “science is the very foundation of our mission.”

In general, what do you see as your role and the role of the Department of Interior in combating climate change?

Response: If confirmed, I look forward to fulfilling the Department’s mission, while adhering to the statutory authority Congress has granted the Department to oversee and manage our public lands and resources in the best interest of American taxpayers. It is important that we strike the appropriate balance between meeting our energy needs and protecting the environment.

What would be your plan to ensure that the Department’s integrity policies remain robust and reliable?

Response: If confirmed, I commit to learning more regarding these policies.

Questions from Senator Bernard Sanders

Climate Change

Question 1: President Trump has suggested in the past that climate change is a hoax. Is the President correct? Is climate change a hoax?

Response: I believe climate change is not a hoax and that man has an influence.

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Question 2: Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?

Response: Man does have an influence on climate change, and the Department should continue to play a role in facilitating the production of conventional and renewable energy in order to meet our nation's critical energy needs.

Question 3: Do you agree with the vast majority of scientists that the combustion of fossil fuels contributes to climate change?

Response: Yes.

Question 4: Do you believe that the Department of the Interior has a role in reducing the extraction and use of fossil fuels?

Response: As I noted during the hearing, it will be my responsibility to strike the appropriate balance between conservation and extraction on our nation's public lands. I am not aware of any statutory authority that mandates the reduction in use of fossil fuels.

Question 5: If confirmed, how will you work to address climate change?

Response: If confirmed, I look forward to fulfilling the Department's mission, while adhering to the statutory authority Congress has granted the Department to oversee and manage our public lands and resources in the best interest of American taxpayers. It is important that we strike the appropriate balance between meeting our energy needs and protecting the environment.

Congressional Relations

Question 6: If confirmed, do you commit to assuring staff in the Office of Land and Minerals Management will respond to all relevant inquiries from all Members of Congress, regardless of party or position?

Response: I believe that transparency and collaboration are necessary for successful public policy. As such, I commit to you that, if I am confirmed, my office will appropriately respond to all relevant congressional inquiries.

Energy Policy

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Question 7: What are the policy implications of the President's America First Energy Plan for the Department of the Interior? As Assistant Secretary for Land and Minerals Management, how would you implement the plan?

Response: The President's America First Energy Plan will lead to increased domestic energy production, increased domestic employment associated with that production, and increased private investment in domestic energy infrastructure. These and other outcomes will contribute to a stronger American economy, and American energy independence.

Fossil Fuels

Question 8: According to recent studies, the quantity of federal fossil fuels already under lease exceeds the amount that can be burned and still meet our commitments to reduce domestic greenhouse gas emissions, keeping average global temperature below 2 degrees Celsius. The Department of the Interior is responsible for managing fossil fuel development on public lands and waters. How will you ensure federal fossil fuel leasing decisions are consistent keeping global temperature increases below two degrees Celsius?

Response: The Department of the Interior is responsible for managing energy development on federal lands and waters. Energy demand is a critical component of the nation's economy and security, and it is important to ensure adequate supply. If confirmed, I would do my best to ensure that development on public lands and waters is managed to meet those needs, and includes the responsible use of the full complement of available energy resources, including fossil fuels and renewable sources like wind, solar and geothermal.

Question 9: President Trump campaigned on the promise of bringing the coal industry back and restoring thousands of coal jobs. Many economic and policy analysts agree that the decline in coal production has more to do with the increase in natural gas production than environmental regulations. What is your assessment?

Response: Economic factors like market prices are certainly a factor in the relative demand for different energy feedstocks like natural gas and coal. However, applying heavy-handed regulatory pressures upon specific feedstocks, such as coal, can send signals to the markets and become a driving force behind the prevailing commodity prices.

Question 10: What role do you think the Department of the Interior can play in transitioning our country away from fossil fuels?

Response: I do not believe it is the role of the Department of the Interior to transition our country away from fossil fuels, unless given direction from Congress.

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Question 11: Will you encourage wind and solar generation on lands managed by the Department of the Interior?

Response: If confirmed, I will be committed to ensuring the Department responds efficiently and effectively to market demands for all authorized available energy resources on the public lands and waters.

Question 12: Do you agree that there are places that are too unique, either for historical, cultural, environmental, wildlife, or similar reasons, to open up to fossil fuel development?

Response: Unique features such as those you mention are important to consider when determining how to manage public lands and waters.

Question 13: President Obama withdrew significant portions of the Arctic and Atlantic Oceans from oil and gas development. The reasons he cited for this action include the irreplaceable value of these waters for Indigenous, Alaska Native, and local communities' subsistence activities, economies, and cultures; protection of wildlife and wildlife habitat; promotion of scientific research; and the vulnerability of these ecosystems to an oil spill, which would present significant logistical, operational, safety and scientific challenges for extraction and spill response. In addition, President Obama noted that by the time oil production could begin in these areas, our nation needed to be well on our way to transitioning to clean, renewable energy sources.

BOEM recently initiated a new National Outer Continental Shelf Oil and Gas leasing program to modify President Obama's withdrawal and open these areas for lease consideration. Notwithstanding DOI's statutory requirement to analyze all available leasing areas, if confirmed, will you commit to implementing the highest environmental protections for the Atlantic Region, Pacific Region, and Alaska Region, including the Beaufort, Chukchi, and North Aleutian Basin Planning Areas commensurate with those provided by the Obama Administration?

Response: As I mentioned in my opening statement, I believe that with the right approach, you can have responsible development without sacrificing clean air and water. If confirmed, the pursuit of that approach will be a guiding principle.

Question 14: As we have seen with Hurricane Harvey, the Gulf of Mexico and Gulf Coast communities are on the front lines of climate disruption and fossil fuel extraction. Many communities, primarily low-income and communities of color, suffer daily from environmental injustices related to the fossil fuel industry. If confirmed, would you support action to extend or make permanent the drilling moratorium in the Eastern Gulf of Mexico? If confirmed, will you commit to phasing out fossil fuel development and promoting a just transition to a clean, renewable energy-based economy along the Gulf Coast?

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Response: I am advised that the Eastern Gulf of Mexico Planning Area is restricted from development until 2022 under the Gulf of Mexico Energy Security Act of 2006. I am not aware of a Department position on extension of the current restrictions, but I look forward to learning more about the issue if confirmed. If confirmed, I will pursue an all-of-the-above energy strategy in keeping with the President's and Secretary's visions.

National Monuments

Question 15: The 1906 Antiquities Act allows the president to proclaim "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States" to be national monuments. At his nomination hearing, Secretary Zinke said of rescinding a national monument, "legally, it's untested." Since then, Secretary Zinke has proposed shrinking the Bears Ears, Cascade-Siskiyou, and Grand Staircase-Escalante national monuments. Do you believe that the President has the legal authority to overturn or alter an existing national monument designation?

Response: I understand that the final decision on monuments rests with the President, and I expect that the President will be seeking the counsel of his attorneys with respect to this question.

Public Lands

Question 16: Under what conditions do you believe it is appropriate to transfer federal lands to private ownership?

Response: If legally authorized by Congress, and in the best interests of the United States, it may be appropriate to transfer federal lands to private ownership. However, I note that Secretary Zinke has repeatedly stated that he does not support the transfer of federal lands, and, if confirmed, I will support the policies of the Secretary.

Question 17: Under what conditions do you believe it is appropriate to transfer federal lands to state ownership?

Response: If legally authorized by Congress, and in the best interests of the United States, it may be appropriate to transfer federal lands to state ownership. However, I note that Secretary Zinke has repeatedly stated that he does not support the transfer of federal lands, and, if confirmed, I will support the policies of the Secretary.

Question 18: If confirmed, how will you address issues of inequality in access to public lands?

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Response: If confirmed, I commit to working with you and members of Congress to ensure appropriate access to public lands.

Question 19: How would you describe the economic and environmental value of public lands?

Response: I believe that our public lands have significant economic and environmental value to our nation.

Question 20: According to the Outdoor Industry Association, the outdoor recreation economy generates \$887 billion in economic activity and 7.6 million American jobs. The association claims that it is a stronger economic sector than oil and gas, motor vehicles and accessories, and pharmaceuticals. Do you concur with this economic assessment? Does the economic significance of outdoor recreation affect your support for maintaining public lands for recreation purposes in contrast to other uses?

Response: I am not familiar with the economic assessment of the Outdoor Industry Association. However, as I stated at my hearing, I support public lands for recreation and for other uses. I believe that, with the right approach, you can have responsible development without sacrificing clean air and water. If confirmed, I will work to produce this value for the American people.

Land and Water Conservation Fund

Question 21: Created by Congress in 1965, the Land and Water Conservation Fund (LWCF) was a bipartisan commitment to safeguard natural areas, water resources and our cultural heritage, and to provide recreation opportunities to all Americans. National parks like Rocky Mountain, the Grand Canyon, and the Great Smoky Mountains, as well as National Wildlife Refuges, national forests, rivers and lakes, community parks, trails, and ball fields in every one of our 50 states were set aside for Americans to enjoy thanks to federal funds from the Land and Water Conservation Fund (LWCF). The LWCF is critical to the protection and preservation of the many landscapes that drive the \$887 billion outdoor recreation economy.

The Administration's "skinny" budget included a direct attack on federal land conservation, proposing to drastically slash funding for this bipartisan priority. The temporary extension of the LWCF expires September 30, 2018. If confirmed, will you support the LWCF, and continuing to expand public access to parks, forests and trails?

Response: I know that Secretary Zinke supports the LWCF and has recognized the good work that has been accomplished across the nation with this program. If confirmed, I will support the Secretary's goals and priorities in support of this important program.

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Question 22: The LWCF makes incredibly important investments in my state, protecting federal units like the Appalachian Trail and the Conte National Fish and Wildlife Refuge and working in public-private partnership through the Forest Legacy Program to preserve working forests and keep jobs in the woods. If confirmed, will you commit to supporting permanent reauthorization and full, dedicated funding of this program, as Secretary Zinke did in his confirmation hearing?

Response: If confirmed, I will support the Secretary's LWCF goals and priorities.

Question 23: Natural and recreational infrastructure is critical to clean water, healthy families, safe neighborhoods and continued growth and jobs in our extremely productive outdoor recreation economy. Our National Parks and public lands are in need of continued investment in conservation as well as maintenance. Do you agree that the LWCF represents an infrastructure investment necessity that drives economic production, growth, and employment in America every bit as much as do road and bridge construction, water resource development, and other public works projects?

Response: I understand good work has been accomplished across the nation with the LWCF program. However, I would not characterize the program as the infrastructure equivalent to road and bridge construction, water resource development, and other public infrastructure projects. I do commit though that, if confirmed, I will support the Secretary's goals and priorities in support of the LWCF program.

Question 24: Should you be confirmed, will you commit to supporting an annual budget that allocates all of the annual \$900 million from the LWCF account to the programs identified by Congress each year in the appropriations bill?

Response: If confirmed, I will support the Secretary's LWCF goals and priorities.

Science

Question 25: In order to protect scientific integrity, the Department of the Interior created a Scientific Integrity Policy, which all career, political, and contract employees must adhere. There are now designated Scientific Integrity officers, who are career employees in each bureau to review and adjudicate any discrepancies. Do you commit to supporting this policy?

Response: If confirmed, I commit to learning more regarding this policy. I agree with Secretary Zinke that scientific integrity should underpin agency actions.

Question 26: Do you commit to respecting all decisions that come from these Scientific Integrity Officers?

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Response: Should I be confirmed for this position, I will work collaboratively with my colleagues in the Department to ensure sound science underpins Departmental actions.

Question 27: Do you commit to personally signing the Scientific Integrity Policy, and sharing with this committee a copy of that document?

Response: If confirmed, I look forward to the opportunity to review the details of the Scientific Integrity Policy; however, as a general matter I intend to uphold the Secretary's commitment to ensure Departmental actions are consistent with scientific integrity practices and policies.

Tribal Rights

Question 28: Indian Affairs is the oldest bureau of the Department of the Interior. Throughout history and even today, the United States government has treated the Native American people with disrespect, abrogating treaty obligations and its trust responsibility. As a result, there are Native American communities living in unbelievable poverty with high unemployment rates and unspeakably high youth suicide rates. Do you agree with these assertions? If so, what do you propose to do in your role at the Department to improve life for the Native American people throughout this country?

Response: While serving in the Alaska Department of Natural Resources, I worked directly with Native Alaskan communities in remote locations and witnessed their hardships firsthand. I am fully committed to collaborating with tribes, state, local and other federal agencies in appropriate circumstances, and in carrying out meaningful consultation. This includes not just following the law, but paying attention to and taking into account the needs and concerns of tribes.

Question 29: The federal government's moral and legal obligations to tribes in light of the trust responsibility carry immense moral and legal force. This trust relationship serves as an underlying basis for tribal consultation, the process by which the government engages in a meaningful, good-faith dialogue with all tribes. The Department of the Interior, by virtue of its role in Native American affairs, plays a prominent part in how the government engages in tribal consultation.

In the wake of the Dakota Access Pipeline, three federal agencies, including the Department of the Interior, published a report in January 2017 entitled, "Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions." The subject of months-long consultation across Indian country, this report sets forth a number of recommendations to improve the process for permitting and infrastructure development. What steps do you intend to take to incorporate this report into your decision making process?

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Response: I am not familiar with the report you reference, but as I indicated at the hearing I am fully committed to following the law and, more importantly, to paying attention to and taking into account the needs and concerns of tribes.

Wild Horse Management

Question 30: Do you have plans to change or modify the Bureau of Land Management's wild horse management plan? If so, what changes would you recommend?

Response: I will engage Congress, state officials, and local communities to identify a path forward on this matter.

Questions from Senator Al Franken

Question 1: Mr. Balash, in many ways, your home state of Alaska is at the forefront of climate change impacts. Due to melting permafrost and rising sea levels, entire Alaska Native villages have to relocate. The Department of the Interior under the last Administration recognized climate change impacts and devoted resources to help these Alaskan Native communities. And yet in this current administration there have been numerous reports of climate scientists being silenced, including a DOI scientist and policy office head who was removed from his post and moved to an accounting position in which he had no experience. He believes he was moved by the Secretary in retaliation because he spoke out about the impacts of climate change on Alaska Native communities.

- a. If you are confirmed, you will be charged with making management decisions for our federal public lands. Will you ensure that science is the basis of management decisions?
- b. Do you believe that climate change is caused by human activity as scientists have determined?
- c. Will you protect the Department's scientists and experts and ensure that they are free to express views and not retaliated against for doing their jobs?

Response to a, b, and c: Yes.

Question from Senator Steve Daines

Question: Mining and energy production are some of the backbones of Montana's economy. They provide reliable and high paying jobs, as well as providing needed minerals, coal, and energy to Montana and the world. As Assistant Secretary for Land and Minerals, will you work with me to ensure federal mineral production continues in a responsible manner?

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Response: Yes.

Question from Senator Joe Manchin III

Question 1: The President's budget proposes eliminating the Abandoned Mine Lands Economic Development Pilot Program which was part of the POWER Initiative. West Virginia has experienced a steep decline in coal production, and these funds go to communities directly impacted by the downturn of the coal industry. Furthermore, these funds were used for economic revitalization such as education initiatives for unemployed miners, investing in new infrastructure and advancing business development. This pilot program was unique because it included funding for abandoned mine land reclamation efforts in three states with great need: West Virginia, Pennsylvania, and Kentucky. The budget justification calls for the elimination of the program because it overlaps with existing mandatory AML grants. Unfortunately, because of the current formula, Appalachian States do not receive significant AML funds despite the fact that the area has been impacted the hardest by the downturn of the coal industry. I introduced the RECLAIM Act of 2017 to help with that but the budget raised a red flag for me.

Will you commit to working with me to find ways to promote the economic revitalization of the Appalachian region through reclamation?

Response: If confirmed, I would appreciate the opportunity to work with you further on this issue.

Questions from Senator Bill Cassidy

Question 1: Alaska and Louisiana share a common trait. The exploration and production of offshore energy helps stimulate our state economies and ultimately, benefits the nation. The Department has begun the process of executing a new 5-year OCS lease plan. How can we achieve the President's goals of energy dominance in this new plan? And what goals and objectives do you have, if any, for this new plan?

Response: The President seeks to increase responsible production of our energy resources, which will create jobs and increase revenue. I share that goal and look forward, if confirmed, to joining Secretary Zinke in the development and execution of a new 5-year plan as part of this effort.

Question 2: Last month the Energy Information Administration (EIA) published its short-term energy outlook. EIA forecasts West Texas Intermediate (WTI) spot prices to average \$50/b in 2018. EIA also estimates that natural gas prices will rise incrementally from a 2017 annual

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average of \$3.06/MMBtu to \$3.29/MMBtu in 2018. With that in mind, how can the Department increase onshore and offshore development while still maximizing the return to the US taxpayer?

Response: I believe it is important to incent development of our natural resources in order to best benefit the public interest, and I look forward to working with Secretary Zinke to advance the President's energy agenda, if confirmed.

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Questions from Senator Ron Wyden

Question 1: The Jordan Cove Energy Project is a proposed Liquefied Natural Gas (LNG) export terminal at the Port of Coos Bay in Southwestern Oregon. FERC denied the 232-mile pipeline and export facility project in 2016. In February, Jordan Cove entered into FERC's pre-filing phase, and expects to officially refile its application for FERC approval by the end of September. While there is considerable local support for Jordan Cove, there are also local concerns about the potential environmental impacts of the project and the use of eminent domain.

In April the Trump administration met with officials from Jordan Cove. After the meeting, *The Washington Post* reported that a Trump advisor stated "the first thing we're going to do is we're going to approve a pipeline in the Northwest." This statement generated a fair amount of controversy in Southern Oregon, and in response, our Oregon delegation of U.S. Senators sent a letter to Trump demanding that he avoid political interference in the FERC process.

I strongly believe that FERC – an independent agency with a longstanding tradition of bipartisanship and that operates under a deliberative process that includes broad stakeholder engagement and strict adherence to the law -- must be free from undue political influence.

Do you think it is appropriate for a senior White House official to exert public pressure on FERC to make a formal determination about any given project?

Should you be confirmed as a FERC commissioner, will you commit to avoiding, and when appropriate, reporting to the relevant authorities, any inappropriate activity that could be interpreted as political interference from the White House in FERC's deliberative permitting process in Oregon and nationwide?

Earlier this year, I requested president Trump restore bipartisanship at the Commission by nominating commissioners from both parties. How will you commit to working in a fair, balanced, bipartisan and transparent fashion during all of your FERC dealings?

Answer: FERC is an independent regulatory agency. It would be inappropriate for any White House official to pressure FERC through any means on the outcome of a particular Commission decision. If I am confirmed, I will avoid any political interference from the White House on all matters before the Commission.

FERC typically operates in a bipartisan fashion. I understand the vast majority of Commission decisions are unanimous. During my career – both in government and in the private sector – I have tried to commit myself to working on a bipartisan and transparent basis. I intend to bring this same attitude to the Commission should I be confirmed.

Question 2: I am concerned about abuse of eminent domain by the natural gas and pipeline industries in recent years, aided and abetted by premature and improper FERC authorization of

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eminent domain. A review of FERC's approval process is needed, because of the ramifications of the certificate, which grants the holder the ability to exercise eminent domain.

If confirmed, will you take steps to review, and revise if necessary, the eminent domain proceedings at FERC?

Also, can you commit to holding an evidentiary hearing, as articulated in FERC's official policy, when a significant amount of eminent domain is implicated in a project?

Answer: I understand that the Natural Gas Act statutorily conveys the ability to exercise eminent domain authority to the pipeline company once it has received a Certificate of Public Convenience and Necessity.

If confirmed, I will work with my colleagues to consider and address the concerns of landowners impacted by the Commission's pipeline siting process.

Question 3: Energy storage is one of the most rapidly growing energy technologies out there, and it can provide multiple benefits to the grid. Storage would also reduce the overall cost of electricity to American homes and businesses by allowing low-cost energy produced at night from any source to be stored to meet peak demand during the day when less efficient, more expensive generation sources are added to meet peak demand. Since this cycle repeats itself day in and day out, storage could help lower everyone's electric bills 365 days a year.

FERC currently has a proposal before the Commission to more effectively integrate electric storage resources into organized wholesale markets to enhance competition and help ensure that these markets produce fair and reasonable rates. Proponents of energy storage are concerned that the Commission is slow walking the rulemaking process.

To get my vote, I'm going to need to see you commit to removing unfair barriers to energy storage--and other emerging technologies, like distributed energy resources--in the wholesale electricity markets.

Do you agree FERC should be promoting technology-neutral competitive markets?

Will you be supportive of completing the current FERC energy storage rulemaking, in a way that gives storage a clear signal that it can participate in wholesale markets?

Answer: It is not FERC's role to promote any specific technologies. However, I believe it is imperative that FERC acts to eliminate barriers to technologies that constitute undue discrimination under the Federal Power Act, which may include rules that prevent a technology from participating in FERC-jurisdictional markets.

I do not believe it would be appropriate for me to comment on a specific matter that I may be called upon to vote. But I do commit to thoroughly reviewing the record associated with the

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proposed rulemaking that would remove barriers to the participation of electric storage and certain types of distributed generation in organized wholesale markets.

Question 4: A broad coalition in Oregon, including consumer advocates, electric utilities and environmental groups, has championed recent legislation to increase the renewable portfolio standard to 50% for our state. The state legislature made that decision and the governor signed that into law. Now, in some FERC-supervised markets, this sort of democratic process is under attack. FERC recently held a technical conference to explore those assaults on state authority.

Do you support the federal government trampling states' rights to pursue state energy policies, such as renewable portfolio standards? Or do you think states should have the authority to establish their own energy policy through their constitutional rights? Given that FERC has endorsed markets and competition for energy and ancillary services, is it your opinion that this approach can be successfully used for any and all providers of all reliability-related services?

Answer: States, not FERC, have traditionally had jurisdiction over utility resource decisions such as decisions to establish state renewable portfolio standards.

I believe reliability-related services can be successfully procured as a part of a competitive market but that these services are not necessarily reliant on the existence of a competitive market. Energy markets and the manner that ancillary services are obtained differ throughout the country. I believe that organized energy markets benefit consumers in those parts of the country that have adopted that structure. However, I also respect the decisions of other parts of the country to rely on a more traditional approach.

Question 5: The Pacific Northwest has a long history of beneficial bulk regional exchanges between California, taking advantage of the AC-DC Interties, a major high-voltage transmission import-export path which allows both regions to integrate unprecedented penetrations of renewables cost-effectively and reliability at scale. Inter-regional, and economically beneficial electricity transmission is often neglected by the utility industry because of divisions in service areas, states' boundaries, and preferences of utilities to take narrow view of economic benefits.

How will you facilitate the development of interregional transmission projects shown to provide more efficient or cost-effective solutions to regional needs?

How will you ensure that interregional evaluation processes and cost allocation methods encompass the full range of benefits (e.g., reliability, resilience, security, facilitating state policies, and congestion/planning reserve margin reduction) provided by interregional projects? What opportunities will each affected Regional Transmission Organization have to study the project proposals?

Answer: I understand that the Commission has explored the issue of interregional transmission development in recent years. In 2011, the Commission issued Order No. 1000, which attempted

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to improve coordination between neighboring transmission planning regions for new interregional transmission facilities. Order No. 1000 also required each public utility transmission provider to participate in a regional transmission planning process that has an interregional cost allocation method. My understanding is that, to date, the Commission has issued final orders approving interregional transmission coordination procedures for all the pairs of neighboring transmission planning regions that were required to comply with Order No. 1000, and has continued to examine issues related to interregional transmission development as these pairs implement their interregional transmission coordination procedures.

In June 2016 the Commission convened a technical conference that examined, among other things, interregional transmission coordination. During the technical conference, several speakers, as well as some FERC Commissioners, raised the issue of whether the Commission should do more to facilitate interregional transmission development. Following the technical conference, the Commission requested post-technical conference comments on several issues related to interregional transmission development. If confirmed, I look forward to reviewing the record and addressing this matter with my colleagues.

The Commission required in Order No. 1000 that, to be eligible for interregional cost allocation, an interregional transmission project must be selected in each region's regional transmission plan for purposes of cost allocation. As a result, Order No. 1000 provides that all potential interregional transmission projects must be considered through each transmission planning region's regional transmission planning process before those projects are eligible for interregional cost allocation, regardless of whether or not the transmission planning region is also a Regional Transmission Organization.

Question 6: Former FERC chairman Norman Bay made comments before he left, noting that it is "inefficient to build pipelines that may not be needed over the long term and that become stranded assets." He also suggested that simply considering precedent agreements may not be an adequate measure of need.

How would you define need for a gas pipeline? Is having customers for the pipeline's capacity enough? How is that decision-making changed if those customers are the same entities-- or affiliates of those entities--involved in seeking approval for the pipeline?

As commissioner, what steps would you take to promote public participation, transparency, and confidence in FERC's pipeline certification process by incorporating community, landowner and scientific inputs?

In your view, should FERC have a significantly different process for its certification of gas pipelines than it does for interstate transmission lines?

Answer: Pursuant to the Natural Gas Act, the Commission is required to determine that proposed interstate natural gas pipeline projects are consistent with the public convenience and necessity. Consideration of whether a pipeline is needed is part of that determination. The

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Commission issued a Policy Statement in 1999 outlining what factors FERC would look to in order to determine whether a proposed pipeline is needed. If confirmed, I look forward to reviewing Commissioner Bay's statement and the 1999 Policy Statement further to assess whether it accurately assesses need as part of the Commission's review process.

I believe that public engagement is essential to FERC's pipeline certification process. The Commission is required to issue decisions based on the facts set forth in the public record. This typically includes input from affected landowners, the general public, and other agencies. I look forward to addressing steps the Commission may take in promoting greater public participation, transparency, and trust in the pipeline certification process with my colleagues, if confirmed.

Congress has decided that FERC should have primary responsibility for the siting of interstate natural gas pipelines while the states should have the main responsibility over the siting of electric transmission lines. In 2005, Congress did grant the Commission limited backstop authority regarding the siting of electric transmission facilities. However, court decisions have strictly limited FERC's authority to narrow situations.

Question 7: Also in his departing comments from FERC, former chairman Bay noted that it is "in light of the heightened public interest and in the interests of good government, I believe the Commission should analyze the environmental effects of increased regional gas production from the Marcellus and Utica."

As Commissioner, if confirmed, can you commit to directing Commission staff to conduct such studies on new and expanded pipelines?

Answer: The Commission is responsible for complying with NEPA as part of its interstate natural gas pipeline certificate process. NEPA requires that FERC consider all reasonably foreseeable environmental impacts associated with the addition of a new pipeline. The U.S. Court of Appeals for the D.C. Circuit recently ruled that the Commission failed to properly comply with NEPA when it approved a pipeline project without adequately considering the downstream greenhouse gas emissions that will result from burning the natural gas that pipeline will transport. If confirmed, I commit to complying with NEPA's requirements.

Question 8: Chairman Bay also noted that "where it is possible to do so, the Commission should also be open to analyzing the downstream impacts of the use of natural gas and to performing a life-cycle greenhouse gas emissions study." It is my opinion that FERC should incorporate climate considerations into their evaluation of the environmental impacts of proposed natural gas pipelines and liquefied natural gas export facilities, as required under the National Environmental Policy Act.

As Commissioner, if confirmed, can you commit to including climate change considerations and analysis in the environmental review conducted on new and expanded pipelines?

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Answer: The Commission is responsible for complying with NEPA as part of its interstate natural gas pipeline certificate process. NEPA requires that FERC consider all reasonably foreseeable environmental impacts associated with the addition of a new pipeline. The U.S. Court of Appeals for the D.C. Circuit recently ruled that the Commission failed to properly comply with NEPA when it approved a pipeline project without adequately considering the downstream greenhouse gas emissions that will result from burning the natural gas that pipeline will transport. If confirmed, I commit to complying with NEPA's requirements.

Questions from Senator Bernard Sanders

Climate Change

Question 1: Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?

Answer: Yes. There is substantial evidence to conclude that greenhouse gas emissions associated with human activity are contributing significantly to climate change.

FERC does not regulate greenhouse gas emissions. That requires action from the states, Congress and other federal agencies, such as the Environmental Protection Agency. I believe that it is imperative that FERC acts to eliminate barriers to emerging technologies and services that constitute undue discrimination under the Federal Power Act, which may include rules that prevent participation in FERC-jurisdictional markets by sustainable energy sources.

Question 2: Energy prices impact all American families. Yet climate change poses catastrophic economic, environmental, and social threats to all Americans. Delaying action on climate change has severe long-term costs. Moreover, renewable energy sources like wind and solar are the cheapest available, and are not subject to the sorts of wild price fluctuations that we see with fossil fuels. When combined with aggressive energy efficiency, they can provide cheaper energy over the long term than dirty fossil fuels.

If confirmed, what steps will you take to help the U.S. transform its energy system, as quickly as possible, from one based on carbon-intensive fuels to one based on clean, sustainable fuels?

Answer: While FERC's policies are resource- and fuel-neutral, FERC can, however, eliminate barriers that are impeding the ability of electric generation technologies or energy efficiency products from being compensated for the value they provide wholesale electric markets. I commit to, if confirmed, working with my colleagues to eliminate these barriers, which could help reduce greenhouse gas emissions.

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In addition, as your question suggests, certain renewable electric generation technologies are increasingly cost competitive with more traditional forms of generation. Demand for renewable electricity will likely grow in competitive wholesale electric markets administered by FERC.

Question 3: What role do you see FERC has in increasing the reliability of the electric grid in the face of increasingly extreme weather like Hurricanes Harvey and Irma, while ensuring generation is sustainable?

Answer: As severe weather events increase, we must take seriously the need to protect reliability and enhance grid resilience. Pursuant to section 215 of the Federal Power Act, the Commission approves reliability standards that are developed by the North American Electric Reliability Corporation (NERC) and enforces those standards. The Commission may require NERC to develop a reliability standard to address a certain matter. The reliability standards are generally resource neutral. I understand that the Commission looks to NERC, which it certified as the Electric Reliability Organization, to perform event analysis for extreme weather events on an interconnection-wide basis. NERC's analysis considers the use and performance of all resources to assess the risks to reliability during extreme weather events. If confirmed, I will work with my colleagues on these matters.

Question 4: Are reforms needed to the wholesale markets to support distributed energy resources? If not, do you commit to ensuring that wholesale markets continue to support distributed energy resources? If so, what could be done to ensure wholesale markets better support distributed energy resources?

Answer: Distributed energy resources are primarily regulated at the state level and demand for these resources are mainly impacted by state policies. However, these resources also can benefit wholesale electric markets. For instance, energy storage facilities located behind the meter can offer voltage and frequency support that can maintain the reliability of the bulk power system. The wholesale markets, however, do not always compensate distributed energy resources for the value they provide.

Last year the Commission released a proposed rulemaking that would lower potential barriers energy storage and aggregated distributed energy resources may face to participate in the organized wholesale electric markets regulated by FERC. I do not believe it would be appropriate for me to comment on a specific matter that I may be called upon to vote. But I do commit to thoroughly reviewing the record associated with this proposed rulemaking, should I be confirmed.

Costs to Consumers

Question 5: In what ways can FERC prevent economic harm to low-income Americans?

Answer: The Commission is responsible for ensuring that the rates, terms, and conditions associated with transactions for the wholesale sale and transmission of electricity in interstate

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commerce and the interstate transportation of natural gas are just and reasonable and not unduly discriminatory.

FERC relies upon competitive markets to establish the just and reasonable rate for most wholesale sales of electricity. It is essential that the Commission uses its authorities to prevent market manipulation to ensure that the rates charged are not excessive.

Question 6: In Vermont, energy efficiency investments have saved \$279 million in avoided regional transmission system upgrades. What additional steps can FERC take to aggressively promote the use of energy efficiency and other strategies to avoid unnecessary expensive new transmission lines and new baseload power plants?

Answer: FERC has taken steps to allow demand resources, such as energy efficiency, to be integrated into the competitive markets it oversees. For example, customer demand resources must be considered on a comparable basis to the services provided by comparable generation resources in local transmission planning processes where appropriate. Additionally, public utility transmission providers must consider proposed non-transmission alternatives on a comparable basis when evaluating potential transmission solutions in their regional transmission planning processes. I also understand that PJM and ISO-NE, two of the organized markets FERC oversees, provide a mechanism for energy efficiency investments to participate in and receive compensation for their capacity value from the wholesale capacity market.

Question 7: If confirmed, will you commit to just and reasonable rates for consumers, not just for market participants?

Answer: Yes. One of FERC's most significant roles is protecting consumers.

Supporting the Policy Goals of Individual States

Question 8: Approximately 30 states have passed renewable portfolio standards. States are enacting these policies for a wide variety of reasons including fuel diversity, environmental benefits, and economic development. If confirmed, how would you act to protect these states' clean energy policy?

Answer: States, not FERC, have traditionally had jurisdiction over utility resource decisions, such as decisions to establish state renewable portfolio standards.

Question 9: While recognizing that FERC must place a premium on system reliability, many states have established aggressive energy policy goals. Vermont, for instance, is committed to reducing greenhouse gas emissions by 90% by 2050. Should you be confirmed, what steps will you take to give more weight to the policy goals of individual states like Vermont?

Answer: The states, not FERC, have authority over utility resource decisions such as the authority to require a particular generation mix to meet greenhouse gas emissions goals. If

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confirmed, I will balance FERC's responsibility to ensure that the grid is reliable and wholesale electricity rates are just and reasonable with the policy goals of individual states. On May 1-2, FERC held a technical conference to explore the interplay between wholesale markets and states' policy goals, including their support of particular resource attributes or externalities. If confirmed, I look forward to working with my colleagues to review the record in that proceeding.

Stakeholder Influence

Question 10: If confirmed, how will you work to prevent undue influence on FERC by the fossil fuel industry?

Answer: I commit that, if I am confirmed to serve as a Commissioner, I will not allow the fossil fuel industry or any other interested group to unduly influence any action I take. I also will work with my colleagues to promote transparent decision-making processes and for the Commission to reach out for input from affected parties that do not have the resources to sufficiently participate in FERC proceedings.

Question 11: One of FERC's most important responsibilities is to investigate market manipulation and enforce related rules. Is FERC devoting adequate resources to these enforcement activities? Are the fines sufficient? If confirmed, what steps will you take to sustain and improve on FERC's enforcement capacity and success?

Answer: If we are going to rely on competitive markets to produce just and reasonable wholesale electricity rates, it is imperative that those markets be free from market manipulation. Congress in 2005 gave FERC additional authority to prevent market manipulation. In my opinion, FERC's Office of Enforcement has done a good job of policing jurisdictional markets. If confirmed, I will work with my colleagues to ensure that the enforcement program continues to receive adequate resources and vigorously performs its duties.

Question 12: FERC is incredibly complicated, and the barrier to entry for someone to simply understand FERC proceedings, much less to participate, is extremely high. Stakeholders with considerable financial resources can participate, but everyone else is effectively excluded. How can FERC do a better job of ensuring all interested parties can meaningfully participate in FERC processes?

Answer: It is important that FERC's proceedings be transparent and accessible. As you point out, not all stakeholders potentially impacted by a Commission decision have the resources necessary to monitor Commission proceedings on a consistent basis. If confirmed, I will work with my colleagues to promote greater transparency and accessibility.

IMAPP and Regional Initiatives

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Question 13: New England has a regional ISO engaged in the process known as IMAPP – integrating markets and public policy. The ISO and FERC are beginning to acknowledge these administrative markets are in conflict with some of the objectives states have with regard to energy policy.

If confirmed, would you support efforts, such as in New England, to develop fixes to wholesale markets to better implement state policy goals?

Answer: The Commission held a technical conference on May 1-2 to examine the interplay of state policy goals and the wholesale energy and capacity markets. If confirmed, I look forward to reviewing the record in that proceeding.

Question 14: Energy markets do not accurately reflect environmental costs, including the social costs of carbon pollution. Do you believe that FERC and wholesale market operators should continue to explore how to better integrate the real cost of carbon pollution into our energy markets?

Answer: FERC's policies are resource- and fuel-neutral. If the states that comprise an RTO or ISO agree on a particular market design measure that prices greenhouse gas emissions, FERC could approve the measure if it meets the standards required by the Federal Power Act.

Question 15: The New England region saw considerable price increases in the region's forward capacity auctions (FCAs) in 2014. In recent auctions, costs have come down, while the region has been able to secure sufficient resources to maintain system reliability. Part of the reason why auction prices came down is because ISO-New England included more renewable energy in its installed capacity requirement (ICR). ISO-New England has continued to improve its inclusion of renewable energy in the ICR calculation, but could do better.

How can ISO-New England's consideration of energy, efficiency, renewable generation, and improved metrics in the forward capacity auctions that value the benefits of carbon-free generation help reduce system costs and improve system reliability?

Answer: Reducing system costs and ensuring reliability is important. As the costs of wind and solar power continue to decline, these resources are playing an increasingly important role in organized wholesale electric markets. I understand that, in recognition of certain public policy initiatives, ISO New England recently prioritized the modeling of behind the meter renewable resources in making adjustments to its ICR. Further, ISO New England and other independent system operators are seeking to accommodate efforts by the states to promote certain public policy initiatives. The Commission held a technical conference on May 1-2 on the issue of harmonizing wholesale market structures and state policy initiatives. I look forward to reviewing the record from the technical conference should I be confirmed.

Question 16: Large-scale renewable generation currently faces a large barrier for bidding into the FCAs because of upfront costs. If confirmed, will you commit to working with the New

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England ISO to continue reducing the barriers to including more renewables into the ICR and for bidding into its energy auctions?

Answer: The ISO New England's capacity market rules are complex, and constructing the ICR is an important part of those rules. I understand the importance of appropriately recognizing the increasing presence of renewable energy resources while keeping the grid reliable. If confirmed, I look forward to addressing this issue with my colleagues.

Natural Gas Pipeline Infrastructure

Question 17: While instilling important powers in the federal government, the Clean Water Act also ensures the protection and respect of states' rights. Section 401 of the Act explicitly states that no [federal] license or permit shall be granted until the certification required by this section has been granted or waived. Similarly, the U.S. Supreme Court has said Section 401 requires States to provide a water quality certification before a federal license or permit can be issued and without [Section 401] certification, FERC lacks authority to issue a license.

Given the language of the Clean Water Act and its interpretation by the Courts, do you think it appropriate that FERC is routinely issuing its Certificates of Public Convenience and Necessity for pipeline projects prior to all affected states rendering their decisions on Section 401 certification? If confirmed, will you commit to ensuring all relevant state level permits are granted prior to issuing a Certificate of Public Convenience and Necessity for any pipeline project?

Answer: I understand that it has been Commission policy to issue conditional certificates of public convenience and necessity for natural gas pipeline projects, and that those certificates preclude natural gas companies from commencing construction until they have obtained all necessary authorizations under federal law, including certification under the Clean Water Act. If confirmed, I commit to learning more about the reasons the Commission grants conditional certificates and the potential implications associated with doing so.

Question 18: Under federal law, a private party is not allowed to legally challenge FERC approval of a pipeline project until they have first submitted a rehearing request to FERC, and FERC has affirmatively granted or denied that request. Rather than do one or the other, FERC's practice has been to issue a tolling order in response to such requests, which puts the request under further consideration. The result is that communities are put into legal limbo, unable to challenge the FERC decision until a final grant or denial is issued from the agency. Routinely FERC leaves people in that legal limbo for months, and sometimes over a year, while it allows the applicant to exercise the power of eminent domain and advance construction.

Do you see the use of tolling orders as an abuse of power by FERC? If confirmed, will you commit to either affirmatively grant or deny a rehearing request?

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Answer: Both the Federal Power Act and the Natural Gas Act require that FERC issue a decision on a request for rehearing within 30 days or, if the Commission does not act within that time, the request will be automatically denied. FERC employs tolling orders, in part, because the Commission sometimes needs more than 30 days to sufficiently review and respond to a rehearing request.

However, in my opinion, the Commission sometimes takes far too long to issue a final decision on a rehearing request. These delays are unfair to parties seeking rehearing because they cannot seek review of a FERC decision in the Court of Appeals until the rehearing request is actually denied. If confirmed, I commit to working with my colleagues to expedite the Commission's review and final action on requests for rehearing.

Questions from Senator Al Franken

Question 1: As you know, FERC released Order 1000 to identify transmission needs and solicit competitive transmission projects by requiring regional transmission planning and interregional coordination. As the recently released DOE grid reliability study notes, transmission is critical to improving the reliability and resilience of the grid. Furthermore, both wind and solar need transmission to move the power from the rural places where it is generated to the urban markets where it is consumed. And a lack of transmission capacity is preventing further development of renewables. Do you support FERC Order 1000? What are the barriers to interregional transmission lines and what can FERC do to remove those barriers?

Answer: This country needs additional electric transmission capacity both to access remotely located renewable resources and to reduce congestion to enhance grid reliability and minimize consumer electric rates. I support the goals of Order No. 1000, which include promoting the identification of more efficient or cost-effective transmission facilities and removing certain obstacles to the development of those facilities.

In June 2016, FERC convened a technical conference to discuss competitive transmission development and the issues that have arisen associated with interregional transmission planning. If confirmed, I look forward to reviewing this record with my colleagues and addressing this issue with my colleagues.

Question 2: A few years ago during the severe winter polar vortex, coal stockpiles at utilities in Minnesota repeatedly dropped to dangerously low levels, due to inadequate rail delivery of coal. As a result, a number of coal power plants in Minnesota were idled. This impacted the reliability of the grid and increased costs for consumers, as they paid for the more expensive replacement power that was purchased to make up for lost generation. That's why I pressed FERC to work with all other stakeholders to find a solution to this ongoing problem.

- a. What do you think FERC should do to mitigate the problems with delivery of coal to our power plants?

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- b. Last Congress I introduced the legislation, which would require coordination among key federal agencies when a fuel emergency is declared. Do you think this coordination is a good idea, and how could FERC support such an effort?

Answer: Although FERC does not regulate the shipment of coal over the nation's rail lines, the Commission does have responsibility for ensuring that the bulk power system is reliable. It makes sense for relevant agencies to coordinate to prevent reliability problems. If confirmed, I will seek to work with key regulators on this issue.

Question 3: Because of its low prices, more and more Americans are using natural gas, both in homes and in industry. And the DOE Energy Information Administration projects that use of natural gas will continue to grow. At the same time, the federal government has approved more than 52 billion cubic feet per day of LNG exports—which is equal to about 70 percent of U.S. demand. Now, the natural gas industry wants more LNG exports because they can get a higher price overseas. This will increase the price of natural gas here in the U.S.—disproportionately harming domestic industries like the agricultural, paper, and metal manufacturing sectors that will suffer from higher natural gas and electricity prices. It will also increase the price of energy for U.S. families, and be especially burdensome on low-income households because they expend a higher percentage of their income on energy bills. I understand that part of the FERC's responsibility is ensuring just and reasonable electricity rates. So do you think that FERC has a role to play here to make sure we are not unnecessarily increasing the cost of energy for Americans?

Answer: FERC's authority over LNG is limited to siting and overseeing the physical LNG export facilities. Congress gave to DOE the authority to authorize LNG exports. As part of this authority, DOE is solely responsible for considering the impacts associated with LNG exports on domestic energy prices.

Question 4: As you know, FERC's approval process for natural gas pipelines has gained national attention. Former Chairman Norman Bay released a statement on his last day recognizing the increased public interest surrounding the approval process and encouraging the agency to change how it determines whether approving a pipeline is within the national interest. Traditionally, FERC has relied on a contract with potential shippers to show market demand and therefore demonstrate that a project is in the national interest. But, this is fairly myopic view and Mr. Bay suggests that more comprehensive cost-benefit analysis may be necessary. Mr. Bay also recommended that FERC consider the environmental impacts of increasing gas production allowed by pipeline construction as well as an assessment of lifecycle greenhouse gas emissions. Do you agree with the former Chairman's assessment? If not, why not, and if so, what changes would you suggest?

Answer: Pursuant to the Natural Gas Act, the Commission is required to determine that proposed interstate natural gas pipeline projects are consistent with the public convenience and necessity. Consideration of whether a pipeline is needed is part of that determination. The Commission issued a Policy Statement in 1999 outlining what factors FERC would look to in

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order to determine whether a proposed pipeline is needed. If confirmed, I look forward to reviewing Commissioner Bay's statement and the 1999 Policy Statement further to assess whether it accurately assesses need as part of the Commission's review process.

The Commission is responsible for complying with NEPA as part of its interstate natural gas pipeline certificate process. NEPA requires that FERC consider all reasonably foreseeable environmental impacts associated with the addition of a new pipeline. The U.S. Court of Appeals for the D.C. Circuit recently ruled that the Commission failed to properly comply with NEPA when it approved a pipeline project without adequately considering the downstream greenhouse gas emissions that will result from burning the natural gas that pipeline will transport. If confirmed, I commit to complying with NEPA's requirements.

Question 5: Senator Shaheen and I recently reintroduced legislation, the Public Engagement at FERC Act (S. 1240), that will improve public involvement at the FERC and facilitate advocacy at the agency on behalf of residential and small commercial energy consumers. Specifically, the Public Engagement at FERC Act would build off existing language in the Public Utility Regulatory Policy Act (PURPA) and establish an Office of Public Participation and Consumer Advocacy to ensure the public has a strong role in shaping our nation's energy future. It is important that anyone who assumes the role of a FERC Commissioner understands how their decisions are directly or even indirectly impacting private citizens. When FERC evaluates whether a project or agreement is "in the public interest" it is vital that the Commission indeed consult the public.

- a. Do you agree that public engagement should be prioritized during the various proceedings administered by FERC?
- b. If confirmed, what steps will you take to make commission proceedings and processes more accessible to the public?
- c. While I'm not asking you to weigh in on the legislation directly, do you agree with allowing more public participation in the agency through the creations of a dedicated office?

Answer: FERC's actions and decisions can have a significant impact on a variety of stakeholders, some of whom do not have the resources necessary to keep track of what the Commission is doing on a 24-hour, seven days-per-week basis. FERC should do what it can to reach out to the stakeholders to both inform them about ongoing proceedings and also to encourage them to provide input. If I am confirmed, I will work with my colleagues to improve the Commission's efforts aimed at enhancing public participation.

Approximately 40 years ago, Congress enacted legislation to establish an Office of Public Participation at FERC. That Office was never actually created because, as I understand it, Congress never appropriated the necessary funding. If Congress provides this funding, I will, if confirmed, work with my colleagues to ensure the Office encourages greater public participation.

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Question 6: In 2006, FERC started requiring wholesale generators to file Form 556 Certificate of Qualifying Facility (QF) Status for a small power production facility. I'm concerned that some small, community wind facilities across the country may have missed this change. These projects went through an extensive study process to facilitate interconnection of their wind projects with the transmission grid. These interconnections were ultimately approved by FERC as exempt wholesale generators and have been operating safely. However, in 2006 FERC established a filing requirement for all facilities larger than 1MW, but some missed this change. The filing requires announcing the total electricity generated by the QF.

In one case, a company MinWind failed to start filing with FERC, and subsequently sought a waiver from FERC for the Form 556 filing arguing that they did not know about the rule. But, the waiver was denied and the company was assessed a substantial repayment obligation equivalent to the interest that they have been unfairly accruing since 2006. The amount was large enough that they were forced to file for bankruptcy. While I do not know the specifics of this case, in general, this seems like an onerous requirement that if not handled appropriately could drive more companies into bankruptcy. Will you commit to working with me to find a solution to this issue?

Answer: I recognize the need to provide adequate notice of regulatory requirements to industry and have appropriate remedies for failures to comply. If confirmed, I look forward to working with you on this matter.

Question from Senator Steve Daines

Question: Baseload power generation is important for keeping the grid stable and efficient. Do you agree that we need to support and prioritize baseload generation, such as coal, natural gas and hydropower?

Answer: Baseload generation, along with more flexible electric generation resources, intermittent generation, such as wind and solar, energy efficiency, and demand response, have all contributed to the reliability of the bulk power system.

I believe FERC should not exercise its authority in a way that prioritizes any specific types of electric generation resources over others. Instead, the Commission must be a fuel-neutral regulatory body.

The Department of Energy's recent grid study concluded that recent retirements of baseload generation facilities have not adversely impacted electric grid reliability. The study did recommend, however, that policymakers examine whether future retirements will impair reliability. It is certainly an issue that should continue to be examined.

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Questions from Senator Joe Manchin III

Question 1: Regarding the Department of Energy's recently released grid reliability study, I would like to get your opinion on a couple of conclusions that the Department of Energy came to regarding the extent to which regulatory burdens as well as certain federal policies have forced the premature retirement of baseload power plants including:

1. The biggest contributor to coal and nuclear plant retirements has been the advantaged economics of natural gas fired generation.
2. Dispatch of variable renewable energy has negatively impacted the economics of baseload plant.
3. Investments required for regulatory compliance have also negatively impacted baseload plant economics, and the peak in baseload plant retirements (which occurred in 2015).

The Department then recommends developing a comprehensive strategy for long-term reliability and resilience.

Do you agree with these assumptions?

How will you work to address these challenges in your role at FERC?

Answer: I agree with the grid study's conclusions that low natural gas prices are the primary cause of the difficulties that coal and nuclear electric generation facilities have faced in competitive electric markets and that other factors, including increasingly cost competitive solar and wind renewable electricity generation and environmental regulations, have also played a role.

As I testified at my confirmation hearing, FERC does not show a preference for any particular fuel; rather, FERC's role is to ensure that the markets for the electricity generated proceed in accordance with law and remain just and reasonable and not unduly discriminatory. I believe FERC's role should be to take a hard look at the issues discussed in DOE's report, including the reliability and resilience implications, if any, of additional losses of baseload generation.

Question 2: Today, our reliability organizations and electric utilities are tasked with maintaining our electric grid in an increasingly challenging environment. A perfect storm of factors has put baseload units at risk. In the meantime, aging infrastructure, extreme weather events, the threat of cyberattacks, a rapidly changing fuel mix, and overregulation are increasingly testing our nation's electric grid. Several times throughout the month of January 2014, the upper Midwest and Mid-Atlantic experienced temperatures below zero. The Eastern portion of the PJM grid flirted with rolling blackouts. Interestingly, following the winter of 2014, AEP reported that nearly 90% of its coal plants scheduled for retirement ran during the Polar Vortex. Coal helped keep the lights on.

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Do you have concerns regarding the reliability and resiliency of our grid in light of the nuclear and coal-fired units that have gone off-line since the Polar Vortex or are scheduled to go off-line?

How are we valuing the reliability and resilience that certain fuel types offer?

Answer: The DOE grid study concluded that recent retirements of baseload electric generation, such as coal and nuclear units, have not adversely impacted grid reliability. The study did recommend that we should continue to monitor the potential reliability impact of further baseload generation retirements. FERC, NERC and DOE should do so.

With respect to resilience, the recent staff report by the DOE notes that criteria defining resilience are not yet well formulated. If confirmed, I would work with my colleagues to better understand grid resilience, how it can be measured, and whether the Commission needs to act to ensure that these attributes are further compensated.

Question 3: One of the major criticisms that I hear from West Virginians regarding pipelines that are being developed in our state is that FERC does not allow for enough public engagement and is “abusing” its power. As you know, there are several major pipelines being developed in the mid-Atlantic and Northeast. I support the environmentally responsible development of energy infrastructure as long as that development includes public engagement – particularly for landowners along the pipeline route – so that their voices are heard. Can you discuss how you will support public engagement at FERC and ensure that landowner and community concerns are appropriately addressed?

Answer: FERC’s actions and decisions can have a significant impact on a variety of stakeholders, including landowners and communities potentially impacted by a proposed natural gas pipeline. Some of these stakeholders do not have the resources necessary to keep track of what the Commission is doing on a 24-hour, seven days-per-week basis. FERC should do what it can to reach out to the stakeholders to both inform them about ongoing proceedings and also to encourage them to provide input. FERC has taken several actions aimed at further encouraging greater public participation in proceedings involving pipeline applications. If I am confirmed, I will work with my colleagues to further improve the Commission’s efforts aimed at enhancing public participation.

Questions from Senator John Hoeven

Question 1: Electric reliability is a critical issue, especially as it relates to baseload power and ensuring our country has the assets needed to maintain low-cost electricity.

For example, the previous Administration’s EPA has promulgated substantial new regulations on electricity producers that would have subjected them to unachievable mandates and artificial

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compliance schedules. Together, the EPA's attempts to reduce emissions would have driven up electricity rates for customers and potentially compromise the reliability of our power grid.

- How will you approach reliability issues going forward?
- What role can fossil fuels play in ensuring electric reliability and baseload power?

Answer: The Energy Policy Act of 2005 provided FERC the authority to approve and enforce mandatory standards (which are proposed by NERC) for the reliability of the bulk power system. Protecting the reliability of the grid is one of FERC's most important functions and, if I am confirmed, I will work with my colleagues to continue to prioritize grid reliability.

Fossil fuels, along with other electric generation resources, including nuclear, wind and solar, as well as energy efficiency and demand response, have all contributed to the reliability of the bulk power system.

I believe FERC should not exercise its authority in a way that prioritizes any specific types of electric generation resources over others. Instead, the Commission must be a fuel-neutral regulatory body.

The Department of Energy's recent grid study concluded that recent retirements of baseload generation facilities, much of which were coal plants, have not adversely impacted electric grid reliability. The study did recommend, however, that policymakers examine whether future retirements will impair reliability. It is certainly an issue that should continue to be examined.

Question 2: In order to become truly North American energy secure, we need the infrastructure to deliver our energy resources from producers to consumers. I have sponsored the North American Energy Infrastructure Act that would require FERC to approve natural gas import or export applications to Canada or Mexico within 30 days of filing.

- What is your view on the increased need for energy infrastructure?
- What is FERC's role in ensuring adequate pipeline capacity?
- Do you support efforts to increase our energy infrastructure network with Canada and Mexico?

Answer: Adequate infrastructure allows consumers to have access to a variety of energy resources. FERC reviews natural gas pipeline projects to determine whether they are consistent with the public convenience and necessity, which may include facilities for the import or export of energy with Canada and Mexico.

Question 3: In North Dakota, rural electric co-ops ensure that over 350,000 consumers have access to reliable and affordable electricity.

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The Federal Power Act exempts rural electric co-ops from FERC jurisdiction and this statutory exemption contributes to the state's affordable electricity rates.

- Do you plan to adhere to the Federal Power Act and continue to exempt rural electric co-ops from FERC jurisdiction?

Answer: Rural electric cooperatives that receive Rural Utilities Service financing or that sell less than 4 million MWh per year are exempt from most FERC regulation under the Federal Power Act. If confirmed, I commit to honoring this exemption.

Question 4: Two of the industries FERC regulates – electricity and natural gas – are growing closer together as gas increases its share in electricity markets. This ties together the reliability of natural gas supply and the reliability of electricity supply like never before. This makes it all the more important that gas pipelines get sited timely when they are needed and not get bogged down in environmental reviews that, in the name of being thorough, can be overly burdensome while adding questionable value. We have had projects delayed, for example, by consideration of greenhouse gas emissions. Fortunately the guidance requiring consideration of GHGs was rescinded in April.

Both Congress and the Administration have made it plain in law and by executive action that they want infrastructure reviews to be accelerated.

- Will you work to ensure that gas infrastructure is sited promptly and not unnecessarily delayed by overly bureaucratic reviews?

Answer: If confirmed, I look forward to reviewing the Commission's policies and processes for considering pipeline applications with my colleagues to ensure that all relevant factors are appropriately considered in the Commission's review process as efficiently as possible. FERC owes it to all stakeholders, not just the pipeline applicant, to make a decision on an application for a certificate of public convenience and necessity in a timely manner.

Question from Senator Bill Cassidy

Question: In your testimony, you referenced your goal of creating American jobs while reducing emissions. In 2016, India received the 4th largest amount of liquefied natural gas from the United States yet was the 4th largest emitter of CO₂ in 2015, due to 60% of energy coming from coal generation. What impacts do you believe a more robust American LNG export industry would have on global emissions and U.S. employment?

Answer: Electric sector greenhouse gas emissions will decline if natural gas-fired electric generating facilities replace some coal-fired generation. However, whatever gains that come from replacing coal with gas will be lost if methane emissions associated with the increased production and transportation of natural gas rise. It is important that industry take the necessary

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steps to minimize and prevent methane emissions to achieve greenhouse gas emission reductions associated with a switch from coal to gas generation.

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Questions from Ranking Member Maria Cantwell

Question 1: Chairman Murkowski and I tried to enact energy legislation last Congress that included reforms to hydroelectric licensing at FERC.

45 percent of FERC-licensed projects accounting for one-third of licensed capacity will begin pre-filing for new licenses by 2030. For many of these projects, it will be the first time they will participate in the licensing process Congress in 1986 amended the Federal Power Act directing FERC to given equal consideration to environmental factors.

I believe that, rather waiting for Congress to Act, FERC can, on its own, could make several changes that would improve interagency cooperation in the licensing process. For example, FERC could adjust how it implements its *ex parte* rules to encourage more of its sister federal agencies to accept cooperating agency status under the National Environmental Policy Act. FERC could also accept more requests from its sister agencies for studies likely to be required in any event under other federal statutes (e.g., the Endangered Species Act) at a later stage.

- If confirmed, will you help identify and reduce barriers to interagency cooperation within FERC's existing statutory authority?

Answer: Decision-making over hydropower licensing does not rest solely with the Commission. Other agencies are vested with mandatory conditioning authority. I believe that it is incumbent upon any agency, including FERC, to look for opportunities to reduce regulatory burdens while continuing to attend fully to its statutory responsibilities, and if I am confirmed I will work with my colleagues to help identify and address potential reductions in regulatory burdens associated with hydroelectric licensing and relicensing, including the potential for eliminating or reducing barriers to interagency cooperation in this area.

Question 2: Under its existing policy, FERC only considers investments in a hydroelectric project on a forward-looking basis as part of the licensing process. This creates a perverse incentive to delay potential investments that could benefit the environment and ratepayers.

The Commission recently asked for comments on whether it should revise its current policy with respect to establishing the length of new license terms for hydroelectric projects.

I have supported legislation to require the Commission to treat project investments by licensees under existing licenses (beyond those already required by the license) the same way it treats investments made under new licenses. This provision has been referred to as the "early action" provision. While accounting for prior investments may complicate the Commission's determination of an appropriate length license term, changing this policy could accelerate improvements in fish passage, turbine efficiency, and other project upgrades.

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- Will you commit to considering changing the Commission’s current policy with respect to establishing the length of hydroelectric license terms by removing the perverse incentive to delay investments under current licenses?

Answer: FERC issued a notice of inquiry in 2016 regarding its policy for setting new license terms for hydropower projects, which under the Federal Power Act must be between 30 and 50 years. The notice sought input on a number of issues, including “early action” and whether there should be a 50-year default license term. In response FERC has received written comments from numerous stakeholders, establishing a record for consideration of potential further steps. If confirmed, I will give these important issues the careful attention they deserve, including by evaluating the responses to the FERC notice, and I will address this matter with my colleagues.

Question 3: In 2013, Congress passed the Hydropower Regulatory Efficiency Act, directing FERC to investigate the feasibility of issuing a license for hydropower development at non-powered dams and closed loop pumped storage projects during a two-year period. FERC implemented a pilot program, ultimately applied to one non-powered dam project in Kentucky, and issued a license for the project within two years. FERC issued final report, required under the 2013 law, this past summer, following a final workshop in the spring.

- If confirmed, how would you approach the challenge of reducing disincentives in the licensing process and potentially inadequate compensation in the wholesale markets to the development of hydropower at existing non-powered multi-purpose dams and at appropriately sited and designed pumped storage projects?

Answer: As a supporter of an “all-of-the-above” strategy for satisfying our nation’s energy needs, I recognize the important role played by hydroelectric resources in helping to meet those needs and believe that hydropower should continue to play this role. The May 2017 FERC report you reference stated that hydropower licenses have been and can be issued in two years or less under certain circumstances. If confirmed, I look forward to discussing with my colleagues ways the Commission could further improve its processes regarding hydropower development.

Question 4: Unlike the Commodity Futures Trading Commission and the Securities and Exchange Commission, FERC cannot license or ban individual traders from trading in jurisdictional markets. It is estimated that more than 2,500 firms and thousands of individual traders participate in physical electricity and natural gas markets. Little is publicly known about which banks, hedge funds, utilities, and marketers are active players.

Furthermore, a repeat offender previously fined by FERC can continue to trade. A trader convicted of criminal fraud, or a former securities or commodities trader who had their securities or commodities trading license revoked would still be permitted to trade over FERC markets.

- Do you think that FERC should explore adopting a registry to keep track of repeat violators of market manipulation restrictions?

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- Do you think FERC should explore a licensing regime to, among other things, keep those convicted of market manipulation in other markets from participating in FERC-regulated markets?

Answer: As I noted at the confirmation hearing, I believe in a robust enforcement program. It is vitally important to enforce FERC's rules and regulations to deter fraud and manipulation in the markets FERC regulates. Recognizing the differences you note between FERC authority in this area and the corresponding authorities of the Commodity Futures Trading Commission and the Securities and Exchange Commission, I regard the civil penalty authority granted to FERC in the Energy Policy Act of 2005 as a formidable tool for addressing issues of market manipulation or, for that matter, any other violations of FERC requirements. This authority empowers FERC to impose civil penalties on violators in the amount of over \$1.2 million per day, per violation – an amount that exceeds the comparative civil penalty authority of most other federal agencies. I believe that FERC should, from time to time, review its existing policies to ensure they are functioning effectively, and if confirmed I commit to reviewing the Commission's enforcement policies to determine whether there are opportunities for improvement, including consideration of a possible registry or licensing regime as your question suggests.

Question 5: I am concerned that sophisticated energy traders can engage in schemes designed to manipulate energy markets without actually being in violation of a tariff on file with FERC. These traders argue that FERC's anti-manipulation authority does not apply if there is no specific tariff violation?

- Don't you believe that FERC's market manipulation authority can apply even if there is not a specific tariff violation?

Answer: In the Energy Policy Act of 2005, Congress gave FERC authority to police and punish market manipulation in FERC-regulated energy markets. In doing so Congress employed broad statutory language taken from our nation's securities laws, declaring it unlawful for anyone to use or employ "any manipulative or deceptive device or contrivance" in markets or activities overseen by FERC, without any reference to tariffs and thus without expressly limiting FERC's manipulation authority to tariff violation situations. I have had no occasion to review or consider the specific legal argument your question references, but if confirmed I commit that, in addressing issues concerning FERC's authority over market manipulation, I will base my decision-making and actions on careful review of the applicable law as applied to the specific situation at hand.

Question 6: The Federal Power Act limits FERC's jurisdiction with respect to certain utilities and FERC's authority to require participation in organized markets. Governmental entities and non-public utilities, including federal power marketing agencies, municipal utilities, rural electric cooperatives, and public utility districts, are exempt from most regulatory oversight by the Commission.

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- What is your understanding of the limitations on FERC's authority with respect to the Bonneville Power Administration?
- What is your understanding about FERC's authority to require utilities to participate in organized markets?
- Will you abide by these limitations if confirmed?

Answer: Pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), FERC's review of Bonneville's regional power and transmission rates is, as I generally understand it, limited to whether Bonneville's rates meet three specific requirements:

- (i) The rates must be sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting other costs;
- (ii) The rates must be based upon the Administrator's total system costs; and
- (iii) With respect to transmission rates, they must equitably allocate the costs of the Federal transmission system between the Federal and non-Federal power that uses the system.

The Federal Power Act also gives FERC authority over Bonneville with respect to electric reliability standards adopted pursuant to section 215 of that statute.

As to whether FERC has authority to mandate participation in the organized electricity markets it oversees, each such market is operated by a regional transmission organization (RTO) or independent system operator (ISO), and it is my understanding that the Commission has determined that the decision by a utility or other market participant whether to participate in an RTO or ISO is voluntary. If I am confirmed, as specific issues may arise concerning the FERC's authority in this area, I commit that I will base my decision-making and actions on careful review of the applicable law as applied to the situation at hand.

Question 7: Just before resigning, Commissioner Bay wrote a Concurring Opinion to an order granting a natural gas pipeline certificate in which he suggested that the Commission should reconsider its use of precedent agreements between pipelines and potential future customers to assess whether a proposed new pipeline is needed. In particular, Commissioner Bay argued that precedent agreements involving pipeline affiliates are particularly suspect.

- Do you agree with Commissioner Bay that the Commission should reexamine its policies for assessing whether a new pipeline is necessary? If not, why not?

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Answer: Under the Natural Gas Act of 1938, FERC must determine whether a proposed new pipeline project is consistent with the public convenience and necessity. As part of that determination, FERC has an obligation to consider whether the pipeline is needed. Accordingly, a detailed evaluation of pipeline need already is a longstanding component of FERC's legal process for evaluation of natural gas pipeline certificate applications. The currently effective formal policy governing this determination of pipeline need was adopted by the Commission in 1999. If confirmed, I commit that I will base my decision-making and actions on careful review of the applicable law as applied to the situation at hand. I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will give these important issues concerning pipeline need the careful attention they deserve and will work to ensure that the Commission's review process considers all relevant issues.

Question 8: Just before resigning, Commissioner Bay wrote a Concurring Opinion to an order granting a natural gas pipeline certificate in which he suggested that the Commission should engage in a broad regional assessment of the environmental impacts of the Marcellus and Utica shale gas development activities. Last month, the Court of Appeals for the D.C. Circuit vacated FERC's issuance of a certificate for the Southeast Market Pipelines Project because in its environmental impact statement FERC gave neither "a quantitative estimate of the downstream greenhouse emissions" nor "explained more specifically why it could not have done so."

- In light of the D.C. Circuit decision, do you believe FERC needs to change how it conducts environmental reviews of certificates of public convenience and necessity for natural gas pipelines?

Answer: I am aware of the D.C. Circuit decision you mention, and, if confirmed, I will carefully review the case and consider its implications for Commission policy in this area. I commit that I will base my decision-making and actions on careful review of the applicable law as applied to the specific situation at hand. I also believe, as noted above, that agencies periodically should review their policies to ensure they are effective, and if confirmed I will give these important issues concerning FERC consideration of downstream emissions the careful attention they deserve and will work to ensure that the Commission's review process considers all relevant issues.

Question 9: When FERC grants a Certificate of Public Convenience and Necessity to a proposed interstate natural gas pipeline, the developer is also granted eminent domain authority. Sometimes the eminent domain authority is used before the Commission has acted on a Request for Rehearing of its initial order and before a party to the proceeding has had an opportunity to seek judicial review of the order.

- Do you believe that a pipeline should have the opportunity to utilize eminent domain authority if it remains possible that the Commission, pursuant to a Rehearing Order, or an appellate court, can still issue an order reversing FERC's decision to grant the Certificate? Please explain.

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Answer: Since 1947, the Natural Gas Act has provided authority for the developer of a natural gas pipeline to use eminent domain. However, the exercise of that eminent domain authority is enforced not by FERC but rather by state and federal courts. Nonetheless, if confirmed, I will work to ensure that the Commission's processes appropriately address the concerns of landowners affected by infrastructure projects.

Question 10: Last year the Senate Energy and Natural Resources Committee held a hearing on natural gas pipelines. We heard testimony that, in some instances, existing natural gas pipelines are not being fully utilized. For instance, several interstate pipelines serving the northeast were not fully utilized during the Polar Vortex.

- Do you believe we should explore how to use existing natural gas pipeline capacity more efficiently before the Commission grants new Certificates to build additional pipeline capacity in the same region?

Answer: FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. As a general matter, I believe that it is important to make efficient use of existing natural gas pipeline capacity – and that our nation is likely to need additional natural gas pipeline infrastructure. Efficient use of existing pipeline capacity ensures that prior pipeline investment yields benefits to the public. Investment in new pipelines carries the potential to enhance the resilience of our nation's gas pipeline network and to facilitate other investment and economic growth in the energy sector and otherwise, likewise benefiting the public. I believe that FERC should, from time to time, review its existing policies to ensure they are functioning effectively, and if confirmed I commit to considering the potential for improvements in FERC certificate policy, as to these specific issues and otherwise.

Question 11: Both the Federal Power Act and the Natural Gas Act require that a rate or tariff change proposed by a jurisdictional utility or interstate natural gas pipeline goes into effect if the Commission fails to act within 60 days of the proposal. There have been instances in which a rate increase has been permitted to go into effect because a tie vote prevented the Commission from acting. An appellate court has ruled that, in those circumstances, a party opposing the rate increase has no standing to challenge the rate change in court because FERC never issued an order on the matter.

- Senator Markey has proposed legislation that would enable opponents of a rate or tariff change to seek judicial review even if the Commission fails to issue an order due to a tie vote. Do you support this legislation?

Answer: The 2016 D.C. Circuit decision your question references addressed the situation where a rate or tariff change took effect after 60 days, under operation of law, due to a two-to-two tie in voting among FERC Commissioners – a highly unusual scenario that failed to produce a FERC

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order supported by the required majority of the participating Commissioners. The court based its ruling on the express statutory requirement that “unless the Commission otherwise orders,” a proposed rate or tariff change will take effect upon “sixty days’ notice to the Commission and to the public.” I have had no occasion to review the referenced proposed legislation and thus have no sense of whether it would provide a remedy needed to address a meaningful defect in the current state of the law. As a general matter, however, I do support the ability of parties to a FERC proceeding who are adversely affected by a rate or tariff change to seek relief, both before the Commission and in court. In light of this view, I am glad that instances where proposed rate/tariff changes take effect due to a FERC voting tie are exceedingly rare.

Question 12: Cybersecurity vulnerabilities in our nation’s energy infrastructure pose grave national security and economic risks to the country. The Department of Homeland Security reported that 56% of cyber incidents against critical infrastructure in 2013 were directed at energy infrastructure. This number has since decreased: in 2016 it was down to 20%, but it is still too high. Although we have mandatory cybersecurity standards for electric utilities, natural gas pipelines are subject to merely voluntary guidelines issued by the Transportation Security Administration (TSA).

- Given the increased dependence on natural gas for power generation for many of FERC regulated utilities, don’t you agree that there should be a mandatory standards regime for gas pipeline cybersecurity, just as there is for electric utility cybersecurity?

Answer: It is my understanding that the Transportation Security Administration (TSA) has the authority to establish mandatory cybersecurity regulations for natural gas pipelines. Thus, I consider it more appropriate for Congress and the TSA to address the adequacy of TSA’s natural gas pipeline cybersecurity program. I further understand that TSA is reviewing its voluntary cybersecurity guidelines for pipelines and that FERC staff has offered to assist the TSA on this matter.

Question 13: Since 1978, Section 210 of the Public Utility Regulatory Policies Act (PURPA) has required monopoly utilities to purchase competitive renewable energy from independent producers. While Congress has relaxed this requirement for utilities in organized electric markets, PURPA remains a key driver of renewable energy and competitive prices in the West and the Southeast.

In June 2016, FERC held a technical conference on the implementation of PURPA. Utilities used the technical conference to argue for greater FERC intervention to limit opportunities for small renewable energy developers. I believe state commissions already have many ways to tailor the must-purchase requirement to address local concerns. I am deeply skeptical about utilities running to Congress and FERC when they don’t get their way with their own regulators.

- Do you agree that regulators in traditional monopoly states have powerful ways to adjust the “must-purchase” requirement under PURPA?

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- Given the states' own authority under PURPA, why would FERC need to intervene to limit one of the only federal mechanisms that encourage independent power production in those states?

Answer: I agree that both FERC and the states have a role to play under PURPA. Although any major changes to PURPA must come from Congress, I note that FERC convened a technical conference last year to discuss issues related to the statute's implementation. If confirmed I will give these important PURPA issues the careful attention they deserve and will work to determine whether there are opportunities for improvements to FERC policy in this area.

Question 14: Would you continue FERC's encouragement of a holistic approach to transmission planning that incorporates non-wires alternatives, high-voltage transmission lines, and advanced transmission technologies (such as high-capacity and high-efficiency conductors, compact transmission towers, and variable frequency transformers)?

Answer: FERC's Order Nos. 890 and 1000 require open, transparent transmission planning processes for public utility transmission providers, which provide an opportunity to consider various transmission alternatives in order to identify more efficient or cost-effective solutions to transmission needs. I support the goal of these efforts and if confirmed would look for opportunities to ensure that FERC policy in this area continues to encourage consideration of the full range of potential solutions to transmission needs.

Question 15: FERC Order No. 1000, which among other things, requires regional transmission planning, has received mixed reviews in part because it has not led to the development of transmission lines connecting separate energy planning regions, which would help access remotely located renewable electricity resources, such as wind and solar.

- What do you believe FERC should do, if anything, to encourage interregional transmission planning?

Answer: Last year, the Commission held a technical conference to address issues related to the competitive transmission development processes that were established to comply with Order No. 1000, which included a discussion of issues related to interregional transmission coordination and regional transmission planning. I believe that it could be beneficial to further develop that record and to continue discussions with stakeholders regarding interregional planning. If confirmed, I look forward to addressing this issue with my colleagues.

Question 16: FERC is responsible for protecting against corporate affiliate abuse in a variety of transactions, including power sales and facility acquisition. Transactions between a public utility and a merchant affiliate can expose the utility's captive customers to cross-subsidizing the affiliate and its shareholders.

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- Are you familiar with the provisions of the Federal Power Act that prohibit public utilities from inappropriately cross-subsidizing non-utility corporate affiliates?
- Will you commit to enforcing existing FERC standards applied to reviewing market rate contracts between corporate affiliates?
- Do you agree that the transfer of facilities subject to FERC jurisdiction between a public utility and its merchant affiliate must always be scrutinized for cross-subsidization?

Answer: I am familiar with the provisions of section 203 of the Federal Power Act that prohibit public utilities from inappropriately cross-subsidizing non-utility corporate affiliates, and with the Commission's policies under section 205 of the Federal Power Act that protect customers from the effect of inappropriate cross-subsidization between a public utility and its market regulated power sales affiliates. FERC's regulations likewise address these matters in detail. I also am aware of Commission precedent that applies to market rate contracts between corporate affiliates. If confirmed, I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand.

Questions from Senator Ron Wyden

Question 1: The Jordan Cove Energy Project is a proposed Liquefied Natural Gas (LNG) export terminal at the Port of Coos Bay in Southwestern Oregon. FERC denied the 232-mile pipeline and export facility project in 2016. In February, Jordan Cove entered into FERC's pre-filing phase, and expects to officially refile its application for FERC approval by the end of September. While there is considerable local support for Jordan Cove, there are also local concerns about the potential environmental impacts of the project and the use of eminent domain.

In April the Trump administration met with officials from Jordan Cove. After the meeting, *The Washington Post* reported that a Trump advisor stated "the first thing we're going to do is we're going to approve a pipeline in the Northwest." This statement generated a fair amount of controversy in Southern Oregon, and in response, our Oregon delegation of U.S. Senators sent a letter to Trump demanding that he avoid political interference in the FERC process.

I strongly believe that FERC – an independent agency with a longstanding tradition of bipartisanship and that operates under a deliberative process that includes broad stakeholder engagement and strict adherence to the law -- must be free from undue political influence.

Do you think it is appropriate for the White House to throw its support behind a project that FERC has yet to make a formal determination about?

Answer: Senator Wyden, let me first thank you for the time you took to meet with me recently to discuss important FERC issues, including this one.

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FERC is indeed an independent agency, and I share your view that FERC must conduct its work in a manner that is free from undue political influence. If confirmed by the Senate, that is the approach that I intend to reflect in all my activities and decision-making at FERC. Situations often arise where public officials from all branches of government publicly express their opinions – sometimes in very strong terms – about actions that they believe should be taken by FERC. The Commission’s role is to ensure that its decision-making is based on the legal requirements FERC is charged with administering, following due process, allowing as appropriate for stakeholder and public input and taking into account the views expressed, all while ensuring avoidance of improper political influence. Preserving and adhering to the integrity of this process is important – to FERC as an institution and to me personally. To do otherwise would be inconsistent with FERC’s role as an independent agency. If I am confirmed, that is the approach I will bring to FERC.

Should you be confirmed as a FERC commissioner, will you commit to avoiding any step that could be interpreted as political interference from the White House in FERC’s deliberative permitting process in Oregon and nationwide?

Answer: Consistent with my recognition of FERC’s important role as an independent agency, I gladly commit that if confirmed to FERC I will base my actions and decisions there on the legal requirements FERC is charged with administering, following due process, allowing as appropriate for stakeholder and public input and taking into account the views expressed, all while ensuring avoidance of improper political influence from any outside public official or governmental entity. As I note in my prior response, preserving and adhering to the integrity of this process is important to me, and, if I am confirmed, that is the approach I will bring to FERC, with regard to matters affecting Oregon or any other part of the country.

Earlier this year, I requested president Trump restore bipartisanship at the Commission by nominating commissioners from both parties. How will you commit to working in a fair, balanced, bipartisan and transparent fashion during all of your FERC dealings?

Answer: You reference FERC’s longstanding tradition of bipartisanship. In my years of legal practice before FERC, I have observed that tradition and have developed a strong appreciation for it. I commit that, if I am confirmed by the Senate, the focus of my decision-making and actions at FERC will be rigorous adherence to the legal requirements FERC is charged with administering, while following processes that are appropriately open, transparent and fair. Consistent with FERC’s bipartisan tradition, I expect this approach to result in FERC decisions that are supported by Commissioners from both political parties.

Question 2: I am concerned about abuse of eminent domain by the natural gas and pipeline industries in recent years, aided and abetted by premature and improper FERC authorization of eminent domain. A review of FERC’s approval process is needed, because of the ramifications of the certificate, which grants the holder the ability to exercise eminent domain.

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If confirmed, will you take steps to review, and revise if necessary, the eminent domain proceedings at FERC?

Also, can you commit to holding an evidentiary hearing, as articulated in FERC's official policy, when a significant amount of eminent domain is implicated in a project?

Answer: Since 1947, the Natural Gas Act has provided authority for the developer of a natural gas pipeline to use eminent domain. The exercise of that eminent domain authority is enforced not by FERC but rather by state and federal courts. Nonetheless, if confirmed, I will work with my colleagues to ensure that the Commission's processes appropriately address the concerns of landowners affected by infrastructure projects.

Question 3: Energy storage is one of the most rapidly growing energy technologies out there, and it can provide multiple benefits to the grid. Storage would also reduce the overall cost of electricity to American homes and businesses by allowing low-cost energy produced at night from any source to be stored to meet peak demand during the day when less efficient, more expensive generation sources are added to meet peak demand. Since this cycle repeats itself day in and day out, storage could help lower everyone's electric bills 365 days a year.

FERC currently has a proposal before the Commission to more effectively integrate electric storage resources into organized wholesale markets to enhance competition and help ensure that these markets produce fair and reasonable rates. Proponents of energy storage are concerned that the Commission is slow walking the rulemaking process.

To get my vote, I'm going to need to see you commit to removing unfair barriers to energy storage--and other emerging technologies, like distributed energy resources--in the wholesale electricity markets.

Do you agree FERC should be promoting technology-neutral competitive markets?

Answer: FERC's role in overseeing our nation's electricity markets – which includes ensuring that rates, terms and conditions for transactions in those markets be just and reasonable and not unduly discriminatory – is one of its most important functions. You note the proposal currently pending before FERC to remove barriers to the participation of electric storage resources and distributed energy resource aggregations in wholesale electricity markets overseen by FERC. Although it would not be appropriate for me to suggest a view on that pending matter, I gladly commit that if confirmed to FERC I will give these important issues the careful attention they deserve.

Will you be supportive of completing the current FERC energy storage rulemaking, in a way that gives storage a clear signal that it can participate in wholesale markets?

Answer: Although it would not be appropriate for me to suggest a view on this pending rulemaking proceeding, I gladly commit that if confirmed to FERC I will review the record

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carefully and will give the important issues raised by the energy storage rulemaking proceeding the careful attention they deserve.

Question 4: A broad coalition in Oregon, including consumer advocates, electric utilities and environmental groups, has championed recent legislation to increase the renewable portfolio standard to 50% for our state. The state legislature made that decision and the governor signed that into law. Now, in some FERC-supervised markets, this sort of democratic process is under attack. FERC recently held a technical conference to explore those assaults on state authority.

Do you support the federal government trampling states' rights to pursue state energy policies, such as renewable portfolio standards? Or do you think states should have the authority to establish their own energy policy through their constitutional rights? Given that FERC has endorsed markets and competition for energy and ancillary services, is it your opinion that this approach can be successfully used for any and all providers of all reliability-related services?

Answer: I respect states' authority to make resource decisions that are within their jurisdiction. FERC, too, has authority relevant to this issue – its statutory obligation to ensure just and reasonable wholesale electricity rates. As you note, the Commission held a technical conference regarding the interaction between state initiatives and FERC-jurisdictional wholesale electricity markets. If I am confirmed, I look forward to reviewing the record in the Commission's proceeding and discussing these issues with my colleagues.

To your last question, concerning FERC-regulated organized markets for energy and ancillary services, these markets have been said to have yielded consumer benefits in the regions that have adopted them. Each such market is operated by a regional transmission organization (RTO) or independent system operator (ISO), and the decision by a utility or other market participant whether to participate in an RTO or ISO is voluntary. The existence of regions of the country where no such organized markets operate is a reflection of these voluntary decisions by market participants in the aggregate. I believe that it is incumbent upon any agency, including FERC, to look for opportunities to improve its policies while continuing to assure full adherence to the legal requirements it oversees, and if I am confirmed I will work with my colleagues to help identify and address potential policy improvements in this area.

Question 5: The Pacific Northwest has a long history of beneficial bulk regional exchanges between California, taking advantage of the AC-DC Interties, a major high-voltage transmission import-export path which allows both regions to integrate unprecedented penetrations of renewables cost-effectively and reliability at scale. Interregional, and economically beneficial electricity transmission is often neglected by the utility industry because of divisions in service areas, state's boundaries, and preferences of utilities to take narrow view of economic benefits.

How will you facilitate the development of interregional transmission projects shown to provide more efficient or cost-effective solutions to regional needs?

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Answer: FERC held a technical conference on this issue earlier this year and subsequently requested post-technical conference comments. This proceeding has provided the Commission with a record detailing various commenters' concerns with current interregional transmission coordination procedures, as well as their suggestions for supporting more efficient or cost-effective interregional transmission development. If confirmed, I look forward to reviewing this record and addressing this issue with my colleagues.

How will you ensure that interregional evaluation processes and cost allocation methods encompass the full range of benefits (e.g., reliability, resilience, security, facilitating state policies, and congestion/planning reserve margin reduction) provided by interregional projects? What opportunities will each affected Regional Transmission Organization have to study the project proposals?

Answer: In the technical conference proceeding noted above, participants have raised issues relating to the evaluation processes and interregional cost allocation methods that apply to interregional transmission facilities. If confirmed, I look forward to reviewing this record and addressing these issues with my colleagues.

In response to your last question, regarding opportunities for Regional Transmission Organization study of project proposals, FERC Order No. 1000 required that an interregional transmission project be selected in each region's regional transmission plan for purposes of cost allocation in order to be eligible for interregional cost allocation. Thus, Order No. 1000 provides that potential interregional transmission projects must be considered through each transmission planning region's regional transmission planning process before they are eligible for interregional cost allocation. These Order No. 1000 requirements apply to all public utility transmission providers, not just Regional Transmission Organizations.

Question 6: Former FERC chairman Norman Bay made comments before he left, noting that it is "inefficient to build pipelines that may not be needed over the long term and that become stranded assets." He also suggested that simply considering precedent agreements may not be an adequate measure of need.

How would you define need for a gas pipeline? Is having customers for the pipeline's capacity enough? How is that decision-making changed if those customers are the same entities-- or affiliates of those entities--involved in seeking approval for the pipeline?

Answer: Under the Natural Gas Act of 1938, FERC must determine whether a proposed new pipeline project is consistent with the public convenience and necessity. As part of that determination, FERC has an obligation to consider whether the pipeline is needed. Accordingly, a detailed evaluation of pipeline need already is a longstanding component of FERC's legal process for evaluation of natural gas pipeline certificate applications. The currently effective formal policy governing this determination of pipeline need was adopted by the Commission in 1999. If confirmed, I commit that I will base my decision-making and actions on careful review of the applicable law as applied to the situation at hand. I also believe that agencies periodically

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should review their policies to ensure they are effective, and if confirmed I will give these important issues concerning pipeline need the careful attention they deserve and will work to ensure that the Commission's review process considers all relevant issues.

As commissioner, what steps would you take to promote public participation, transparency, and confidence in FERC's pipeline certification process by incorporating community, landowner and scientific inputs?

Answer: FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. As a general matter I believe that providing for public input into FERC proceedings and processes instills confidence in the Commission's determinations. I also believe that agencies should review their policies from time to time to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues, including affording adequate opportunities to address the concerns of landowners and other members of the public affected by infrastructure projects or concerned about other relevant issues, including those pertaining to scientific matters.

In your view, should FERC have a significantly different process for its certification of gas pipelines than it does for interstate transmission lines?

Answer: With respect to infrastructure certification and associated issues of siting, interstate natural gas pipelines and interstate electric transmission facilities raise similar issues. As your question suggests, however, each facility type has its own, separate legal framework governing the applicable siting process. Authority over interstate natural gas pipeline certification resides exclusively with FERC under the Natural Gas Act of 1938. However, most siting of electric transmission facilities, including those utilized for the provision of transmission services subject to the jurisdiction of FERC, is subject to processes overseen by the various states. In the Energy Policy Act of 2005, Congress gave FERC special siting authority for electric transmission projects located within high priority regions identified by the U.S. Department of Energy (DOE) as National Interest Electric Transmission Corridors, essentially transferring the state's traditional transmission siting role to FERC within such Corridors under circumstances Congress deemed appropriate to address transmission needs therein. This FERC role became known as its "backstop siting authority," and pursuant to this authority FERC adopted implementing regulations for its use, based in part on its extensive experience with the siting of natural gas pipelines. However, FERC's backstop siting authority for electric transmission has been severely restricted by court decisions. I believe that FERC should, from time to time, review its existing policies to ensure they are functioning as effectively as they can, and if confirmed I commit to reviewing the Commission's policies to determine whether there are opportunities for improvement, despite the challenges presented by the court decisions.

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Question 7: Also in his departing comments from FERC, former chairman Bay noted that it is “in light of the heightened public interest and in the interests of good government, I believe the Commission should analyze the environmental effects of increased regional gas production from the Marcellus and Utica.”

As Commissioner, if confirmed, can you commit to directing Commission staff to conduct such studies on new and expanded pipelines?

Answer: FERC’s process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements under the Natural Gas Act, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. This necessary legal review also requires taking into account relevant developments in appellate court decisions, and in this respect a recent decision of the U.S. Court of Appeals for the D.C. Circuit is likely to require careful review because it overturned a FERC pipeline approval on grounds pertaining to the sufficiency of FERC’s consideration of greenhouse gas emissions associated with the downstream usage of the natural gas to be transported by the pipeline at issue. Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission’s policies for considering pipeline applications to ensure that the Commission’s review process considers all relevant issues.

Question 8: Chairman Bay also noted that “where it is possible to do so, the Commission should also be open to analyzing the downstream impacts of the use of natural gas and to performing a life-cycle greenhouse gas emissions study.” It is my opinion that FERC should incorporate climate considerations into their evaluation of the environmental impacts of proposed natural gas pipelines and liquefied natural gas export facilities, as required under the National Environmental Policy Act.

As Commissioner, if confirmed, can you commit to including climate change considerations and analysis in the environmental review conducted on new and expanded pipelines?

Answer: As I have noted in my response to Question 7, FERC’s process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements under the Natural Gas Act, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. It is my understanding that current Commission requirements already require consideration of the greenhouse gas emissions associated with the construction and operation of proposed natural gas facilities, as well as impacts potentially resulting from climate change over the region in which the facility is located in conducting its environmental analysis for the project.

The necessary legal review also requires taking into account relevant developments in appellate court decisions, and in this respect the recent D.C. Circuit case I reference above is likely to require careful review by FERC because it overturned a FERC pipeline approval on grounds

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pertaining to the sufficiency of FERC's consideration of greenhouse gas emissions associated with downstream usage of the natural gas to be transported by the pipeline at issue. Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues, including as appropriate the climate issues raised by your question.

Questions from Senator Bernard Sanders

Climate Change

Question 1: President Trump has suggested in the past that climate change is a hoax. Is the President correct? Is climate change a hoax?

Answer: My general understanding is that Earth's climate has been in a state of constant change for as long as the planet has existed. I do not regard climate change as a hoax.

Question 2: Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?

Answer: I believe that climate change is indeed real and that it is affected by numerous factors including human activity. FERC is not an environmental regulatory agency, and, under longstanding policies of fuel-neutrality, FERC does not make determinations regarding the selection of fuels used to satisfy our nation's energy needs.

Question 3: Do you agree with the vast majority of scientists that the combustion of fossil fuels contributes to climate change?

Answer: My general understanding is that climate change is affected by numerous factors, including human activity such as the combustion of fossil fuels.

Question 4: Do you believe that FERC has a role in reducing the extraction and use of fossil fuels?

Answer: It is my understanding that neither the Natural Gas Act nor any other law assigning statutory responsibilities to FERC gives FERC any direct role regarding the extraction or use of fossil fuels.

Question 5: If confirmed, what steps will you take at FERC to help the U.S. transform its energy system as quickly as possible from one based on carbon-intensive fuels to one based on clean, sustainable fuels?

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Answer: Congress has charged FERC with carrying out certain specified statutory responsibilities. The policies implemented by FERC in fulfilling those responsibilities are recognized as being resource-neutral and fuel-neutral. However, the energy industry is changing, which warrants continued evaluation of the performance and structure of the energy markets FERC oversees. Against that backdrop, the Commission held a two-day technical conference in May to explore the interplay between wholesale markets and state policy goals, including state support of particular energy resource types. Interested parties have filed post-technical conference comments, and if confirmed, I look forward to reviewing the record and discussing these matters with my colleagues.

Question 6: If confirmed, how will you work to address climate change?

Answer: Under the laws passed by Congress that determine FERC's jurisdiction, FERC does not have a climate change mission. FERC is not an environmental regulatory agency, and, under longstanding policies of fuel-neutrality, FERC does not make determinations regarding the selection of fuels used to satisfy our nation's energy needs, whether to address climate change or any other environmental issue.

Question 7: What do you believe are the best ways to achieve a sustainable, carbon-free energy future?

Answer: In light of the limitations on FERC's regulatory role as noted above, it would not be appropriate for me to suggest a FERC course of action intended to achieve policy results that are beyond FERC's jurisdiction.

Question 8: What role do you see FERC has in increasing the reliability of the electric grid in the face of increasingly extreme weather like Hurricanes Harvey and Irma, while ensuring generation is sustainable?

Answer: Under section 215 of the Federal Power Act, FERC reviews reliability standards for approval and enforces those standards. The reliability standards are largely resource-neutral. My understanding is that FERC looks to NERC to perform event analysis for extreme weather events on an interconnection-wide basis; such broad analysis considers the use/performance of all resources to assess reliability risks during the weather event. If confirmed, I look forward to working with my colleagues and engaging stakeholders on these matters.

Question 9: Energy prices impact all American families. Yet climate change poses catastrophic economic, environmental, and social threats to all Americans. Delaying action on climate change has severe long-term costs. Moreover, renewable energy sources like wind and solar are the cheapest available, and are not subject to the sorts of wild price fluctuations that we see with fossil fuels. When combined with aggressive energy efficiency, they can provide cheaper energy over the long term than dirty fossil fuels.

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If confirmed, what steps will you take to help the U.S. transform its energy system, as quickly as possible, from one based on carbon-intensive fuels to one based on clean, sustainable fuels?

Answer: Under the laws passed by Congress that determine FERC's jurisdiction, FERC does not have a climate change mission. In light of this limitation on FERC's regulatory role, it would not be appropriate for me to suggest a FERC course of action intended to achieve policy results that are beyond FERC's jurisdiction.

Question 10: Are reforms needed to the wholesale markets to support distributed energy resources? If not, do you commit to ensuring that wholesale markets continue to support distributed energy resources? If so, what could be done to ensure wholesale markets better support distributed energy resources?

Answer: FERC has sought to remove barriers to the participation of distributed energy resources in the wholesale markets it oversees. Last year, FERC issued a Notice of Proposed Rulemaking on Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators. This notice proposed to address barriers to distributed energy resources' participation in the organized wholesale energy markets overseen by FERC by allowing such resources to participate in those markets through a process of resource aggregation. If confirmed, I look forward to reviewing the comments the Commission received in response to the proposal and giving this issue the attention it deserves.

Question 11: What steps can FERC take to prioritize dispatching clean distributed renewable energy before dispatching fossil fuel generation?

Answer: The markets operated by the FERC-regulated Regional Transmission Operators (RTOs) and Independent System Operators (ISOs) dispatch electric generation resources to meet electric demand for the relevant time period, and generally they do so on a least-cost basis. The owner-operators of electric generating resources (of the full range of fuel types) make offers to sell their electric output into these markets, based on their marginal cost of production. The RTOs/ISOs assess the various offers to sell, in the aggregate, and accept/purchase offered electricity in an amount sufficient to satisfy the overall market's demand for the relevant time period. This "clearing" process is designed to minimize costs to electricity consumers while recognizing transmission constraints and other reliability issues. Many renewable energy resources have no fuel costs, and have low or zero marginal costs, and thus are economic to dispatch whenever they are available. Thus, the RTO/ISO markets generally dispatch these resources fully, unless transmission lines become overloaded or other reliability constraints prevent their full dispatch.

Question 12: If confirmed, will you commit to encouraging utilities around the country to dramatically expand rooftop solar and other types of distributed generation?

Answer: Under the laws passed by Congress that determine FERC's jurisdiction, FERC does not direct or encourage particular forms of electric generation facilities, whether of a distributed

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nature (such as rooftop solar) or otherwise. In light of this limitation on FERC's regulatory role, it would not be appropriate for me to suggest a FERC course of action intended to achieve policy results that are beyond FERC's jurisdiction.

Question 13: If confirmed, will you support the development of large and small-scale storage, which will make our grid more resilient and encourage the buildout of renewable energy technology?

Answer: As a general matter, I believe that our nation should rely on a wide range of resources to address its energy needs, including renewable and electric storage resources. FERC recently took steps to assess potential barriers to the participation of electric storage resources in the organized wholesale electric markets overseen by FERC. If confirmed, I look forward to reviewing this matter carefully and addressing it with my colleagues.

Question 14: Do you see a role for FERC in encouraging ancillary and reliability services markets to ensure all generators can compete to provide services to maintain grid reliability and get compensated for those services?

Answer: FERC-regulated organized markets for energy and ancillary services have yielded consumer benefits in the regions that have adopted them. Each such market is operated by a regional transmission organization (RTO) or independent system operator (ISO), and the decision by a utility or other market participant whether to participate in an RTO or ISO is voluntary. Thus, there are regions of the country where no such organized markets operate, reflecting these voluntary decisions by market participants in the aggregate. I believe that it is incumbent upon any agency, including FERC, to look for opportunities to improve its policies while continuing to assure full adherence to the legal requirements it oversees, and if I am confirmed I will work with my colleagues to help identify and address potential policy improvements in this area.

Question 15: The Public Utility Regulatory Policy Act (PURPA) allows industrial companies to build and operate combined heat and power (CHP) and waste heat to power (WHP) facilities that can simultaneously produce economical steam and electricity with energy efficiencies up to 80 percent. Do you support maintaining PURPA as currently enacted?

Answer: I am familiar with PURPA and the respective roles it assigns to FERC and the states. I have not had occasion to develop a view on the specific question you raise regarding PURPA's provisions as currently enacted, and as a general matter I regard this question as an issue better left to the judgment of Congress.

Question 16: Under the National Environmental Policy Act, all federal agencies are required to assess the environmental impacts of their proposed activities, including FERC. In 2016, the Council on Environmental Quality released guidance for measuring an activity's contribution to climate change as part of that assessment. This guidance includes measuring the full lifecycle greenhouse gas emissions from proposed pipeline projects – from gas extraction to pipeline

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construction to combustion of the gas that a pipeline carries. If confirmed, will you commit to requiring a full, robust analysis of a proposed project's full lifecycle greenhouse gas emissions using the best science?

Answer: FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements under the Natural Gas Act, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. This necessary legal review also requires taking into account relevant developments in appellate court decisions, and in this respect a recent decision of the U.S. Court of Appeals for the D.C. Circuit is likely to require careful review because it overturned a FERC pipeline approval on grounds pertaining to the sufficiency of FERC's consideration of greenhouse gas emissions associated with the downstream usage of the natural gas to be transported by the pipeline at issue. Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues, including in this evaluation due consideration of the greenhouse gas issues you raise in your question.

Costs to Consumers

Question 17: In what ways can FERC prevent economic harm to low-income Americans?

Answer: Although most programs intended to provide economic protection or assistance to low-income Americans with regard to satisfying their energy needs are administered at the state or local level, FERC too has a role that has been recognized as yielding economic benefits to consumers. Specifically, FERC is statutorily charged with assuring that all sales and services overseen by the Commission take place at rates that are just and reasonable.

Question 18: In Vermont, energy efficiency investments have saved \$279 million in avoided regional transmission system upgrades. What additional steps can FERC take to aggressively promote the use of energy efficiency and other strategies to avoid unnecessary expensive new transmission lines and new baseload power plants?

Answer: FERC already has taken steps to allow the integration of customer demand resources, such as energy efficiency, into the markets it oversees. For example, Order No. 1000 required each public utility transmission provider to consider proposed non-transmission alternatives on a comparable basis when evaluating potential transmission solutions in their regional transmission planning processes. FERC also has required that demand response resources be considered on a basis comparable to the services provided by generation resources in local transmission planning processes where appropriate. In addition, two of the wholesale markets that the Commission regulates, PJM and ISO New England, provide a mechanism for energy efficiency investments to participate in and receive compensation for their capacity value from the wholesale capacity market. Apart from these existing features of FERC-regulated markets, I believe that FERC

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should, from time to time, review its existing policies to ensure they are functioning effectively, and if confirmed I commit to reviewing the Commission's policies in this area to determine whether there are opportunities for improvement.

Question 19: If confirmed, will you commit to just and reasonable rates for consumers, not just for market participants?

Answer: "Just and reasonable rates" is indeed the standard that FERC is statutorily directed to uphold with regard to transactions and services within its jurisdiction, and I gladly commit that, if I am confirmed by the Senate, my decision-making and actions at FERC will reflect that statutory obligation. Although FERC has no jurisdiction over the rates applicable to energy products and services that are provided directly to retail consumers, FERC's role in assuring just and reasonable rates within its jurisdiction has been recognized as yielding economic benefits to consumers.

Supporting the Policy Goals of Individual States

Question 20: Approximately 30 states have passed renewable portfolio standards. States are enacting these policies for a wide variety of reasons including fuel diversity, environmental benefits, and economic development. If confirmed, how would you act to protect these states' clean energy policy?

Answer: States have authority to make resource decisions within their respective jurisdictions. FERC and the various states have an obligation to respect each other's authority under the law. Thus, if confirmed I will be mindful of state authority while carrying out my duties at FERC.

Question 21: While recognizing that FERC must place a premium on system reliability, many states have established aggressive energy policy goals. Vermont, for instance, is committed to reducing greenhouse gas emissions by 90% by 2050. Should you be confirmed, what steps will you take to give more weight to the policy goals of individual states like Vermont?

Answer: I respect states' authority to make resource decisions, including those based on environmental goals, in a manner consistent with their respective jurisdictions. FERC has its own statutorily assigned role overseeing energy markets under the Federal Power Act. FERC recently held a technical conference regarding the interaction between state initiatives and FERC-jurisdictional wholesale electricity markets. If I am confirmed, I look forward to reviewing the record in the Commission's proceeding and discussing these issues with my colleagues.

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Stakeholder influence

Question 22: As an attorney, you frequently represent oil and gas companies. What do you say to those who believe you would continue to represent their interests at FERC and act as a rubber stamp for pipelines and other fossil fuel infrastructure?

Answer: I am firmly committed to the rule of law. I am proud of the role of the attorney in our American legal system and have been pleased to have had the opportunity in my legal career to represent many different types of clients, in FERC cases and in matters having no relation to FERC or the energy industry. In each such instance, I have taken very seriously my ethical obligation to do my best for my client. In like fashion, if I am confirmed by the Senate to FERC, I will ensure, with equal seriousness of purpose, that my FERC decision-making and actions will reflect this same focus on the rule of law and on the obligations inherent in my role. In matters that come before me at FERC if I am confirmed, I will begin by identifying the applicable legal requirements and will act to ensure not only that the Commission's actions satisfy those requirements in full, but also that, through processes that are open, transparent and fair, there is sufficient opportunity for input by stakeholders, including the public.

Question 23: If confirmed, how will you work to prevent undue influence on FERC by the fossil fuel industry?

Answer: By statutory design, FERC is an independent agency, and its independence is one of its most important characteristics. FERC's obligation is to discharge its statutory obligations in a manner that accords with the law. I am firmly committed to the rule of law. The law allows no special rights of FERC access or influence to any energy industry sector (or to any other stakeholder or constituency), and it is important that FERC avoid even the appearance of any such influence. If I am confirmed by the Senate to FERC, these principles will be reflected in my decision-making and actions there.

Question 24: One of FERC's most important responsibilities is to investigate market manipulation and enforce related rules. Is FERC devoting adequate resources to these enforcement activities? Are the fines sufficient? If confirmed, what steps will you take to sustain and improve on FERC's enforcement capacity and success?

Answer: As I noted at the confirmation hearing, I believe FERC's enforcement program must be robust. I have not had access to specific information regarding the level of FERC resources devoted to enforcement, but my general impression is that FERC has devoted significant resources to its enforcement activities. I do have extensive experience with FERC's civil penalty authority (*i.e.*, the Commission's authority to impose fines), which Congress granted to FERC in the Energy Policy Act of 2005, and I regard that authority as a formidable tool for addressing issues of market manipulation and other violations of FERC requirements. This authority empowers FERC to impose civil penalties on violators in the amount of over \$1.2 million per day, per violation – an amount that exceeds the comparative civil penalty authority of most other federal agencies. I believe that FERC should, from time to time, review its existing policies to

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ensure they are functioning effectively, and if confirmed I commit to reviewing the Commission's enforcement policies to determine whether there are opportunities for improvement.

Question 25: FERC is incredibly complicated, and the barrier to entry for someone to simply understand FERC proceedings, much less to participate, is extremely high. Stakeholders with considerable financial resources can participate, but everyone else is effectively excluded. How can FERC do a better job of ensuring all interested parties can meaningfully participate in FERC processes?

Answer: I believe that FERC's proceedings and processes, to the maximum extent practicable, should be open, transparent and fair – and should be accessible to all interested parties. If confirmed, I will address with my colleagues efforts to promote these objectives.

Future of Nuclear Power

Question 26: What do you envision as the future of nuclear power?

Answer: Nuclear-fueled electric generation historically has played a significant role in contributing to the satisfaction of our nation's energy needs. I am aware that nuclear resources today face significant economic challenges. For example, the relatively low cost of natural gas has helped drive down energy prices and revenues, making it more difficult for nuclear resources to compete. In addition, some state and federal policies that impose new environmental requirements and seek to procure specific resource types likewise have presented challenges for nuclear resources. Under longstanding policies of fuel-neutrality, FERC does not make determinations regarding the selection of fuels used to satisfy our nation's energy needs. Consistent with that role, I believe FERC should focus on ensuring that its electric market policies satisfy all legal requirements and as appropriate promote policies that support nondiscriminatory, resource-neutral, and reliable electricity delivery. FERC recently initiated a technical conference proceeding to evaluate price formation in the energy and ancillary services markets it regulates, which included consideration of energy prices for various generation resources including nuclear. If confirmed, I look forward to reviewing these matters with my colleagues.

Question 27: What do you believe is the proper role of FERC in the future direction of nuclear power in the United States?

Answer: Please see my response to your Question 26 above. In addition, I am aware of steps taken by FERC to date to engage industry members and to work with other federal agencies to better understand the challenges facing nuclear power. For instance, FERC has participated in joint meetings with the Nuclear Regulatory Commission to discuss the reliability of the bulk power system, nuclear power safety and security, and market factors influencing nuclear power economics.

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Regional Initiatives

Question 28: New England has a regional ISO engaged in the process known as IMAPP – integrating markets and public policy. The ISO and FERC are beginning to acknowledge these administrative markets are in conflict with some of the objectives states have with regard to energy policy.

If confirmed, would you support efforts, such as in New England, to develop fixes to wholesale markets to better implement state policy goals?

Answer: FERC has taken steps to consider this issue through the referenced technical conference proceeding on the interplay of state policy goals and FERC-regulated wholesale energy and capacity markets. If I am confirmed, I look forward to reviewing the record in the Commission’s proceeding and discussing these issues with my colleagues.

Question 29: Energy markets do not accurately reflect environmental costs, including the social costs of carbon pollution. Do you believe that FERC and wholesale market operators should continue to explore how to better integrate the real cost of carbon pollution into our energy markets?

Answer: FERC policies are resource-neutral and fuel-neutral, whereas wholesale energy and capacity markets generally focus on encouraging competition and minimizing the costs incurred in satisfying the respective markets’ aggregate energy needs. The referenced FERC technical conference proceeding on the interplay of state policy goals and FERC-regulated markets includes consideration of state policies targeting environmental concerns such as the carbon issue you cite. If I am confirmed, I look forward to reviewing the record in the Commission’s proceeding and discussing these issues with my colleagues.

Question 30: Earlier this month, FERC held a technical conference to examine how to better incorporate states’ environmental policy objectives into wholesale markets. Stakeholders are working to address challenges in these markets, particularly as it relates to price formation like carbon pricing. More active leadership from FERC, however, may be necessary to direct wholesale market operators to develop solutions to address these price formation challenges.

If confirmed, would you help FERC take a more active role to assist state and market operator efforts to resolve price formation issues associated with states’ environmental policies?

Answer: Although it would not be appropriate for me to suggest a view on any FERC decisions that should emerge from this pending matter, I gladly commit that if confirmed to FERC I will give these important issues the careful attention they deserve.

Question 31: New England is making considerable progress implementing renewable portfolio standards, renewable energy standards, and the Regional Greenhouse Gas Initiative. These reforms will be an enduring aspect of the region’s energy strategy.

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If confirmed, will you commit to work with ISO-New England to ensure that wholesale market rules complement state policies and regional agreements?

Answer: As I note above, FERC has taken steps through its technical conference proceeding to consider the interplay between FERC-regulated wholesale market structures and state policy initiatives. If I am confirmed, I look forward to reviewing the record in the Commission's proceeding and discussing these issues with my colleagues.

Question 32: The New England region saw considerable price increases in the region's forward capacity auctions (FCAs) in 2014. In recent auctions, costs have come down, while the region has been able to secure sufficient resources to maintain system reliability. Part of the reason why auction prices came down is because ISO-New England included more renewable energy in its installed capacity requirement (ICR). ISO-New England has continued to improve its inclusion of renewable energy in the ICR calculation, but could do better.

How can ISO-New England's consideration of energy, efficiency, renewable generation, and improved metrics in the forward capacity auctions that value the benefits of carbon-free generation help reduce system costs and improve system reliability?

Answer: My general understanding of this matter is that ISO-New England achieved the result you cite – lower aggregate costs for forward capacity auction results – in part by revising its market design to incorporate a presumption that higher amounts of power from renewable sources than previously forecast would make their way onto the New England grid during the time period in question, reducing the remaining amount of power that would need to be purchased through the forward capacity auction process. In pursuing such market design changes, ISO-New England is subject to detailed stakeholder processes and to FERC oversight both as to process and the specifics of the proposed market design changes. Should further changes to ISO-New England policies in this area be desired or proposed, whether by ISO-New England or by stakeholders, my understanding is that the same process would apply.

Question 33: Large-scale renewable generation currently faces a large barrier for bidding into the FCAs because of upfront costs. If confirmed, will you commit to working with the New England ISOs to continue reducing the barriers to including more renewables into the ICR and for bidding into its energy auctions?

Answer: The market rules governing the forward capacity auction conducted by ISO-New England are complex, and the computation of the region's installed capacity requirement is an important part of those market rules. It is important for ISO-New England or any other FERC-regulated ISO or RTO to provide for the inclusion of all suitable resource types in the conduct of its market processes while continuing to ensure that such inclusion does not have an adverse impact on system reliability. If confirmed, I look forward to addressing this issue with my colleagues.

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Natural Gas Pipeline infrastructure

Question 34: Producing electricity from gas was once thought to be relatively clean and that switching from coal to gas was part of a climate solution. We now know that because of methane leakage along the gas supply chain, which can more than double its life-cycle emissions, gas power can be dirtier than coal-fired power.

Given FERC's mandate to protect the interests of the American public, and the proven harmful impacts of climate change on the American people, what steps should FERC take to ensure Americans are protected from a buildout of natural gas infrastructure? What steps will you take to ensure FERC's environmental reviews of gas projects include a full, robust analysis of the lifecycle greenhouse gas pollution they cause, including from fracking, methane leakage across the gas supply chain, and combustion?

Answer: FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements under the Natural Gas Act, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. This necessary legal review also requires taking into account relevant developments in appellate court decisions, and in this respect a recent decision of the U.S. Court of Appeals for the D.C. Circuit is likely to require careful review because it overturned a FERC pipeline approval on grounds pertaining to the sufficiency of FERC's consideration of greenhouse gas emissions associated with the downstream usage of the natural gas to be transported by the pipeline at issue. Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues.

Question 35: New pipelines can cost up to three times more to transport gas than existing pipelines, which have already been paid for by previous ratepayers. New pipelines are a windfall for pipeline companies, but a costly burden for their customers.

Similarly, overbuilding new capital-intensive and long-lived pipelines based on artificial need may subject ratepayers to increased costs of shipping gas on legacy systems. If a new pipeline takes customers away from an existing legacy system, the remaining captive customers on the system may pay higher rates.

If confirmed, will you commit to implementing a programmatic analysis to evaluate the true market need for any project and identify whether sufficient capacity currently exists to meet that need to protect ratepayers and shareholders from the burden of stranded costs?

Answer: Under the Natural Gas Act of 1938, FERC must determine whether a proposed new pipeline project is consistent with the public convenience and necessity. As part of that determination, FERC has an obligation to consider whether the pipeline is needed. I understand

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that the Commission's current policy regarding demonstrating need was established in 1999 and (a) requires natural gas pipeline project proponents as a threshold matter to demonstrate that they are prepared to financially support proposed projects without relying on subsidization from existing customers and (b) requires FERC to determine whether the applicant has made efforts to eliminate or minimize adverse effects the project might have on the applicant's existing customers or on existing pipelines in the market or their captive customers. Thus, a detailed evaluation of pipeline need already is a component of the FERC process for evaluation of natural gas pipeline certificate applications. If confirmed, I commit that I will base my decision-making and actions on careful review of the applicable law as applied to the situation at hand. However, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues.

Question 36: The Natural Gas Act gives FERC the ability to invoke eminent domain to turn private land over to pipeline companies if new pipelines are needed for the public good. If confirmed, how will you balance the rights of private property owners with developers' desire for profit? Will you commit to reviewing the process by which eminent domain is used to define what it means for a pipeline to serve "the public good?"

Answer: Since 1947, the Natural Gas Act has provided authority for the developer of a natural gas pipeline to use eminent domain. That eminent domain authority is neither exercised nor enforced by FERC. Rather, my understanding is that it is incumbent upon the holder of a FERC-granted certificate of public convenience and necessity for a given natural gas pipeline project to attempt in the first instance to obtain rights-of-way necessary for the project by reaching agreement with property owners, but that that certificate holder may acquire the lands through the use of eminent domain. The certificate holder's exercise of eminent domain authority in such instances is enforced not by FERC but rather by state and federal courts. Nonetheless, if confirmed, I will work with my colleagues to ensure that the Commission's processes appropriately address the concerns of landowners affected by infrastructure projects.

Question 37: How will you evaluate climate impacts during the review of applications for the construction and operation of natural gas pipelines?

Answer: As I note in my response to Question 34, FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements under the Natural Gas Act, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand. It is my understanding that current Commission requirements already require consideration of the greenhouse gas emissions associated with the construction and operation of proposed natural gas facilities in conducting its environmental analysis for the project.

The necessary legal review also requires taking into account relevant developments in appellate court decisions, and in this respect the recent D.C. Circuit I reference above is likely to require

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careful review by FERC because it overturned a FERC pipeline approval on grounds pertaining to the sufficiency of FERC's consideration of greenhouse gas emissions associated with downstream usage of the natural gas to be transported by the pipeline at issue.

Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues, including as appropriate the climate issues raised by your question.

Question 38: While instilling important powers in the federal government, the Clean Water Act also ensures the protection and respect of states' rights. Section 401 of the Act explicitly states that no [federal] license or permit shall be granted until the certification required by this section has been granted or waived. Similarly, the U.S. Supreme Court has said Section 401 requires States to provide a water quality certification before a federal license or permit can be issued and without [Section 401] certification, FERC lacks authority to issue a license.

Given the language of the Clean Water Act and its interpretation by the Courts, do you think it appropriate that FERC is routinely issuing its Certificates of Public Convenience and Necessity for pipeline projects prior to all affected states rendering their decisions on Section 401 certification? If confirmed, will you commit to ensuring all relevant state level permits are granted prior to issuing a Certificate of Public Convenience and Necessity for any pipeline project?

Answer: It is my general understanding that FERC issues conditional certificates of public convenience and necessity for natural gas pipeline projects that preclude natural gas companies from commencing construction until they have obtained all necessary authorizations under federal law, including Clean Water Act certification. I also understand that the U.S. Court of Appeals for the D.C. Circuit has held that a certificate conditioned on the receipt of state water quality certification did not authorize a discharge into the navigable waters of the United States, and thus did not violate the Clean Water Act. If confirmed, I will work with my colleagues to ensure that all Commission decisions regarding natural gas pipeline projects are consistent with law.

Question 39: Under federal law, a private party is not allowed to legally challenge FERC approval of a pipeline project until they have first submitted a rehearing request to FERC, and FERC has affirmatively granted or denied that request. Rather than do one or the other, FERC's practice has been to issue a tolling order in response to such requests, which puts the request under further consideration. The result is that communities are put into legal limbo, unable to challenge the FERC decision until a final grant or denial is issued from the agency. Routinely FERC leaves people in that legal limbo for months, and sometimes over a year, while it allows the applicant to exercise the power of eminent domain and advance construction.

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Do you see the use of tolling orders as an abuse of power by FERC? If confirmed, will you commit to either affirmatively grant or deny a rehearing request?

Answer: I understand that the courts have upheld the Commission's use of tolling orders in this situation. As rehearing requests frequently involve complex issues, tolling orders provide more time for the Commission to thoroughly review, consider, and address all the arguments.

I realize that in some instances this process places a burden on those affected by a FERC order. I cannot prejudge how I will act on rehearing requests. However, if I am confirmed, I commit to working to ensure that the Commission's processes for addressing submissions are as efficient as possible.

Questions from Senator Al Franken

Question 1: As you know, FERC released Order 1000 to identify transmission needs and solicit competitive transmission projects by requiring regional transmission planning and interregional coordination. As the recently released DOE grid reliability study notes, transmission is critical to improving the reliability and resilience of the grid. Furthermore, both wind and solar need transmission to move the power from the rural places where it is generated to the urban markets where it is consumed. And a lack of transmission capacity is preventing further development of renewables. Do you support FERC Order 1000? What are the barriers to interregional transmission lines and what can FERC do to remove those barriers?

Answer: FERC's landmark Order No. 1000, implemented in 2011, brought marked change to the process by which facilities intended to address our nation's electric transmission needs are planned, implementing detailed requirements for organized regional transmission planning and interregional coordination and establishing a framework to address critical questions regarding how to allocate the costs of new transmission infrastructure projects selected for development through the transmission planning process. Many in the industry – and no doubt FERC itself – anticipated that these features of Order No. 1000, together with the order's elimination of presumptive development rights previously held by incumbent transmission providers (called federal "rights of first refusal"), would boost competitive investment in new transmission infrastructure, including projects that would address needs along the lines you cite – *i.e.*, moving wind power and solar power from the rural places where it is generated to the more urban markets where it is consumed. I recognize and appreciate the merits of these public policy goals underlying Order No. 1000. I also am aware of criticisms that Order No. 1000 thus far has failed to achieve these goals, resulting in fewer new transmission projects coming to fruition than had been expected, particularly projects that are interregional in nature. FERC recently has taken steps to consider these important issues further, convening a technical conference to discuss the state of competitive transmission development. FERC requested comments on several associated issues, including issues related to regional transmission planning and competitive transmission development. I expect that that FERC proceeding will provide a helpful record regarding potential Commission action to address these issues. If confirmed, I look forward to reviewing the record and considering these issues.

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Question 2: A few years ago during the severe winter polar vortex, coal stockpiles at utilities in Minnesota repeatedly dropped to dangerously low levels, due to inadequate rail delivery of coal. As a result, a number of coal power plants in Minnesota were idled. This impacted the reliability of the grid and increased costs for consumers, as they paid for the more expensive replacement power that was purchased to make up for lost generation. That's why I pressed FERC to work with all other stakeholders to find a solution to this ongoing problem.

- a. What do you think FERC should do to mitigate the problems with delivery of coal to our power plants?
- b. Last Congress I introduced the legislation, which would require coordination among key federal agencies when a fuel emergency is declared. Do you think this coordination is a good idea, and how could FERC support such an effort?

Answer: Under the laws passed by Congress that determine FERC's jurisdiction, FERC does not have authority over the shipment of coal. However, if confirmed I would be willing to meet with utilities, rail regulators and other interested parties to explore whether FERC could provide assistance in this area.

Question 3: Because of its low prices, more and more Americans are using natural gas, both in homes and in industry. And the DOE Energy Information Administration projects that use of natural gas will continue to grow. At the same time, the federal government has approved more than 52 billion cubic feet per day of LNG exports—which is equal to about 70 percent of U.S. demand. Now, the natural gas industry wants more LNG exports because they can get a higher price overseas. This will increase the price of natural gas here in the U.S.—disproportionately harming domestic industries like the agricultural, paper, and metal manufacturing sectors that will suffer from higher natural gas and electricity prices. It will also increase the price of energy for U.S. families, and be especially burdensome on low-income households because they expend a higher percentage of their income on energy bills. I understand that part of the FERC's responsibility is ensuring just and reasonable electricity rates. So do you think that FERC has a role to play here to make sure we are not unnecessarily increasing the cost of energy for Americans?

Answer: One of the Commission's core statutory responsibilities is to ensure that electric rates that it approves are just and reasonable, and I commit to fulfilling that mandate if I am confirmed. I also note that it is the sole responsibility of the Department of Energy (DOE) to act on applications for authorization to export of natural gas, under the laws passed by Congress that determine DOE's jurisdiction. FERC's authority in this area is limited to reviewing applications for physical export facilities, under statutory standards likewise imposed on FERC by Congress. FERC's role involves no determination whether gas exports are in the public interest.

Question 4: As you know, FERC's approval process for natural gas pipelines has gained national attention. Former Chairman Norman Bay released a statement on his last day recognizing the increased public interest surrounding the approval process and encouraging the agency to change how it determines whether approving a pipeline is within the national interest.

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Traditionally, FERC has relied on a contract with potential shippers to show market demand and therefore demonstrate that a project is in the national interest. But, this is fairly myopic view and Mr. Bay suggests that more comprehensive cost-benefit analysis may be necessary. Mr. Bay also recommended that FERC consider the environmental impacts of increasing gas production allowed by pipeline construction as well as an assessment of lifecycle greenhouse gas emissions. Do you agree with the former Chairman's assessment? If not, why not, and if so, what changes would you suggest?

Answer: Under the Natural Gas Act of 1938, the Commission must determine whether pipeline projects are consistent with the public convenience and necessity. FERC's process for considering and ruling upon applications to construct new pipeline infrastructure is subject to detailed legal requirements, and if confirmed I will base my decision-making and actions in this area on careful review of the applicable law as applied to the specific situation at hand.

As to the pipeline applicant's demonstration of market demand for the project at issue, FERC's process requires consideration whether a pipeline satisfies the standard for demonstrating pipeline need. I understand that the Commission's current policy regarding demonstration of pipeline need was established in 1999 and (a) requires natural gas pipeline project proponents as a threshold matter to demonstrate that they are prepared to financially support proposed projects without relying on subsidization from existing customers, and (b) requires FERC to determine whether the applicant has made efforts to eliminate or minimize adverse effects the project might have on the applicant's existing customers or on existing pipelines in the market or their captive customers. Thus, a detailed evaluation of pipeline need already is a component of the FERC process for evaluation of natural gas pipeline certificate applications.

As to the greenhouse gas issues you raise, it is my understanding that current Commission requirements already require consideration of the greenhouse gas emissions associated with the construction and operation of proposed natural gas facilities in conducting its environmental analysis for the project.

My commitment that if confirmed I will address such issues on the basis of a complete legal review also requires taking into account relevant developments in appellate court decisions, and in this respect a recent decision of the U.S. Court of Appeals for the D.C. Circuit is likely to require careful consideration because it overturned a FERC pipeline approval on grounds pertaining to the sufficiency of FERC's consideration of greenhouse gas emissions associated with downstream usage of the natural gas to be transported by the pipeline at issue.

Besides ensuring full satisfaction of all legal requirements, I also believe that agencies periodically should review their policies to ensure they are effective, and if confirmed I will work with my colleagues to evaluate the Commission's policies for considering pipeline applications to ensure that the Commission's review process considers all relevant issues, including as appropriate the pipeline need and climate issues raised by your question.

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Question 5: Senator Shaheen and I recently reintroduced legislation, the Public Engagement at FERC Act (S. 1240), that will improve public involvement at the FERC and facilitate advocacy at the agency on behalf of residential and small commercial energy consumers. Specifically, the Public Engagement at FERC Act would build off existing language in the Public Utility Regulatory Policy Act (PURPA) and establish an Office of Public Participation and Consumer Advocacy to ensure the public has a strong role in shaping our nation's energy future. It is important that anyone who assumes the role of a FERC Commissioner understands how their decisions are directly or even indirectly impacting private citizens. When FERC evaluates whether a project or agreement is "in the public interest" it is vital that the Commission indeed consult the public.

- a. Do you agree that public engagement should be prioritized during the various proceedings administered by FERC?
- b. If confirmed, what steps will you take to make commission proceedings and processes more accessible to the public?
- c. While I'm not asking you to weigh in on the legislation directly, do you agree with allowing more public participation in the agency through the creations of a dedicated office?

Answer: I am committed to governmental processes that are open, transparent and fair – and that provide sufficient opportunity for input by stakeholders including the public. At FERC, the public already has several avenues available to raise concerns with the Commission. Members of the public may intervene in FERC proceedings, and also may submit comments on rules and regulations that the Commission proposes. State utility commissions and ratepayer advocates, which seek to protect the interests of retail and residential customers, in addition to groups representing the interests of landowners, environmentalists, labor, recreational and community development interests, and many other viewpoints, regularly intervene in FERC cases and comment on FERC's proposed rules and regulations, representing specific perspectives among the members of the broader public. If confirmed, I will work with my colleagues to determine whether there are additional steps the Commission should take to make its proceedings and processes more accessible to the public.

Question 6: In 2006, FERC started requiring wholesale generators to file Form 556 Certificate of Qualifying Facility (QF) Status for a small power production facility. I'm concerned that some small, community wind facilities across the country may have missed this change. These projects went through an extensive study process to facilitate interconnection of their wind projects with the transmission grid. These interconnections were ultimately approved by FERC as exempt wholesale generators and have been operating safely. However, in 2006 FERC established a filing requirement for all facilities larger than 1MW, but some missed this change. The filing requires announcing the total electricity generated by the QF.

In one case, a company MinWind failed to start filing with FERC, and subsequently sought a waiver from FERC for the Form 556 filing arguing that they did not know about the rule. But, the waiver was denied and the company was assessed a substantial repayment obligation

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equivalent to the interest that they have been unfairly accruing since 2006. The amount was large enough that they were forced to file for bankruptcy. While I do not know the specifics of this case, in general, this seems like an onerous requirement that if not handled appropriately could drive more companies into bankruptcy. Will you commit to working with me to find a solution to this issue?

Answer: I too do not know the specifics of the case you cite, but as a general matter I readily acknowledge the importance of providing industry with adequate notice of regulatory requirements and reasonable remedies for failure to comply. If confirmed, I would be pleased to work with you on this issue, and I look forward to discussing this issue with my colleagues.

Question from Senator Steve Daines

Question: Hydroelectric power is a very important part of Montana's energy portfolio. It is also a reliable and renewable form of baseload energy. The recent DOE's Grid Study recommended that FERC revisit the current licensing and relicensing processes and minimize regulatory burdens. As commissioner, do you agree with the Department of Energy's grid study on the need to reduce the regulatory burden and red tape on hydropower facilities?

Answer: I believe that it is incumbent upon FERC (or any other federal agency) to look for opportunities to eliminate unnecessary regulatory burdens while continuing to attend fully to its statutory responsibilities. FERC from time to time in the past has undertaken efforts to reduce regulatory burdens associated with hydroelectric facilities, such as by granting certain exemptions to smaller hydroelectric projects and by entering into memoranda of understanding with other federal agencies and state governments in an effort to reduce regulatory conflict and overlap. I regard such efforts as healthy and appropriate. Although it would not be appropriate for me to suggest a specific view on the DOE grid study's recommendations concerning FERC hydroelectric licensing and relicensing processes, given that those issues may come before FERC for consideration of formal action, I do believe that the grid study's recommendations merit careful attention by FERC, and if I am confirmed I intend to review these issues and discuss them with my colleagues.

Questions from Senator Joe Manchin III

Questions: Regarding the Department of Energy's recently released grid reliability study, I would like to get your opinion on a couple of conclusions that the Department of Energy came to regarding the extent to which regulatory burdens as well as certain federal policies have forced the premature retirement of baseload power plants including:

1. The biggest contributor to coal and nuclear plant retirements has been the advantaged economics of natural gas fired generation.
2. Dispatch of variable renewable energy has negatively impacted the economics of baseload plant.

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3. Investments required for regulatory compliance have also negatively impacted baseload plant economics, and the peak in baseload plant retirements (which occurred in 2015).

The Department then recommends developing a comprehensive strategy for long-term reliability and resilience.

Do you agree with these assumptions?

How will you work to address these challenges in your role at FERC?

Answer: The DOE's grid study is a useful, data-intensive document that merits the attention of FERC and others having a policy role in our nation's energy industry. I recognize that many factors may affect the economics affecting coal and nuclear generating units. The DOE study indicates that the retirement of baseload generation has not impaired the reliability of the system to date, but that future retirements may negatively impact reliability. I believe this is an issue to which FERC should give careful attention, including whether there are reliability or resilience attributes of baseload resources that are not currently compensated adequately. If confirmed, I look forward to addressing these issues with my colleagues.

Question 2: Today, our reliability organizations and electric utilities are tasked with maintaining our electric grid in an increasingly challenging environment. A perfect storm of factors has put baseload units at risk. In the meantime, aging infrastructure, extreme weather events, the threat of cyberattacks, a rapidly changing fuel mix, and overregulation are increasingly testing our nation's electric grid. Several times throughout the month of January 2014, the upper Midwest and Mid-Atlantic experienced temperatures below zero. The Eastern portion of the PJM grid flirted with rolling blackouts. Interestingly, following the winter of 2014, AEP reported that nearly 90% of its coal plants scheduled for retirement ran during the Polar Vortex. Coal helped keep the lights on.

Do you have concerns regarding the reliability and resiliency of our grid in light of the nuclear and coal-fired units that have gone off-line since the Polar Vortex or are scheduled to go off-line?

Answer: FERC's role in overseeing the reliability of our grid is one of its most important functions. FERC, working with NERC, has developed and implemented a suite of mandatory electric reliability standards that have maintained reliability in recent years even as nuclear and coal plants have retired. Complacency in such a critical area, however, is never acceptable. As the mix of currently operating generating resources continues to evolve and to include new technologies, it is important that FERC, working with NERC and stakeholders, address potential reliability risks. One area not addressed directly by the existing reliability standards is the concept of resilience. I am interested in this subject, and, if confirmed, I look forward to working with my colleagues, NERC, industry, and key stakeholders, to examine how best to address the resilience of the grid.

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Question 3: One of the major criticisms that I hear from West Virginians regarding pipelines that are being developed in our state is that FERC does not allow for enough public engagement and is “abusing” its power. As you know, there are several major pipelines being developed in the mid-Atlantic and Northeast. I support the environmentally responsible development of energy infrastructure as long as that development includes public engagement – particularly for landowners along the pipeline route – so that their voices are heard.

Can you discuss how you will support public engagement at FERC and ensure that landowner and community concerns are appropriately addressed?

Answer: I am committed to governmental processes that are open, transparent and fair – and that provide sufficient opportunity for input by stakeholders, including the public. At FERC, the public already has several avenues available to raise concerns with the Commission. Members of the public may intervene in FERC proceedings and may submit comments on rules and regulations that the Commission proposes. State utility commissions and ratepayer advocates, which seek to protect the interests of retail and residential customers, in addition to groups representing the interests of landowners, environmentalists, labor, recreational and community development interests, and many other viewpoints, regularly intervene in FERC cases and comment on FERC’s proposed rules and regulations, representing specific perspectives among the members of the broader public. If confirmed, I will work with my colleagues to determine whether there are additional steps the Commission should take to make its proceedings and processes more accessible to the public.

Questions from Senator John Hoeven

Question 1: Electric reliability is a critical issue, especially as it relates to baseload power and ensuring our country has the assets needed to maintain low-cost electricity.

For example, the previous Administration’s EPA has promulgated substantial new regulations on electricity producers that would have subjected them to unachievable mandates and artificial compliance schedules. Together, the EPA’s attempts to reduce emissions would have driven up electricity rates for customers and potentially compromise the reliability of our power grid.

- How will you approach reliability issues going forward?
- What role can fossil fuels play in ensuring electric reliability and baseload power?

Answer: FERC’s role in overseeing the reliability of our grid is one of its most important functions. FERC, working with NERC, has developed and implemented a suite of mandatory electric reliability standards that have maintained reliability in recent years even as coal plants have retired. Complacency in such a critical area, however, is never acceptable. As the mix of currently operating generating resources continues to evolve and to include new technologies, it is important that FERC, working with NERC and stakeholders, address potential reliability risks. One area not addressed directly by the existing reliability standards is the concept of resilience,

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which many regard as a valuable attribute of historical baseload units such as coal and nuclear facilities. I am interested in this subject, and, if confirmed, I would give the matter careful consideration and would work with colleagues, NERC, industry, and key stakeholders, to examine how best to address the resilience of the grid.

Question 2: In order to become truly North American energy secure, we need the infrastructure to deliver our energy resources from producers to consumers. I have sponsored the North American Energy Infrastructure Act that would require FERC to approve natural gas import or export applications to Canada or Mexico within 30 days of filing.

- What is your view on the increased need for energy infrastructure?
- What is FERC's role in ensuring adequate pipeline capacity?
- Do you support efforts to increase our energy infrastructure network with Canada and Mexico?

Answer: FERC's role in making decisions on proposed energy infrastructure projects is one of its most important functions, and ensuring the sufficiency of our energy infrastructure is important for the nation's economy. Adequate infrastructure also helps ensure that consumers have access to a variety of energy resources at reasonable rates. FERC, under the Natural Gas Act, approves a proposed natural gas pipeline project if the applicant demonstrates that the project satisfies the applicable statutory standard – *i.e.*, that the project will serve “the public convenience and necessity.” Where that standard is satisfied, FERC would grant its approval, including for facilities designed to import or export energy with our trading partners in Canada and Mexico.

Question 3: In North Dakota, rural electric co-ops ensure that over 350,000 consumers have access to reliable and affordable electricity.

The Federal Power Act exempts rural electric co-ops from FERC jurisdiction and this statutory exemption contributes to the state's affordable electricity rates.

- Do you plan to adhere to the Federal Power Act and continue to exempt rural electric co-ops from FERC jurisdiction?

Answer: If confirmed, I of course will adhere fully to the Federal Power Act provisions regarding jurisdiction over electric cooperatives.

Question 4: Two of the industries FERC regulates – electricity and natural gas – are growing closer together as gas increases its share in electricity markets. This ties together the reliability of natural gas supply and the reliability of electricity supply like never before. This makes it all the more important that gas pipelines get sited timely when they are needed and not get bogged down in environmental reviews that, in the name of being thorough, can be overly burdensome while adding questionable value. We have had projects delayed, for example, by consideration of

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greenhouse gas emissions. Fortunately the guidance requiring consideration of GHGs was rescinded in April.

Both Congress and the Administration have made it plain in law and by executive action that they want infrastructure reviews to be accelerated.

- Will you work to ensure that gas infrastructure is sited promptly and not unnecessarily delayed by overly bureaucratic reviews?

Answer: I recognize the importance of natural gas pipeline infrastructure to meeting our nation's energy needs. If confirmed, I look forward to reviewing the Commission's policies and processes for considering pipeline applications and working with my colleagues to improve process efficiency while ensuring that the Commission satisfies all legal requirements and appropriately considers all relevant factors.

Questions from Senator Bill Cassidy

Question 1: I have heard from an LNG export applicant that they had 11 rounds of questions, spanning over 18 months, from the FERC on the same portion of the application with each round including new questions not asked at earlier stages.

If confirmed, how can FERC be more forthcoming with information requests earlier in the process while still producing a legally defensible permit?

Answer: I believe strongly in adherence to governmental processes that are open, transparent and fair, and I recognize that unnecessarily cumbersome government processes can result in costly burdens and delays. Although I have no familiarity with the specific LNG export applicant situation you cite, I know that FERC regulations and guidance provide a great deal of detail as to the specific material to be included in an application for authority to construct an LNG facility and that the length of the Commission's review process often is affected profoundly by the extent to which the applicant supplies the required material. I do believe that Commission review of infrastructure applications should be as efficient as possible and, if confirmed, I will work with my colleagues and Commission staff to look for opportunities to streamline and improve the process.

Question 2: What areas of the LNG export facility permit process could be standardized?

Answer: Consistent with the complex nature of the facilities involved, FERC's LNG export facility application process is detailed and complicated. You raise a good question regarding the potential for standardizations within this process, and I regard it as a matter that deserves careful consideration. If confirmed, I will work with my colleagues and FERC staff to examine this issue.

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Question 3: In the 2000s the regulatory costs and permitting fees associated with an import terminal were approximately \$10-20 million with an approval timeline of close to 18 months. In 2017, an export terminal's regulatory costs and permitting fees can be more than \$100 Million with a timeline of up to 4 years.

Now that FERC has the experience from approving 13 LNG export projects, what efficiencies and regulatory and permitting costs can be improved or reduced for the 2nd generation of LNG export facilities?

Answer: As with Question 2, you raise a valid issue regarding the potential for increased efficiencies and decreased permitting cost within the LNG export project application process, and I regard it as a matter that deserves careful consideration. If confirmed, I will work with my colleagues and FERC staff to examine this issue.

Question 4: What are your thoughts on creating a timeline requirement, similar to the one used by MARAD for LNG export projects?

Answer: I believe that it is important for the Commission to act on LNG export project applications as efficiently as possible. If confirmed, I will work with my colleagues and Commission staff to examine this matter.

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Questions from Senator Ron Wyden

Question 1: The Oregon and California (O&C) land grants are important economic drivers in Southern Oregon. These are 2.5 million acres of BLM-managed timberlands interspersed with private lands, which have historically provided for timber harvests, jobs in the woods, and a source of county revenue.

In 2015, the Bureau of Land Management came out with an resource management plan for O&C lands that brought timber harvests up to around 230 million board feet. O&C counties and the timber industry believe the O&C Act requires 500 million board feet, and have sued the Department of the Interior (DOI). As Solicitor at DOI, you will have a key role in determining the future of O&C lands, which will directly impact the future of my state.

When it comes to the management of O&C lands, as Solicitor will you commit to a fair and balanced reading of the law - regardless of political pressures you may experience from the Secretary or the White House to choose one winner over another?

Response: Yes.

Question 2: The President's review of National Monuments has many in Oregon concerned about the future of lands conservation and protection. In Oregon, Cascade-Siskiyou National Monument is critical to the beauty and economic well-being of Southern Oregon and highly supported by my constituents. If public comments are not persuasive and are overshadowed by far fewer voices of special interests, then what role does the public comment process play? When people can't harvest trees and manage forests, when they're blocked from traveling down a rural road or hiking trails in our national parks, it only serves to fuel the fire for the small number of voices who want to sell off public lands. The Department of the Interior (DOI) has a responsibility to ensure the public has access to our nation's treasures -- our public lands.

Secretary Zinke has prepared a report for the President regarding the future of many national monuments, including Cascade-Siskiyou. But there is much legal debate over whether the Antiquities Act gives the president the authority to diminish or rescind current monuments. Most legal scholars conclude that any ambiguity in the Antiquities Act was cleared up with the passage of the Federal Land Policy and Management Act of 1976 whereby Congress made clear that only the legislature has the authority to diminish or rescind national monuments.

Will you give the Secretary and the White House a fair and balanced reading of the Antiquities Act - regardless of political pressures?

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Response: Yes.

Questions from Senator Bernard Sanders

Climate Change

Question 1: President Trump has suggested in the past that climate change is a hoax. Is the President correct? Is climate change a hoax?

Response: I believe the climate is changing and many factors influence that change. As policy decisions are made by the Department, I will provide sound legal counsel to the Secretary and other executive officials to ensure all actions are done within the framework of the law.

Question 2: Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?

Response: As noted above, I believe that the climate is changing and many factors influence that change. If confirmed, I look forward to advising Secretary Zinke and other executive officials to ensure Departmental policies and initiatives are grounded in statutory authorities and are carried out consistent with the law.

Question 3: Do you agree with the vast majority of scientists that the combustion of fossil fuels contributes to climate change?

Response: As noted above, I believe that the climate is changing and that many factors influence that change.

Question 4: Do you believe that the Department of the Interior has a role in reducing the extraction and use of fossil fuels?

Response: The Department of the Interior's role in the extraction and use of fossil fuels is subject to the authority granted by Congress to manage the development of all the resources on public lands and waters to benefit the public. Should I be confirmed, I will provide sound legal advice to the Department and other executive officials so all actions are done within the framework of the law.

Question 5: If confirmed, how will you work to address climate change?

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Response: If confirmed, I look forward to advising Secretary Zinke to ensure Departmental policies and initiatives are grounded in statutory authorities and are carried out consistent with the law.

Congressional Relations

Question 6: If confirmed, do you commit to assuring staff in the Office of the Solicitor will respond to all relevant inquiries from all Members of Congress, regardless of party or position?

Response: If confirmed, the Solicitor's Office under my leadership will make every effort to be as responsive and transparent as possible to Congressional inquiries, regardless of party or position.

Energy policy

Question 7: What are the policy implications of the President's America First Energy Plan for the Department of the Interior? How will you enforce the President's plan?

Response: I am convinced that President Trump's and Secretary Zinke's goals for the Department, including the America First Energy Plan, will not only preserve but increase the value of our natural resources for future generations. The actual enforcement of the plan rests in the relevant bureaus of the Department of Interior. As Solicitor, if confirmed, I will ensure that any actions taken are done consistent with the law.

Endangered Species Act

Question 8: If confirmed, will you commit to enforcing the laws and regulations protecting critical-habitat protections for imperiled species?

If confirmed, how will you enforce conservation measures that seek to protect and recover endangered species throughout their geographic range?

Response: If confirmed, I commit to ensuring that both policymakers and resource managers in the Department are given clear legal guidance regarding implementation of the laws and regulations related to critical habitat and species protections.

Question 9: In regard to the implementation of the Endangered Species Act, do you support designating critical habitat for species, and do you believe enforcement of these decisions should be based on the best scientific data available?

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Response: I believe that resource managers should follow the law in carrying out their management activities and that decisions related to these activities should be based on scientific data as required by law. If confirmed, I commit to ensure that they are given clear guidance regarding implementation of the applicable laws.

Question 10: Do you support Fish and Wildlife Service guidelines to ensure that science is the driving force behind Endangered Species Act implementation?

Response: I believe that decisions related to Endangered Species Act implementation should be based on science as required by law.

Question 11: Do you support relying on independent scientists with relevant expertise to evaluate and review the data that the Fish and Wildlife Service uses when making decisions related to the implementation of the Endangered Species Act?

Response: If confirmed as Solicitor, I will ensure that policymakers and resource managers are provided clear guidance on the applicable laws so they can effectively implement those laws.

Fisheries

Question 12: Many fish populations in both marine and freshwater environments are threatened. If confirmed, do you commit to ensuring that the Department of the Interior upholds its duties to address these issues?

Response: If confirmed, I will ensure that policymakers and resource managers are provided clear guidance on the applicable laws so they can effectively implement those laws.

Question 13: If confirmed, do you commit to ensuring that the Department of the Interior fully enforces and implements the management of Lake Champlain fisheries?

Response: If confirmed, I commit to ensure that the relevant policymakers and resource managers are provided with clear guidance on the applicable laws so that they can effectively implement any applicable laws.

Fossil fuels

Question 14: According to recent studies, the quantity of federal fossil fuels already under lease exceeds the amount that can be burned and still meet our commitments to reduce domestic greenhouse gas emissions, keeping average global temperature below 2 degrees Celsius. The Department of the Interior is responsible for managing fossil fuel development on public lands

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and waters. What role do you think the Department of the Interior, and specifically the Office of the Solicitor, can play in transitioning our country away from fossil fuels?

Response: The Department of the Interior must responsibly manage energy development on public lands and waters consistent with the law. As Solicitor, I will provide correct legal advice in that administrative process.

Question 15: President Obama withdrew significant portions of the Arctic and Atlantic Oceans from oil and gas development. The reasons he cited for this action include the irreplaceable value of these waters for Indigenous, Alaska Native, and local communities' subsistence activities, economies, and cultures; protection of wildlife and wildlife habitat; promotion of scientific research; and the vulnerability of these ecosystems to an oil spill, which would present significant logistical, operational, safety and scientific challenges for extraction and spill response. In addition, President Obama noted that by the time oil production could begin in these areas, our nation needed to be well on our way to transitioning to clean, renewable energy sources.

BOEM recently initiated a new National Outer Continental Shelf Oil and Gas leasing program to modify President Obama's withdrawal and open these areas for lease consideration. Notwithstanding DOI's statutory requirement to analyze all available leasing areas, if confirmed, will you commit to implementing the highest environmental protections for the Atlantic Region, Pacific Region, and Alaska Region, including the Beaufort, Chukchi, and North Aleutian Basin Planning Areas commensurate with those provided by the Obama Administration?

Response: I am not currently privy to the specific details of any planning efforts underway in the Department, or the BOEM. If confirmed as Solicitor, I am committed to accurately interpret the law, follow it and fulfill the Department of the Interior's vital mission to protect our country's resources and heritage.

Question 16: As we have seen with Hurricane Harvey, Gulf Coast communities are on the front lines of climate disruption and fossil fuel extraction. Many communities, primarily low-income and communities of color, suffer daily from environmental injustices related to the fossil fuel industry. If confirmed, would you support action to extend or make permanent the drilling moratorium in the Eastern Gulf of Mexico? If confirmed, will you commit to further action to phase out fossil fuel development and promote a just transition to a clean, renewable energy-based economy along the Gulf Coast?

Response: If confirmed as Solicitor, I commit to accurately interpret the law and to advise the Secretary, the Department and other executive officials on complying with the law.

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National Monuments

Question 17: The 1906 Antiquities Act allows the president to proclaim “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States” to be national monuments. At his nomination hearing, Secretary Zinke said of rescinding a national monument, “legally, it’s untested.” Since then, Secretary Zinke has proposed shrinking the Bears Ears, Cascade-Siskiyou, and Grand Staircase-Escalante national monuments. Do you believe that the President has the legal authority to overturn or alter an existing national monument designation?

Response: In my current legal role, I have not evaluated the question raised and I am not privy to current Department policy or recommendations except as reported by the press. As I have previously noted, if confirmed as Solicitor, I will accurately interpret the law, follow it and fulfill the Department of the Interior’s vital mission to protect our country’s resources and heritage. I anticipate, however, that the ultimate determination of the contours of the President’s legal authority will come from the White House and Office of Legal Counsel at the Department of Justice.

Public Lands

Question 18: Under what conditions do you believe it is legally appropriate to allow the transfer federal lands to private ownership?

Response: Any transfer of federal lands to private ownership must be consistent with the powers granted under the United States Constitution and applicable federal law.

Question 19: Under what conditions do you believe it is legally appropriate to allow the transfer federal lands to state ownership?

Response: Similar to Question 18, any transfer of federal lands to private ownership must be consistent with the powers granted under the United States Constitution and applicable federal law.

Science

Question 20: In order to protect scientific integrity, the Department of the Interior created a Scientific Integrity Policy, to which all career, political, and contract employees must adhere. There are now designated Scientific Integrity officers, who are career employees in each bureau to review and adjudicate any discrepancies. Do you commit to enforcing this policy to protect scientific integrity?

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Response: I am not yet familiar with this specific policy, but agree with Secretary Zinke that scientific integrity should underpin agency actions.

Question 21: Do you commit to enforcing all decisions that come from these Scientific Integrity Officers?

Response: While I am not yet familiar with any controlling policy or law concerning this specific issue, as a general matter, I recognize that science is critical to the Department's mission, and scientific integrity should underpin the Department's actions.

Question 22: Do you commit to personally signing the Scientific Integrity Policy, and sharing with this committee a copy of that document?

Response: If confirmed, I look forward to the opportunity to review this policy, and working to uphold Secretary's Zinke's commitment to ensure scientific integrity underpins Departmental actions.

Tribal Rights

Question 23: Indian Affairs is the oldest bureau of the Department of the Interior. Throughout history and even today, the United States government has treated the Native American people with disrespect, abrogating treaty obligations and its trust responsibility. As a result, there are Native American communities living in unbelievable poverty with high unemployment rates and unspeakably high youth suicide rates. Do you agree with these assertions? If so, what do you propose to do at the Department to better enforce the law and the Department's regulations and policy to improve life for the Native American people throughout this country?

Response: The Department plays an important role in the United States' trust relationship with tribes, in ensuring meaningful consultation takes place with tribes, and in promoting self-determination and tribal sovereignty. If confirmed as Solicitor, I will ensure that the policymakers are provided clear guidance on relevant laws and policies so that they can effectively implement those laws.

Question 24: The federal government's moral and legal obligations to tribes in light of the trust responsibility carry immense moral and legal force. This trust relationship serves as an underlying basis for tribal consultation, the process by which the government engages in a meaningful, good-faith dialogue with all tribes. The Department of the Interior, by virtue of its role in Native American affairs, plays a prominent part in how the government engages in tribal consultation.

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In the wake of the Dakota Access Pipeline, three federal agencies, including the Department of the Interior, published a report in January 2017 entitled, "Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions." The subject of months-long consultation across Indian country, this report sets forth a number of recommendations to improve the process for permitting and infrastructure development. What steps do you intend to take to incorporate this report into the agency's enforcement process?

Response: If confirmed I will ensure that the policymakers are provided with clear guidance on applicable laws and policies so they can effectively adopt policies that implement those laws.

Question 25: Based on your interpretation of the Endangered Species Act and Department of the Interior policies, what are the requirements for consultation with federally recognized Native American tribes in making rulings under the Act? If confirmed, do you commit to ensuring the Department of the Interior upholds its tribal consultation duties?

Response: If confirmed, I commit to do all I can to ensure that the Department upholds its responsibility to consult with tribes as required by law or otherwise permissible.

Wild Horse Management

Question 26: Do you have plans to change or modify the implementation of the Bureau of Land Management's implementation of its wild horse management plan? If so, what changes would you recommend?

Response: If confirmed as Solicitor, I commit to accurately interpret the law and to advise the Secretary and the Department on complying with the law, including on any actions taken regarding the BLM's wild horse management plan.

Question from Senator Mike Lee

Question: The State of Utah and the Ute Indian Tribe of the Uintah & Ouray Reservation are involved in a land dispute over the tribe's claim of title to more than 1 million acres of public land comprising the historic Uncompahgre reservation in Uintah County, Utah. The dispute has disrupted investment decisions relating to mineral development in one of the most promising areas in Utah. Will you work with the state and the tribe to bring final resolution to this land claim?

Response: Yes.

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Question from Senator Steve Daines

Question: In the last couple of years we have seen an increase in the number of suits filed against the Department of the Interior and the Department of Agriculture from fringe environmental groups, many based on the Endangered Species Act. One such lawsuit resulted in the infamous *Cottonwood* decision that increased red tape on federal agencies and halted several forest management projects. One enjoined project, the Stonewall Vegetation Project, would have reduced excessive fuels on the same acres currently burning near Lincoln Montana. This is nothing short of appalling.

As solicitor will you work with me to reverse the Cottonwood decision, and will you work with congress to fight against these obstructionist lawsuits and help land managers get through the planning process to get the work completed on the ground in reasonable time?

Response: If confirmed, I would look forward to reviewing the Cottonwood opinion and any potential legal avenues to expedite the planning process.

Questions from Senator Mazie Hirono

Question 1: The details of Secretary Zinke's review of National Monuments that were recently designated or expanded are currently unknown to the public, which is particularly concerning, especially to those of us who have these monuments in our states. I hope that those details will be made publically available soon, as this review is unprecedented.

In designating and expanding new monuments, the Obama administration made sure to engage with local communities, including indigenous communities, as it weighed whether to designate or expand monuments. The Obama administration did so in a more expansive manner than previous administrations.

Secretary Zinke has a report that he provided to the President that presumably contains the legal analysis of the Department of Interior's obligations regarding management of these lands under Antiquities Act. If confirmed, will you commit to making those legal analyses public?

Response: As I am currently not at the Department, I am unaware of the content of any particular document prepared by the Secretary and am unable to make any commitment with respect to any such document. However, if confirmed, I commit to work with the Secretary to respond to Congressional inquiries.

Question 2: Your role, if confirmed, will be to supervise and direct all of the legal work within the Department of Interior. In your view, what are the Department's legal responsibilities to

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ensure the perspectives of local and indigenous communities are solicited, meaningfully considered, and incorporated appropriately?

Response: I know that the Department plays an important role in the United States' trust relationship with tribes, in ensuring meaningful consultation takes place with tribes, and in promoting self-determination and tribal sovereignty. If confirmed, I commit to ensure that the Department upholds these commitments to tribes consistent with the law or as otherwise permissible.

Question 3: Will you commit to continuing to work with native communities to protect their sacred sites and spaces preserved through the Antiquities Act?

Response: As stated above, if confirmed, I commit to ensure that the Department is upholds its commitments to tribes, consistent with the law.

Question 4: Will you commit to continuing to work with native communities to protect their special political relationship with the United States?

Response: Again, as stated above, if confirmed, I commit to ensure that the Department upholds its commitments to tribes, consistent with the law.

From: Alaska Outdoor Council <alaskaoutdoorcouncil@gmail.com>
Date: August 30, 2017 at 1:53:05 PM EDT

Subject: Support for Joe Balash's appointment as Assistant Sec. of the Interior

The Honorable Lisa Murkowski, Chair
US Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Senator Murkowski,

The Alaska Outdoor Council (AOC) enthusiastically supports the appointment of Mr. Joseph Balash to the position of Assistant Secretary of the Interior for Land and Minerals Management, and urges you to forward his appointment to the full senate.

The AOC, formed before Alaska statehood, is the largest hunting, fishing trapping and outdoor recreation group in Alaska. Our members worked with Mr. Balash previous to, and during his term as state commissioner of natural resources, and were impressed with his abilities. We found that his insight and critical thinking contributed to solutions of long-standing problems. We also found him to be a skilled manager of human resources, something Interior could surely benefit from.

In conclusion, the Alaska Outdoor Council supports the confirmation of Mr. Joe Balash. If you, committee members, or other senators have questions about our support for Mr. Balash, please feel free to contact me.

Sincerely,

Rod Arno, Executive Director
Alaska Outdoor Council
310 K Street, Suite 200
Anchorage, Alaska 99501
Phone: 907-841-6849



AMERICAN PUBLIC GAS ASSOCIATION

September 18, 2017

Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

On behalf of the American Public Gas Association (APGA), I express our strong support for the President's nominations of Mr. Kevin McIntyre and Mr. Richard Glick to serve as Commissioners on the Federal Energy Regulatory Commission.

APGA is the national association for publicly-owned natural gas distribution systems. There are approximately 1,000 public gas systems in 37 states and over 720 of these systems are APGA members. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

Mr. McIntyre's experience in energy law and policy makes him an excellent candidate for the Commission. His work on issues ranging from energy transmission to energy markets provides him with a strong understanding of the variety of issues that the Commission has jurisdiction over. APGA also appreciates and supports his commitment to transparency in federal government processes.

Mr. Glick's expertise in energy policy also makes him an excellent candidate for the Commission. Mr. Glick's commitment to working to safeguard the public's interests and towards ensuring just and reasonable rates for consumers will greatly assist the Commission as it moves forward.

It is our sincere hope that these nominations will move quickly through the Senate.

Sincerely,

Bert Kalisch
President & CEO

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September 1, 2017

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

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Re: Nomination of Ryan D. Nelson to be Solicitor for the Department of the Interior

Dear Chairman Murkowski and Ranking Member Cantwell:

We write in strong support of the nomination of Ryan D. Nelson to be Solicitor of the Department of the Interior. As Ryan's colleagues in the Idaho Bar, who represent a wide range of political views, we believe Ryan to be an excellent choice to serve as Solicitor.

Ryan has extensive experience in many subject matters central to the Department of the Interior. As a native of Idaho, Ryan understands many legal issues that affect the West. While at the Justice Department and the White House, Ryan worked on many complex environmental and natural resources issues. This experience will serve him well in the role of Solicitor. Similarly, Ryan's experience in private practice provides him with exceptional skills regarding appellate and complex litigation issues, as well as corporate law issues. Ryan has the judgment, legal acumen, integrity, and temperament necessary to succeed in the role of Solicitor.

In short, we believe that Ryan will serve well and fulfill the duties of the office to which he has been nominated with skill, honor, and faithful adherence to the rule of law. As such, and mindful of the important role the Senate plays in the confirmation of nominees, we urge the Members of the Committee and the Senate to approve Ryan's nomination to be Solicitor for the Department of the Interior.

Sincerely,

William Athay
Associate General Counsel
Melaleuca, Inc.

Dwight E. Baker

Duston K. Barton
General Manager
Riverbend Management, Inc.

The Honorable Lisa Murkowski
The Honorable Maria Cantwell
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Former Counselor to the Secretary of the Department of the Interior

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The Honorable Lisa Murkowski
The Honorable Maria Cantwell
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Office of the Executive Director
CHRIS W. COX

September 6, 2017

The Honorable Lisa Murkowski
Chairman, U.S. Senate Committee
on Energy & Natural Resources
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member, U.S. Senate Committee
on Energy & Natural Resources
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell,

I am writing to express the National Rifle Association's support for Ryan Nelson for the position of Solicitor for the Department of the Interior (DOI).

The Solicitor is the chief legal officer for the DOI and also exercises oversight over the Department's Ethics Office and the resolution of appeals under the Freedom of Information Act. More than 400 employees, including some 300 lawyers, work in the Solicitor's Office. Given the DOI's role in managing approximately 20% of the U.S. landmass through its various components, this position is critical to the interests of America's hunters and shooters.

I am confident that Mr. Nelson will discharge his duties with due regard to the importance of land access for traditional uses, including hunting and recreational shooting. A native of Idaho Falls, he is, as DOI Secretary Ryan Zinke observed, a true "son of the West."

Ryan Nelson would also bring a strong background in natural resources policy and law to DOI, with relevant experience in both the public and private sectors. The CEO of the company for which he has recently served as chief legal advisor during a period of high growth characterized him as a "true patriot" and expressed his full support for his "personal sacrifice in serving this country he loves so much."

For these reasons, the NRA is proud to support Ryan Nelson's nomination for this important position.

Sincerely,

Chris W. Cox



Sept. 7, 2017

**Utilities Technology Council
Statement for the Record
Senate Energy and Natural Resources Committee**

Nomination Hearing to Consider DOI, FERC Nominees

The Utilities Technology Council (UTC) appreciates the opportunity to submit a Statement for the Record in the U. S. Senate's Energy and Natural Resources Committee's hearing "Nomination Hearing to Consider DOI, FERC Nominees." Formed in 1948, UTC is the global association representing energy and water utilities in their need for reliable and resilient information and communications technology (ICT). Our members work every day to ensure the safe, reliable and secure delivery of electricity.

UTC members power our economy and our increasingly digital lifestyles. To do so safely and efficiently, energy and water providers must have access to reliable, resilient information and communications technology (ICT) networks. This access is critical not only to maintain normal day-to-day operations, but also in preparation for, and response to, natural disasters and other threats to the grid. In addition, ICT networks are vital to the success of smart-grid technologies.

As this Committee examines the nominees for Federal Energy Regulatory Commission (FERC), UTC respectfully requests that the Committee encourage the nominees to explore ways the nominees, once confirmed, can facilitate the inclusion of utility ICT needs, such as access to radiofrequency spectrum for utility wireless communications systems, in federal policies focused on securing the country's energy infrastructure. By encouraging the nominees to engage regularly with their counterparts at the Federal Communications Commission (FCC), which have jurisdiction over spectrum and other aspects of policies related to ICT, the Committee has the opportunity to ensure that this absolutely essential component of grid resilience – reliable communications – is holistically considered throughout our government.

Additionally, UTC's electric utility members have worked over the last several years to develop a strong and robust information sharing and strategic collaboration initiative embodied in the Electricity Subsector Coordinating Council (ESCC). They have also committed, through the North American Electric Reliability Corporation (NERC), to continuously improve the mandatory reliability standards process, which has enhanced the security and reliability of the bulk power system. Both DOE and FERC play critical roles in these efforts, and we would request that the Committee encourage the nominees to support the continued work occurring within both the ESCC and NERC.

In particular, UTC would like to emphasize the following:

- **Energy policymakers must closely examine cross-sector interdependencies and enhance cross-sector collaboration.** UTC applauds this Committee for its leadership in exploring better ways to protect the electric grid from all hazards. We encourage Committee members to build on

this effort by also considering how cross-sector interdependencies impact grid resilience. As it examines the FERC nominees, the Committee should encourage them to focus on these efforts. Utility ICT needs, such as access to spectrum for wireless communications that is free from interference and congestion, are integral to securing the country's energy infrastructure. Unfortunately, despite their vital importance to national security, energy and water providers face increasing challenges in accessing spectrum for mission critical communications, including those used for the Supervisory Control and Data Acquisition (SCADA) systems fundamental to grid operations.

The need for spectrum becomes more acute as utilities increasingly rely on wireless technologies that enable smart-grid devices and accommodate new generation resources such as solar and wind. Access to spectrum also allows utilities deploy drones and other technologies that provide greater situational awareness and enhanced grid resilience. Policymakers must address electric utilities' need for spectrum so they have access to the ICT networks necessary for safe, reliable and secure electric service operations. Reliable communication systems are essential for maintaining operational safety, reliability and security, as well as resilience and restoration of service.

To ensure that these needs are met, the Committee should encourage the nominees to meet regularly with their counterparts at the Department of Commerce and the FCC. Frequent intergovernmental engagement will facilitate better understanding of the operational needs of various critical infrastructures, thereby enhancing homeland security and safety. Each agency should work to understand the cross-sector impacts of its decision-making, which will yield better policies overall. At a time when cross-sector interdependencies are increasing, cross-government engagement is essential. DOE and FERC, with their expertise about the energy sector, could provide needed education and collaboration with other agencies about the energy sector's ICT deployment and policy challenges.

- **The public-private partnership embodied in the ESCC is a robust and essential element of our members' critical infrastructure protection activities and should be supported at every opportunity.** UTC's members serve on the ESCC, and our President and CEO is an invited guest of the ESCC. This public private partnership is instrumental in: 1) improving the communication between the government and the private sector on the threats and vulnerabilities that exist; 2) addressing the obstacles to expanding the real-time situational awareness electric utilities need to mitigate these rapidly-changing threats; 3) educating industry about cybersecurity best practices; and, 4) identifying technology gaps to better inform research and development. DOE's role in this effort has been foundational to its success, and UTC asks the Committee to encourage the nominees to build upon and strengthen this well-functioning structure.
- **Standards alone will not get us the security we need.** The carefully constructed relationship between industry, NERC as the Electric Reliability Organization (ERO), and FERC is working well and should continue as is to ensure that industry and government can address the most critical issues from a risk-based perspective. The Committee should encourage the FERC nominees to support the existing process.

UTC's members are also actively involved with NERC – both with the Electricity Sector Information Sharing and Analysis Center (E-ISAC) and the development and implementation of the Critical Infrastructure Protection (CIP) standards. Each of these functions within NERC play important and different roles needed for mitigating various threats to the grid. UTC believes that existing NERC CIP requirements have helped bring a much-needed spotlight on utility security.

These baseline standards in conjunction with the efforts of the E-ISAC, the ESCC, the Department of Homeland Security (DHS), the National Institute of Standards and Technology (NIST), and others to teach best practices on how to mitigate the threat, are the type of multi-pronged approach that is needed for protecting these critical systems.

UTC thanks the Committee for its continued focus on the reliability and resilience of our nation's energy infrastructure. Our organization can serve as an important resource as Committee members provide oversight of FERC. UTC believes that there is an opportunity to promote strong utility ICT networks as part of an integrated energy policy for affordable, reliable, and secure energy. Doing so is essential to improving U.S. economic productivity, enhancing our quality of life, protecting our critical infrastructure, and ensuring our Nation's security.

UTC looks forward to working with the Committee and the nominees to develop policies that protect utility infrastructure through the implementation of improved utility communications.

