

**THE DEPARTMENT OF THE INTERIOR'S
FAILURE TO COOPERATE WITH
CONGRESSIONAL OVERSIGHT REQUESTS**

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

Thursday, September 26, 2019

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**OVERSIGHT HEARING ON THE DEPARTMENT
OF THE INTERIOR'S FAILURE TO COOPER-
ATE WITH CONGRESSIONAL OVERSIGHT
REQUESTS**

**Thursday, September 26, 2019
U.S. House of Representatives
Committee on Natural Resources
Washington, DC**

The Committee met, pursuant to notice, at 2:04 p.m., in room 1324, Longworth House Office Building, Hon. Raúl M. Grijalva [Chairman of the Committee] presiding.

Present: Representatives Grijalva, Sablan, Huffman, Lowenthal, Gallego, Cox, Haaland, Van Drew, Cunningham, Velázquez, Soto, Cartwright, Tonko; Bishop, Gohmert, McClintock, Westerman, Hice, Radewagen, Webster, González-Colón, and Hern.

The CHAIRMAN. The Committee on Natural Resources will come to order.

The Committee is meeting today to hear testimony on the “Department of the Interior’s Failure to Cooperate with Congressional Oversight Requests.”

Under Committee Rule 4(f), any oral opening statements are limited to the Chairman and the Ranking Minority Member. Therefore, I ask unanimous consent that all other Members’ opening statements be made part of the hearing record, if they are submitted to the Clerk by 5 p.m. today.

Hearing no objection, so ordered.

For an opening statement, let me recognize myself.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

The CHAIRMAN. Congressional oversight of the executive branch is an integral part of our democracy’s system of checks and balances. As representatives of the American people, Congress must help ensure that the current administration is acting in the best interests of the people, in concurrence with existing laws, and in a way that is free from corruption, fraud, or waste.

Let me quote, “In regards to oversight, it is not only Congress’ right, but our responsibility to hold the executive branch accountable for its actions and decisions. In turn, we expect the Administration to be honest and transparent.” That quote comes from the former Full Committee Chairman, Chairman Doc Hastings, on September 10, 2014. I bring that up because, as his picture also adorns the wall here, that has been a consistent demand regardless of who the Majority is—the oversight function and its importance. And I think Chairman Hastings said it much better than I could.

But, unfortunately, that has not stopped the Trump administration from delaying, obstructing, and sometimes just ignoring our

efforts to conduct oversight. The Trump administration has declared open war on Congress' constitutional authority to conduct oversight. And the Department of the Interior is no exception.

To date, this Committee has made over 25 formal requests for information or documents from Interior. To date, we have only received complete or nearly complete responses to three of them. Fourteen of those requests—well over half—have received no substantive response at all.

Interior likes to talk about the numbers of documents and pages they have sent us. But they are padding the numbers. In one case, they gave us a 12,000-page print-out of a single Excel table.

[Slide.]

The CHAIRMAN. There is the visual up there. It was unusable, print-outs of large spreadsheets usually are—12,000 pages of that. And it was sitting on Interior's website. Rather than taking 2 months to print and scan 12,000 pages, they could have just e-mailed us the link.

In response to our request about the former Secretary's review of our national monuments, they sent us 100 pages of unintelligible symbols.

[Slide.]

The CHAIRMAN. We have gotten documents with redactions from Interior, while they sent the same documents to the public through FOIA without those redactions. When we asked them about it, staff told us that the redacted information wasn't related to our request. Not only was that not true, but Interior does not go through each individual document to redact content that isn't responsive. The 100 pages of symbols make that pretty clear.

Before Secretary Bernhardt came to testify before this Committee in May, we tried to make things easy and asked him to prioritize four very narrow document requests. One of those requests asked for a single document by file name. We couldn't even get that one.

Their efforts seem to be particularly targeted toward me. E-mails obtained by the Committee this past spring showed that the Interior employees were instructed to withhold any communications directed to me for about 2 weeks. Another e-mail said that any documents I requested were to be reviewed by two high-ranking political appointees. That was directed just at me. No other Member of the House or this Committee was singled out the same way. Despite asking about these instructions multiple times, still no answer.

And it is just not Congress. Interior has resisted oversight by both the Inspector General and the Government Accountability Office since the beginning of this administration. In fact, GAO has called Interior the least responsive department in the entire Federal Government.

When he testified before this Committee, Secretary Bernhardt proposed that we meet to discuss a reasonable timetable for producing documents we requested. At that meeting, DOI staff declared they would not be committing to any timetables out of concern that we might hold them to that agreement. They refused to tell us who their witness would be for this hearing until yesterday, 1 to 2 weeks has usually been the norm.

These actions paint a picture of a department acting in bad faith. Interior's refusal to cooperate means the Committee cannot do the oversight envisioned in our Constitution. We need information from the Administration to assist us with legislation, oversight, and to keep the Department accountable to the American people.

The American people deserve a government that works together. And we need something better than this situation now. I hope today's hearing helps us move past this logjam to find a path forward.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, CHAIR, COMMITTEE ON
NATURAL RESOURCES

Congressional oversight of the executive branch is an integral part of our democracy's system of checks and balances. As representatives of the American people, Congress must help ensure that the current administration is acting in the best interests of the people, in concurrence with existing laws, and in a way that is free from corruption, fraud, and waste.

But that has not stopped the Trump administration from delaying, obstructing, and sometimes just ignoring our efforts to conduct oversight. The Trump administration has declared open war on Congress' constitutional authority to conduct oversight. And the Department of the Interior is no exception.

To date, this Committee has made 25 formal requests for information or documents from Interior. And to date, we have only received complete or nearly complete responses to three of them. Fourteen of those requests—well over half—have received no substantive response at all.

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Their efforts seem to be particularly targeted toward me. E-mails obtained by the Committee this past spring showed that Interior employees were instructed to withhold any communications directed to me for about 2 weeks. Another e-mail said that after the 2 weeks, any documents I requested were to be reviewed by two high ranking political appointees. Just me, no other member of the House was singled out. Despite asking about these instructions multiple times, I still have not gotten answers.

It's not just Congress. Interior has resisted oversight by both the Inspector General and the Government Accountability Office, or GAO, since the beginning of this administration. In fact, the GAO has called Interior the least responsive department in the entire Federal Government.

When he testified before this Committee, Secretary Bernhardt proposed that we meet to discuss a reasonable timetable for producing the documents we requested. At the meeting, DOI staff declared they would not be committing to any timetables out of concern that we might hold them to their agreement. They refused to tell us who their witness would be for this hearing until yesterday—1–2 weeks is the norm.

These actions paint a picture of a department acting in bad faith. Interior's refusal to cooperate means this Committee cannot do the oversight envisioned in our Constitution. We need information from the Administration to assist us with legislation, oversight, and to keep the Department accountable to the American people.

The American people deserve a government that works together better than this. I hope today's hearing helps us move past this logjam to find a path forward.

The CHAIRMAN. With that I yield to the Ranking Member, Mr. Bishop, for his opening comments.

**STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF UTAH**

Mr. BISHOP. Thank you, Mr. Grijalva. I think, in some respects, I can understand the feelings that you are going through now. When I was Chairman, we had the same concepts many times.

But I do want to start off by congratulating Solicitor Jorjani for your confirmation that has just happened. Secretary Bernhardt came to this Committee just 35 days after he was confirmed. You are here less than 48 hours after you were confirmed. If that is not some kind of prompt and responsive service, I actually don't know what is.

When Secretary Bernhardt took over as Acting Secretary, the Department produced for this Committee over 100,000 pages of information from 22 different oversight requests. That was a grand total of 12,000 documents, which is amazing, when you consider the last time there was such a hearing like this about the Obama Interior Department's administration, many on the other side were saying the 5,000 documents that they had produced, which was 60,000 pages, was unique and amazing. So, you have performed extremely well, producing a whole lot more information in a shorter period of time than what was good back in those good old days.

Look, oversight is the responsibility of Congress, and it is good. And when it is bipartisan it can yield good results. Let me give you an example.

There were credible allegations about groups like the World Wildlife Fund, which was using taxpayer-funded grants from the Department to support cases of human rights violations, things like torture and rape and extrajudicial killings under the cover of species conservation, with absolutely little to no accountability toward it. We pushed for answers, and I do appreciate Mr. Grijalva, as Chairman of this Committee, also pushing for responses to it. And I actually thank the Department for responding to this Committee's inquiry, also by taking your very proactive steps to flag and halt some of the riskiest grants that were being done in the past. That is very positive.

I think positive changes are coming from that oversight request, and I look forward to working with Chairman Grijalva, as we continue to work with the Department to address the lapses of accountability in these types of funds.

But not all congressional oversights are of equal value. The investigation of the Secretary's calendars, it produced thousands of pages of documents, and multiple employees, including the Department's chief of staff, had to be available for 22 hours of transcript interviews. And at the end of that month—all those months of this particular exercise, what we learned were employees managed the Secretary's schedule, and lawyers conduct reviews, and records

were properly maintained by the law, and actually that Bernhardt was employing a stricter review process than had been done before.

There are always some attempts by some to recurrently demonize—obsessively demonize—certain segments of the stakeholders, certain select industries and people who have experience and expertise in the natural resources realm. Knowledgeable industry experience and expertise should not be viewed with skepticism, but has a value to it, especially when there is some balance to it.

And I think we are very fortunate to have a Secretary who knows this Department, its agencies, as well as impacted industries better than anyone, and is using this knowledge to reform a Department that has a long history of mismanagement to one that provides taxpayers with the best services, and is responsive to their particular needs.

So, if we are going to do another witch hunt at some time, I think we should all park our pitchforks at the door before we go into it. For, indeed, as one person said 5 years ago in a hearing, this is indeed about optics and fighting about things, rather than getting to the bottom of them. And after they reviewed many of the documents in response to the Committee's inquiry, further said, "The scandal is, in fact, the search for a scandal."

I think, Mr. Huffman, you were correct 5 years ago and you are correct about this hearing, as well. The same thing applies.

I yield back.

The CHAIRMAN. Thank you. I want to thank our witness today, the Solicitor of the Department of the Interior, Mr. Daniel Jorjani.

And congratulations, as well, on your confirmation. Thank you very much for taking the time to be here.

Under Committee Rules, oral statements are limited to 5 minutes, but your entire statement will appear in the hearing record.

The lights in front of you will turn yellow when there is 1 minute left, and red when time has expired.

After testimony is complete, Members will be given the opportunity to ask questions.

With that, Mr. Jorjani, the Chair recognizes you for your testimony. And thank you again.

**STATEMENT OF DANIEL JORJANI, SOLICITOR, U.S.
DEPARTMENT OF THE INTERIOR, WASHINGTON, DC**

Mr. JORJANI. Thank you, and good morning, Chairman Grijalva, Ranking Member Bishop, and members of the Committee. My name is Daniel Jorjani, and I am the Principal Deputy Solicitor for the U.S. Department of the Interior, an agency charged with protecting America's landscapes and heritage, fulfilling unique responsibilities to the insular areas and trust responsibilities to the American Indian tribes and their members, and also overseeing the responsible development and use of our country's natural resources.

At the outset, I would like to thank you, Chairman, for the opportunity to address the Committee's oversight interests and the Department's robust accommodation of the many congressional requests throughout this session.

As the Department has consistently stated, we recognize and respect the Committee's oversight role with respect to the varied

activities of the Department. I believe that ongoing communication between the Department and the Committee allows for a better mutual understanding of the respective interests of each separate branch of government.

Importantly, this conversation can allow the Department to meet the legitimate oversight needs of the Committee, while minimizing its impact on the Department's ability to carry out its missions and day-to-day work.

The judicially-recognized process of responding to congressional requests, known as the accommodation process, has its roots in the U.S. Constitution, extensive case law, and long-standing practice. This process is non-partisan. Administrations of both parties have relied upon it for decades, and it has been supported by top Department officials, both Democrats and Republicans alike.

Within the Department, the Solicitor's Office, Congressional Affairs, and the Executive Secretariat work together with the Department's bureaus and offices to comply with congressional oversight requests. To manage these requests, the Department, according with long-standing roles, responsibilities, and processes relies on dedicated career civil servants to collect, review, and timely produce responsive materials. The shared responsibility by bureaus and offices ensures that the Department cooperates with congressional oversight requests to the fullest extent consistent with our constitutional and statutory responsibilities.

The Solicitor's Office plays a critical role in the Department's oversight process. My office assures that congressional oversight productions protect the legitimate legal interests of the Department.

At times, congressional committees request information that can implicate executive branch confidentiality interests. In these instances, the Department, under the leadership of Secretary Bernhardt, has remained dedicated to accommodating legitimate oversight requests, and working to provide Congress with the information it seeks.

The Department has received a significant number of congressional requests for information and documents in the 116th Congress. Since the government reopened in late January, the Department estimates that it has received at least 27 separate oversight requests, and has worked diligently to respond to each as it is able.

According to Congressional Affairs, the Department and its bureaus have transmitted nearly three dozen substantive letters to assist oversight investigations and provide a deeper understanding of the issues, resulting in the resolution of at least six separate matters.

We have initiated productions in 17 different matters, several of which are now closed, while seeking to accommodate many other Committee requests through staff briefings and prioritization of requested records.

The production of responsive information is similarly robust, totaling over 13,500 documents, comprising more than 100,000 pages. Many of these productions have been accompanied by offers of briefings by subject matter experts and senior departmental

officials to better inform the Committee's legitimate interest in information.

The Department's pace and quality of reply to oversight requests is also consistent with the previous administration's efforts. Our commitment to accommodating Congress' legitimate oversight functions, while at the same time protecting important executive branch functions, is robust. And we have dedicated significant taxpayer resources to complying with those requests.

Finally, the Department has requested to brief the Chairman on multiple occasions on the many ongoing requests of the Department. Although none of these offers have been accepted, Departmental staff have been able to meet with Committee staff to review requests on a few occasions, and we genuinely look forward to more such opportunities in the future.

I believe a non-partisan review of the Department's accommodation of the Committee's oversight requests reflects Secretary Bernhardt's respect for Congress' authority as a co-equal branch of government.

The Department will continue to diligently review and respond to unresolved and future oversight requests.

I look forward to answering any questions the Committee has, and I genuinely thank you again for the opportunity to testify today. Thank you, sir.

[The prepared statement of Mr. Jorjani follows:]

PREPARED STATEMENT OF DANIEL JORJANI, U.S. DEPARTMENT OF THE INTERIOR

Good morning Chairman Grijalva, Ranking Member Bishop, and members of the Committee. My name is Dan Jorjani, and I am the Principal Deputy Solicitor for the United States Department of the Interior, an agency charged with protecting America's landscapes and heritage, fulfilling unique responsibilities to the Insular areas and our trust responsibilities to the American Indian tribes and their members, and overseeing the responsible development and use of our country's natural resources.

At the outset, I would like to thank you, Mr. Chairman, for the opportunity to address the Committee's oversight interests and the Department's robust accommodation of the many congressional requests throughout this session. As the Department has consistently stated, we recognize and respect the Committee's oversight role with respect to the varied activities of the Department.

I believe that ongoing communication between the Department and the Committee allows for a better mutual understanding of the respective interests of each separate branch of government. Importantly, this conversation can allow the Department to meet the legitimate oversight needs of the Committee while minimizing the impact on the Department's ability to carry out its missions and day-to-day work.

The judicially-recognized process of responding to congressional requests, known as the accommodation process, has its roots in the United States Constitution, extensive case law, and long-standing practice. This process has been described by one Attorney General as: "The accommodation required is not simply an exchange of concessions or a test of political strength. It is an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch" (Assertion of Executive Privilege in Response to a Congressional Subpoena, 5 Op. O.L.C. 27, 31 (1981)). This process is non-partisan—administrations of both parties have relied upon it for decades, and it has been supported by top Department officials, both Democrats and Republicans alike.

Within the Department, the Office of the Solicitor, the Office of Congressional and Legislative Affairs, and the Office of the Executive Secretariat and Regulatory Affairs, work together with the Department's bureaus and offices to comply with congressional oversight requests. To manage these requests, the Department, in accordance with long-standing roles, responsibilities and processes, relies on dedicated career civil servants to collect, review, and timely produce responsive materials. The shared responsibility by bureaus and offices ensures that the Department cooperates

with congressional oversight requests to the fullest extent, consistent with our constitutional and statutory responsibilities.

The Solicitor's Office plays a critical role in the Department's oversight process. My Office ensures that congressional oversight productions protect the legal interests of the Department, including our litigation and ongoing rulemaking interests. We work closely with the Office of Congressional and Legislative Affairs and the Office of the Executive Secretariat and Regulatory Affairs to collectively fulfill the Department's oversight obligations.

At times, congressional committees request information that can implicate executive branch confidentiality interests. In these instances, the Department, under the leadership of Secretary Bernhardt, has remained dedicated to accommodating legitimate oversight requests and working to provide Congress with the information it seeks.

The Department has received a significant number of congressional requests from several different committees for information and documents in the 116th Congress. Since the government reopened in late January 2019, the Department has received at least 27 separate oversight requests and has worked diligently to respond to each as it is able. According to the Office of Congressional and Legislative Affairs, the Department and its bureaus have transmitted nearly three dozen substantive letters to assist oversight investigations and provide a deeper understanding of requested issues, resulting in the resolution of at least six separate matters. We have initiated productions in 17 different matters, several of which are now closed, while seeking to accommodate many other Committee requests through staff briefings and prioritization of requested records.

The production of responsive information is similarly robust, totaling over 13,500 documents consisting of more than 100,000 pages. Many of these productions have been accompanied by offers of briefings by subject matter experts and senior Department officials to better inform the Committee's interest in information.

The Department's pace of reply to oversight requests is also consistent with the previous administration's efforts. For instance, data acquired from the Department's Office of Executive Secretariat and Regulatory Affairs, which tracks historical correspondence for the Department, shows that during the first 9 months of 2011, after the Republican majority took control of the House of Representatives and conducted significant oversight of the Obama administration, the Department received 21 congressional oversight requests and provided 38 letters and productions of documents and information. Correspondingly, as noted earlier, the Department has received 27 requests and provided more than 42 separate letters and document productions.

The Department's commitment to accommodating Congress' legitimate oversight functions and, at the same time, protecting important executive branch functions, is robust, and we have dedicated significant taxpayer resources to complying with these requests.

Additionally, the Department has requested to brief the Chairman on multiple occasions on the many ongoing requests of the Department. Although none of these offers have been accepted, Departmental staff have been able to meet with Committee staff to review requests on a few occasions and look forward to more such opportunities in the future.

I believe a non-partisan review of the Department's accommodation of the Committees' oversight requests reflects the Secretary's respect for Congress' authority as a co-equal branch of government. The Department will continue to diligently review and respond to unresolved and future oversight requests. I look forward to answering any questions the Committee has and I thank you again for the opportunity to testify today.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. DANIEL JORJANI, PRINCIPAL DEPUTY SOLICITOR FOR THE U.S. DEPARTMENT OF THE INTERIOR

Mr. Jorjani did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Rep. Grijalva

Question 1. You testified to the Senate Energy and Natural Resources Committee that documents released under the Freedom of Information Act, or FOIA, were not subject to a "heightened awareness" review process. In fact, you testified that process did not exist—that the Department does not have a heightened awareness process,

which you reiterated in Questions for the Record. But we found substantial evidence to the contrary. Interior staff, including FOIA officers, called it a Heightened Awareness, Supplemental Awareness Review, or even Augmented Awareness. They describe a process of review reserved for the highest-ranking political appointees that get extra scrutiny before being released. Why did you tell the Senate ENR Committee that the “heightened awareness process” did not exist?

Question 2. Is there a process, formal or informal, by which FOIA productions that somehow implicate some high-ranking political appointees at DOI get an additional layer of review beyond the awareness review process that applies to all political appointees?

2a. If so, what is that process called?

Question 3. You also testified under oath to the Senate that “as a policy matter, I typically did not review records prior to their release under the FOIA.” But, again, numerous e-mails show FOIA officers were ordered to include you on FOIA responses as a matter of policy, and that you had numerous recurring meetings with FOIA staff and Interior attorneys about FOIA requests and responses. You even had phone calls scheduled on weekends for FOIA updates. Why did you testify that you did not routinely review FOIA responses, when there is overwhelming evidence that you did?

Question 4. You prefaced your answer with the phrase, “as a policy matter.” What does that mean?

Question 5. Did you ever review records prior to their release under the FOIA as a non-policy matter?

Question 6. According to the Interior Department’s most recent FOIA Annual Report (2018), the median number of days it takes the Department to respond to FOIA Appeals is 516 days, and on average it takes 643 days to process a single appeal. At the end of Fiscal Year 2018, the Department had 379 FOIA Appeals outstanding. It is our understanding that the Department has a single employee who processes appeals for the entire agency. The Department’s own report makes clear that this process is broken and that impedes public oversight of the Department. Why is only one person responsible for this important function?

Question 7. During your testimony you said that the Department takes congressional oversight seriously and seeks to balance the legitimate legislative branch interests in oversight against confidentiality and executive branch privileges. From whom or what Office do you seek guidance on how to balance these interests? Have you ever consulted the White House about document releases related to FOIA requests or oversight requests?

Questions Submitted by Rep. Gallego

Question 1. On May 14, 2019, I, along with Chairman Grijalva and Representative Haaland, sent Secretary Bernhardt a letter expressing our concern with the content of the National Park Service’s proposed rule on National Historic Preservation on Federal land (Fed. Reg. 41, 6996–7005), especially the lack of government-to-government consultation that occurred before the rule was proposed. After receiving no answer and seeing the continued lack of meaningful tribal consultation on the development of this rule, on July 19, 2019, the Chairman, Rep. Haaland and I sent another letter to Secretary Bernhardt and NPS Deputy Director Dan Smith requesting:

- a. A congressional briefing from relevant, decision-making staff at NPS on the development, substance and status of the rule before it is finalized;
- b. That the Department re-evaluate the proposed rule’s compatibility with congressional intent behind the National Historic Preservation Act; and
- c. That the Department suspend action on the proposed rule until full and meaningful tribal consultation takes place.

It is very concerning that we have not received any response regarding these issues that we first brought to DOI’s attention months ago.

When will you respond to this inquiry and provide us what we requested?

Question 2. In your testimony you mentioned your Department’s eagerness to provide congressional briefings on Department policy.

Can you commit to providing a congressional briefing on this matter before the rule is finalized as requested in the July 19, 2019 letter?

Questions Submitted by Rep. Huffman

Question 1. I have repeatedly asked for the records of communication between the Department of the Interior and Secretary Bernhardt's former clients regarding the biological opinions being developed for the Central Valley Project. When will a copy of these communications be provided to the Committee?

Question 2. Was Deputy Secretary David Bernhardt personally involved in the Department of the Interior's efforts to expand Shasta Dam in the time period from April 2017 through August 2018, including personal involvement in making any determinations related to section 4007 of the 2016 WIIN Act (P.L. 114-322)? If yes, please specify all agency decisions, findings, and/or actions in which Mr. Bernhardt was personally involved.

Question 3. Was Deputy Secretary David Bernhardt personally involved in negotiations with the Westlands Water District or the San Luis & Delta Mendota Water Authority over cost-sharing agreements for the expansion of Shasta Dam, prior to August 2018?

Question 4. Were there any specific matters involving the Westlands Water District that David Bernhardt has been recused from during his time as Deputy Secretary of the Interior, or during his time as Secretary of the Interior? If yes, please identify all specific matters for which Mr. Bernhardt was recused.

Questions Submitted by Rep. Soto

Question 1. Commitment from the Department of the Interior to generate if there are privilege logs concerning all documents that have been non-responsive. These include:

- *Alaska meetings during the government shutdown*
- *Proposed ESA regulations*
- *Mountaintop removal mining study*
- *Incident of non-compliance by BLM*
- *Arctic National Wildlife Refuge leasing*
- *DOI Reorganization plan*
- *BSEE offshore leased decommissioning*
- *Biological opinion on three major pesticides*

The CHAIRMAN. Thank you very much. And to get a better understanding and set the template for the discussion today having to do with document requests, I want to better understand about where our document requests are being held up, or getting held up. To that, I need to understand the process for handling them.

To my best understanding of it, when we send a request to a bureau and office, one of the first steps is a meeting among a mix of career and political employees who decide how the document request is to be treated and who will collect the document. Is that basically correct?

Mr. JORJANI. Yes, Chairman, that is basically correct.

The CHAIRMAN. Based on that meeting, instructions for collecting responsive documents are put together. And then it goes out for document collection to the people who have direct access to the documents.

After that a bureau contact reviews the documents that have been collected to make sure that they are responsive to the request.

Am I correct so far?

Mr. JORJANI. Yes, sir, Mr. Chairman.

The CHAIRMAN. Thank you. Once the documents are collected, they are also sent to your office, presumably to determine whether

there are any documents that will be withheld for reasons that might include potential assertion of a privilege.

Is that still on track?

Mr. JORJANI. Yes, sir, still on track. The Solicitor's Office does work with the Office of the Executive Secretary, the bureaus, and, above all, the Office of Congressional—

The CHAIRMAN. Before sending the document to us, to the Committee, it also goes through review of the Office of Congressional and Legislative Affairs. Correct?

Mr. JORJANI. Yes, sir.

The CHAIRMAN. And what is the purpose of the review at that point?

Mr. JORJANI. The Office of Congressional and Legislative Affairs manages all the Department's interactions with Congress, and certainly with our authorizing oversight committees.

The CHAIRMAN. So, let me ask a question, then. Are political appointees, as the liaison office is, primarily responsible for this review? Or is the career staff principally responsible for the review?

Mr. JORJANI. As you noted in your comments, this is a long and extensive process that involves career officials at every level of the process. And it is collaborative, primarily between the Office of the Executive Secretary, the Office of Congressional and Legislative Affairs, and the Office of the Solicitor career officials, and then the responsive bureaus.

The CHAIRMAN. Is anybody else involved in the reviews of the material requested to be sent to us? The Secretary, Chief of Staff, Deputy?

Mr. JORJANI. Generally, we have a process in place that relies heavily on career officials. Beyond that, I think there is interest in always maintaining positive and responsive reactions to legitimate congressional oversight requests, which sometimes does involve other elements of the Department, to the best of my understanding, sir.

The CHAIRMAN. There are probably some variations here and there, but this is basically the way the process works for responding to document requests, correct?

Mr. JORJANI. Yes, pursuant to a memorandum, the memorandum in a previous administration, Office of Congressional and Legislative Affairs oversees our interactions with Congress. The Solicitor and Executive Secretary play key roles in the process, as well. Essentially, managed, as you said—

The CHAIRMAN. Every request is tracked along the way, so if you wanted to know where a request from this Committee was being held up, or where it was in the process, you could just look at the tracking system and figure that out.

What single person is responsible—if a single person is responsible—for ensuring that a document request gets through the entire process?

Mr. JORJANI. At the end of the day, the Office of Congressional and Legislative Affairs manages all our interactions with this Committee, with the Hill. And the Director of the Office of Congressional and Legislative Affairs, working with his senior career staff, senior career staff of the Office of the Executive Secretary, and the Solicitor's Office.

The CHAIRMAN. OK, at what stage in the process that we just outlined are most of our document requests being held up?

In other words, the Office of Congressional Affairs, is that where the bottleneck is?

Mr. JORJANI. I think our responses in tracking them—and I would be careful of overstating how robust our internal tracking system is, but I would hesitate to say that the bottleneck is in the Office of Congressional and Legislative Affairs. Certainly, they prioritize robust response to Congress' legitimate interaction.

Generally, I find, if there are any document slowdowns, it is usually in the Office of the Solicitor. That is what I have found in the past—

The CHAIRMAN. So, if the documents have been mostly collected, then they are simply waiting to be reviewed by Congressional Affairs, your office before they are forwarded to us?

Mr. JORJANI. It is an iterative process. It really depends on each individual request. If there are specific things that are held up in the process, I am happy to track them and get them back to you, working via the Office of Congressional and Legislative Affairs, on an expedited basis. We respect your oversight responsibilities.

The CHAIRMAN. I don't have any further questions. Mr. Bishop?

Mr. BISHOP. Thank you again. Mr. Grijalva, can I first make a comment that has nothing to do with the witness here?

I have in the past been critical about attendance at both mark-ups and hearings. I have to give credit when credit is due. The number of Members who are here is heartening. When you have 10 Members on your side and 8 on our side for an afternoon committee hearing, that is good. That is, I think, a positive statement. It must be your star power of drawing people out here.

The CHAIRMAN. And your recommendation is under advisement to have all our meetings at 4 in the afternoon. I am going to poll the rest of the Members to see how they feel about it, but we will go from there.

Mr. BISHOP. I know how hard you will work for that proposal, too, so thank you.

[Laughter.]

Mr. BISHOP. Mr. Jorjani, can I ask you a question? At a hearing that was previously held, there were Democrats on this Committee who considered the Obama administration's production of 5,000 documents and about 60,000 pages as a heroic effort.

However, our Department, under the Trump administration has produced 12,000 documents that are over 100,000 pages, and you have done it in less than 10 months. We now have a hearing here where the complaint is that you all are being unresponsive and uncooperative. So, after producing almost twice as many documents in less time, what do you think is the reason for this apparent shift in what qualifies as responsiveness from the Department?

Mr. JORJANI. Thank you for the question. I am not sure what the rationale for the different approach is. I will emphasize Secretary Bernhardt takes very seriously the legitimate oversight functions of this Committee, and wants us to be as responsive as reasonably possible, while at the same time protecting important executive branch confidentiality interests.

Mr. BISHOP. After hearing your answers to the Chairman's questions, I am making the assumption that you are familiar with the process the Department follows when it receives an oversight request from Congress. Can you tell the Committee when this particular process was implemented?

Mr. JORJANI. This is the same process we inherited from the previous administration. We are aware that there were some challenges in the previous administration. Thus, we have tried to be doubly responsive to all requests from this Committee and other committees, as well, sir.

Mr. BISHOP. So, let me try to emphasize this, just to be clear. Secretary Bernhardt did not alter the way the Department processes oversight requests.

Mr. JORJANI. That is correct, sir. The memo that we use, our approach to this, tracks previous administrations. Other than we try to be even more responsive.

Mr. BISHOP. Can you then walk us through the process the Department follows?

Mr. JORJANI. Well, yes. Generally, as we work through the accommodation process, we carefully consider the Department's limited resources, but also the incredible importance of respecting legitimate legislative branch oversight functions, as well as our myriad statutory obligations and court deadlines.

We attempt to handle all oversight requests using the same process used by the previous administration to respond to congressional requests. Offices and bureaus within the Department work, as the Chairman noted, to facilitate the review, collection, and timely production of responsive material to Congress. DOI leadership, including the Office of the Solicitor, relies on dedicated career civil servants to perform the review, collection, and production of responsive materials.

Mr. BISHOP. Would you consider multiple-document productions in response to a congressional inquiry as unresponsive or uncooperative?

Mr. JORJANI. No, I would consider multiple responses to be highly cooperative.

Mr. BISHOP. So, how would you describe the actions of the Department, when documents are produced on this rolling basis?

Mr. JORJANI. I think the rolling basis highlights our desire to respond in an expedited basis out of absolute respect for Congress' legitimate oversight functions.

Mr. BISHOP. Let me, for the sake of the Committee, and allowing people to have more questions, let me yield back.

The CHAIRMAN. The gentleman yields.

Mr. Huffman.

Mr. HUFFMAN. Thank you, Mr. Chairman.

Welcome, Mr. Jorjani. We were expecting to be questioning the Secretary of the Interior today, David Bernhardt. Obviously, you are not David Bernhardt. Where is Mr. Bernhardt right now, that he could not join us for this testimony?

Mr. JORJANI. I think he is in a meeting in the White House right now, sir. That is the only thing that would trump his desire to be here testifying personally himself.

Mr. HUFFMAN. All right. Well, maybe some of those famously detailed calendar entries that we have grappled with can help us, the ones that allude to things like meetings, with no other detail. We will look forward to finding out more.

Also, if he was unavailable, the org chart would indicate that there is a Deputy Secretary at Interior that might have joined us. But there is no Deputy Secretary of the Interior right now, and there has been no one nominated. That position, like so many others in the Administration, is kind of hanging in limbo right now.

But Solicitor is not bad. We are glad to have you here. It is, obviously, an important position. You are the legal safety net for the Department of the Interior. That is a big deal. You are the person who exists to make sure that the law is followed, and so it puts you in a unique position to talk about some of the legal work that you perform for Interior. And you have done that since 2017.

So, I want to ask you, for example, have you been involved in the review of ethics recusals for Interior officials, including reviewing the advice from career ethics officials that they get?

Mr. JORJANI. The Designated Agency Ethics Official, Scott de la Vega is the one—

Mr. HUFFMAN. I am asking if you have been involved.

Mr. JORJANI. It depends on your definition of involved. The DAEO reports to the Office of the Solicitor.

Mr. HUFFMAN. Have you reviewed either the recusal or ethics advice given to folks like, for example, David Bernhardt, including during his time as Deputy Secretary? Did you review either the recusal or the advice given to Mr. Bernhardt?

Mr. JORJANI. The Designated Agency Ethics Official and the Alternate Designated Agency Ethics—

Mr. HUFFMAN. That is a real clear yes-or-no question. Did you review either of those things, the recusal or the advice given?

Mr. JORJANI. The DAEO and the ADAEO meet with the Secretary on a weekly basis—

Mr. HUFFMAN. You are not going to give me a yes-or-no answer.

Mr. JORJANI. Oh, yes. Well, I am going to answer. In those weekly meetings—

Mr. HUFFMAN. Mr. Jorjani, I have a bunch of questions here. Let's just do the yes or no, and then let's keep it moving on. So, is the answer yes? I mean, I presume you are the Solicitor, you are going to see these documents, aren't you?

I have Mr. Pendley's ethics recusal. You are copied right on it. Can we just stipulate that you review the recusal and also the ethics advice that these officials get?

Mr. JORJANI. I want to be careful how I phrase that. The DAEO and the Alternate DAEO are the ones that perform the advice of ethics counsel. When you are asking about Secretary Bernhardt, at least on a weekly basis the Secretary—

Mr. HUFFMAN. All right, this is a little bit evasive, sir, I am sorry to say.

But let me ask you a very specific question. I have here the ethics recusal for Deputy Director Pendley. It lists a number of recusals that apply only for 1 year, including Garfield County and Kane County, Utah.

Why does Mr. Pendley only get a 1-year recusal, instead of the standard 2-year recusal, under the Trump's ethics pledge for those clients?

Mr. JORJANI. The 1-year recusal process is what is set forth in the regulations. The broader, 2-year recusal process——

Mr. HUFFMAN. Right.

Mr. JORJANI [continuing]. In paragraph 6——

Mr. HUFFMAN. That is the Trump pledge.

Mr. JORJANI [continuing]. Trump's ethics pledge. Regarding the specific parameters of Mr. Pendley's recusal and his ethics agreement, I would direct those questions to the Deputy Agency Ethics Officials.

Mr. HUFFMAN. Well, you are the Solicitor of the Department of the Interior. There is no one better to answer a very specific legal question on something like this than you, and we have you today.

So, here it is. I have a Trump ethics pledge, and I have it right here. It clearly defines when a 2-year ethics pledge ought to apply, and it applies to any former clients, period.

Then there is a separate 1-year situation that you default down to if you were an employee of a government agency.

Was Mr. Pendley an employee of those counties? You know the answer.

Mr. JORJANI. [No response.]

Mr. HUFFMAN. Do I need to answer for you? He was not. They were clients.

Mr. JORJANI. I believe he worked for——

Mr. HUFFMAN. They were clients.

Mr. JORJANI [continuing]. The Mountain State Legal Foundation.

Mr. HUFFMAN. Yes, and so that makes them clients. That should have been a 2-year ethics recusal.

Mr. Jorjani, you are an astute and scholarly lawyer. I know you appreciate that words matter. And if you have been misreading or misapplying the Trump ethics pledge as it pertains to Mr. Pendley, I have to wonder if you have not either been misreading or misapplying it as it pertains to Mr. Bernhardt, because he also has some clients that you have given a 1-year recusal to, former clients, instead of the 2-year that ought to apply. Isn't that true?

Mr. JORJANI. This is why the Secretary's obsessive focus on ethics reform has been so incredibly significant, starting——

Mr. HUFFMAN. Oh, it has been obsessive, all right.

Mr. JORJANI. Starting with the hiring of a——

The CHAIRMAN. Thank you.

Mr. HUFFMAN. I will yield back.

The CHAIRMAN. Let me turn to Mr. McClintock.

Mr. MCCLINTOCK. I thank you, Mr. Chairman.

Mr. Jorjani, I think we all agree that oversight is not only legitimate, but it is a central role of the Congress. And the production of materials pursuant to that oversight responsibility has been a continuing problem spanning several administrations.

I understand executive privilege assertions. I understand when there are partisan fishing expeditions that are demanded of you. But, certainly, where there are bipartisan requests made, it seems to me that needs to be a top priority of the Department.

My request of you would be—please don't use the previous administration as a model of what to do. I would strongly urge you to use the previous administration as a model of what not to do. It was infuriating for Republicans under the Obama administration, it is obviously equally infuriating for the Democrats today.

And there are many of us on the other side of the aisle that may not share the Democrats' policy positions, but do recognize the role of oversight, and are frustrated when legitimate requests, particularly bipartisan requests, are made and not answered in full and expeditiously. So, as you are re-crafting these policies, I would strongly urge you to keep it in mind.

And with that, I would like to know exactly how are you planning to restructure your review process.

Mr. JORJANI. Thank you for the question. I agree, the accommodation process should be a non-partisan process, where the executive branch and the legislative branch treat each other respectfully, as we try to get to an outcome that respects the interests of both legislative and the executive branch.

I don't see us necessarily retooling the process. I think we have demonstrated a robust effort to be responsive to the legitimate interests of the legislative branch. However, now that I have been confirmed as Solicitor, if there are any specific requests that you feel are not receiving suitable attention, I commit to personally paying attention to them, and making sure we drive these things forward in a manner that respects your legitimate oversight needs.

Mr. MCCLINTOCK. I appreciate that. And while we are talking about oversight, what can we do to strengthen the oversight of the multitude of grants that we routinely pass out to NGOs around here in the resources field?

We had a Water Subcommittee meeting yesterday in which I raised the same issue that the Ranking Member just raised. It is the U.S. taxpayer funds going to NGOs like the WWF that have been charged with channeling these funds to support thugs and gangs that have raped, murdered, and pillaged in other countries. We all tsk-tsk'd about it for a moment, and yet I think we are poised to send them even more money. There seems to be no review of these grants, how these grants are used by the NGOs.

What can we do to strength that, both within the Administration and within the Congress?

Mr. JORJANI. Thank you for the question. I would like to say thank you to the legislative branch, particularly the Minority and Majority of this Committee, for highlighting the abuse of that grant-making process.

Under the leadership of Assistant Secretary Susan Combs, new protocols are being put in place to ensure that these—this is a perfect example of oversight creating value, highlighting these potential misuses of DOI dollars.

And, as you have noted, this is an example of where DOI can and should do better, and we need to put even further protocols into place. But thank you to the Committee for highlighting this problem.

Mr. MCCLINTOCK. Well, we all have to do better. And as I watch these massive grants going out with very little direction and virtually no oversight, it concerns me greatly. Not only are we wasting

money, but I think that we are funding some very bad things around the world, as well, simply because nobody is paying any attention.

Mr. JORJANI. Again, thank you for raising that. I commit, as soon as I get back to the office, I am getting additional material on this so we can figure out not just on these specific grants, but other methods to put into place protocols to make sure this doesn't happen again in the future.

Mr. MCCLINTOCK. And it may be something that is simply endemic to grants, and maybe we ought to be just doing a lot less of that. If the government needs something done, and we can't do it ourselves, we send out for bids, get the lowest possible bid, hire somebody to go do it, but stop just throwing money around because it feels good.

Mr. JORJANI. Again, thank you for your thoughts on this. The Department welcomes further direction from the Committee on this important matter.

The CHAIRMAN. Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chair and Mr. Jorjani. I appreciate your taking the time to be here today. I am especially pleased because I have had a question that I have wanted to ask you now for almost 2 years. And today I have this great opportunity to do that.

I want to ask you about the renewal of the mining leases right next to the Boundary Waters Wilderness in Minnesota. These are two leases that the Obama administration had canceled in 2016.

In December 2017, when you were the Principal Deputy Solicitor, you wrote an opinion that overturned President Obama's 2016 legal memo. Your opinion concluded that the Obama administration had no right to cancel the Boundary Water leases. In your opinion you state, "The historical record of the 1966 lease implementations show that production was not made a condition of renewal." I repeat, you wrote that production was not made a condition of renewal.

These leases are over 50 years old, but they have never entered production. And you said that doesn't matter.

Do we have a slide coming up?

[Slide.]

Dr. LOWENTHAL. I am going to show you the press release. It is hard to see, but I will read it to you. This is the press release issued by the Department of the Interior from the day that they were released. The original is in 1966, when the Interior said that the government grants leases for nickel and copper mining.

As you can see by the yellow line that is there, it says they grant mining rights to the company for 20 years, renewable for 30 years at 10-year intervals, if the property is brought into production within the initial 20-year term. And this comes from the Department of the Interior, it is their press release signed on June 14, 1966.

So, I have to ask you. Wouldn't you agree that this press release contradicts your argument that production was not made a condition of renewal?

Mr. JORJANI. No, I would not agree with that. When you examine contracts you look at the terms of the contract. And our interpretation of that M-Opinion was—

Dr. LOWENTHAL. Of this line right here? It says from the Department of the Interior itself. We did not put it out. If it was this Committee that put it out, that would be one thing. But the Department that put it out said it has to be brought into production within 20 years. You don't see that contradiction?

Mr. JORJANI. First, I would like to thank the Representative for the question. If in the future you have questions for the Office of the Solicitor, please don't wait 2½ years via the Office of Congressional and Legislative Affairs. I am happy to meet with you—

Dr. LOWENTHAL. I spoke about this 2½ years ago in this Committee.

Mr. JORJANI. Well, I am happy to have the opportunity to walk you through the M-Opinion.

Fortunately, the legal opinions of the U.S. Department of the Interior are not driven by press releases issued on June 14, 1966.

Dr. LOWENTHAL. Right. So, you are saying that your opinion in 2017 more accurately reflects the intent of the leases than the press release issued on the same day as the leases were developed?

Mr. JORJANI. Thank you for the question. It is an interesting matter of contractual interpretation. That would not typically rise to the level of an M-Opinion, which are legally binding, significant documents upon the entire U.S. Department of the Interior.

Working closely with career lawyers in the U.S. Department of the Interior Office of the Solicitor, particularly in the Division of Energy and Mineral Resources, they agreed this should never have been an M-Opinion.

Dr. LOWENTHAL. Let me just—I understand that. I have little time left.

Mr. JORJANI. And I think there is a lot of—

Dr. LOWENTHAL. But I would like to say—this is my time—that a simpler interpretation may be that the Administration wanted the leases renewed, regardless of the history, the law, and common sense.

And the last question I will ask you is to what extent was the White House involved in the BLM's decision to reinstate these leases?

Mr. JORJANI. To the best of my knowledge and recollection, very limited. Most of this was driven by—well, actually, the original review of going back to M-Opinions, regulations, policies of the previous administration, it was driven by a memo issued by the then-Chief of Staff.

But as a general review, when we arrived at the U.S. Department of the Interior, we looked at a number of the M-Opinions that were issued in the last days of the previous administration.

Dr. LOWENTHAL. So, it was a review process that made this? It had nothing to do with the meetings that the Chilean owner of the Twin Metals mine in the months leading up to the 2017—your Solicitor opinion was to the fact that the same owner was Jared Kushner and Ivanka Trump's landlord in DC.

With that, I yield back.

The CHAIRMAN. The gentleman yields.

Mr. Westerman.

Mr. WESTERMAN. Thank you, Mr. Chairman. Thank you, Mr. Jorjani, for your presence here today and for your testimony.

I just want to go back. I think this has been clarified, but you did say that the process by which requests from Congress are met is dictated by a memorandum at the Department that was from the last administration?

Mr. JORJANI. That is correct, and we have a new iteration of the memo from December 2018 that essentially tracks the memorandum from Mr. Beaudreau, the previous Chief of Staff. I am happy to make that available to any member of the Committee.

Mr. WESTERMAN. And you also said that the majority of the activities are performed by career employees at the Department?

Mr. JORJANI. That is correct, sir.

Mr. WESTERMAN. So, not necessarily political employees, but career employees that have worked for both Republican and Democratic administrations.

Mr. JORJANI. We are incredibly fortunate to have superior career employees in the Office of the Executive Secretary, at the Office of Congressional and Legislative Affairs, and the Office of the Solicitor that manage this, for the most part, at the career level. Yes, sir.

Mr. WESTERMAN. So, Chairman Grijalva made his opening statement. He showed all the blank pages that were sent over.

I can say to my friends across the aisle I felt your pain, because we saw similar things happen under the previous administration. And, as much as paper comes from trees, and we need to manage our forests more, and I appreciate that the Department uses a lot of paper, I mean, not as a Republican or a Democrat, but as a Member of Congress we should really find that unacceptable, regardless of who the administration is, that we ask for data and we don't get the information that we request.

And we won't solve the issue by making political pot shots in the Committee hearing here. At some point, we will have to decide whether we want to be Members of Congress, of the legislative branch, and do what this Committee is set up to do, and it is to have oversight.

I mean, if you could use the term, there should be bipartisan butt hurt here. We should all be offended that, when we ask the Administration, regardless which administration it is, for information, that we don't get that in a timely manner and get it in a format that we can use.

I know you are new to this job, and you offered to take recommendations from Congress on how we could make that process better, so I hope we can really work constructively to come up with a better process, so that some day when we are asking for information, that we will get that information on a timely level, too, because I think we deserve that, as members of this oversight committee, and as Members of Congress.

I yield back.

The CHAIRMAN. I couldn't agree more with you, Mr. Westerman. I think your point is well taken.

Mr. Sablan.

Mr. SABLAN. Thank you very much, Mr. Chairman. I yield my time to Mr. Huffman from California.

Mr. HUFFMAN. I thank the gentleman. I did want to continue this thread, Mr. Jorjani, about the Trump ethics pledge, which could not be more clear in a very important area of distinction. That is the distinction between former clients, which are defined—lawyers, consultants, contractors, the usual—you know how that works, you are a lawyer—and former employers.

And you know that the employer-employee relationship is very specific. It is actually laid out in quite detail and defined in the Trump ethics pledge. And it is true that if a former employer was a state or local government, this extended 2-year pledge under the Trump administration would not apply, and that official would default back to the 1-year recusal. But if it was a former client, any first-year law student can see, just by reading this document, it is a 2-year recusal.

And, Mr. Jorjani, I need to ask you why, on a recusal for Mr. Pendley that you are copied on—presumably, as the Solicitor, a top legal apparatus at the Department of the Interior, that you are responsible for at some level—there is only a 1-year recusal for these counties that I mentioned to you that were clients, not employers of this man.

How do you explain that?

Mr. JORJANI. Thank you for the question. I did momentarily freeze when you referred to the first year of law school. It brought back a host of bad memories.

Mr. HUFFMAN. I really don't have a lot of time, Mr. Jorjani.

Mr. JORJANI. Oh, sorry—

Mr. HUFFMAN. I understand.

Mr. JORJANI. The short version is on the interpretation of the Trump ethics pledge, interpretation of 502, the relevant regs and statutes, I defer entirely to the Designated Agency Ethics Official and the Alternate Designated Agency Official, both who are non-partisan, career civil servants—

Mr. HUFFMAN. All right, so you are not responsible if they misapplied—clearly misapplied—that provision, resulting in a 1-year shortening of a recusal pledge that was supposed to give us an assurance that ethics were serious for this administration? You are not responsible on any level?

Mr. JORJANI. I would welcome the opportunity to follow up on this very specific issue, if you think we have misinterpreted—

Mr. HUFFMAN. It won't take long to follow up. You just have to read the recusal. I have it right here. You are copied on it, so you have seen it before. And then you have to read two quick provisions in the ethics pledge. This is really clear-cut stuff.

Now, I guess the question is, if this was misapplied, and folks started making decisions, participating on matters that they should have been recused from—and we know they did, at least in the case of Mr. Bernhardt, who similarly gave himself a 1-year recusal for his former client, the Westlands Water District, who was never his employer, it was former client—it should have been 2 years, he gave himself 1 year in the recusal, and immediately started

participating on matters pertaining to the Westlands Water District when that 1-year period was up. But he shouldn't have.

So, the question is, as Solicitor of the Department of the Interior, what are you going to do about that? Are you willing to pledge to this Committee that you will go back and review all decisions, especially critical decisions that Mr. Bernhardt and potentially other officials have participated in, where they should have been recused?

Mr. JORJANI. Thank you for the question. I take very seriously the ethics program in the U.S. Department of the Interior, and I have allocated significant resources to it.

I think one of the best hires the Department—

Mr. HUFFMAN. No, no, no. No narratives, sir. I asked for a specific pledge. If this was misapplied, if participation occurred when there should have been recusal—you are the Solicitor of the Department of the Interior—are you going to do something about it?

Mr. JORJANI. Thank you for the question. I prize and pride myself on working collaboratively with the Designated Agency Ethics Official.

In your role in providing legitimate oversight of our executive branch agency, you have raised a legitimate issue. You have asked me to commit to go back to the DAEO and—

Mr. HUFFMAN. I know what I have asked you. The whole world knows what I just asked you. You don't need to repeat it. You are burning my time.

Mr. JORJANI. Oh, sorry. Yes, I commit to going back and sitting down with Scott de la Vega and Heather Gottry to go through Mr. Pendley's and Secretary Bernhardt's recusal agreement.

Mr. HUFFMAN. And any participation Mr. Bernhardt had on a specific matter, or anything else involving Westlands between the 1-year and 2-year mark, when he should have been recused, you are willing to report back to this Committee on whether you think decisions are valid, whether there should be some remedial action, whether those actions can even stand, given that he should have been recused? Will you report back to this Committee on that?

Mr. JORJANI. Out of an abundance of caution, you say "specific matter." Are you referring to particular matters—

Mr. HUFFMAN. I am referring to anything that you find should have been recused, but he didn't because it was a 1-year when it should have been a 2-year. You know what I am saying.

Mr. JORJANI. I think you have asked a legitimate question.

Mr. HUFFMAN. Thank you, sir. I yield back.

The CHAIRMAN. Mr. Hice. You are recognized, sir.

Dr. HICE. Thank you, Mr. Chairman. And may I ask you a question, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Dr. HICE. The 12,000 pages—were any of those helpful, or was the entire 12,000 pages blank like what we saw?

The CHAIRMAN. They were totally useless.

Dr. HICE. So, the entire 12,000 pages? Thank you, Mr. Chairman.

Mr. Jorjani, I, like my friends on the other side of the aisle, am highly offended that you would send 12,000 pages of nothing, and then try to appear as though your Department is being cooperative.

As has already been mentioned, we have dealt with this. I know on the Oversight Committee we dealt with this with the previous administration, receiving thousands and thousands of pages redacted to the point of absolute worthlessness. And it is offensive that you would do that. I would ask that when there is a request, if you are going to send information, make it useful.

That being said, you mentioned in your opening statement that the Department did offer to provide briefings to the Committee to help explain the status of the productions. Will you commit, and do you commit, to continue working with Congress, even when, as you said, the Chairman did not meet with you, but that you will continue to do what you can to meet with this Committee and to provide necessary information?

Mr. JORJANI. Yes, sir. I absolutely and fully commit to doing so.

Dr. HICE. OK. Well, while we are on this, do you have a comment on the 12,000 wasted pages? Why would you do something like that?

Mr. JORJANI. Two points. I think we produced 13,500 documents, which is over 100,000 pages, of which it sounds like a certain number of them have been either blank or in some form of Wingdings. My understanding is, out of a desire to be as responsive as possible, and to get you complete documents, due to Excel spreadsheet formatting, sometimes you get excess pages at the end of a document.

Dr. HICE. Did no one look at them?

Mr. JORJANI. I am sorry. What is that, sir?

Dr. HICE. Did you not look at them, or anyone—I mean 12,000 pages is a lot of pages of nothing.

Mr. JORJANI. I think there was a dialogue that it might appear that we were being less than fully cooperative if we are pulling back documents that appear to be part of a larger request.

I commit to doing better. And whether it is the saving of trees or wasted time of the Committee, I agree that is probably not the best practice, and I commit to reducing it in the future.

Dr. HICE. I would say it is probably not, as well.

Coming back to the attempts you had to have meetings and briefings with committee and chairmen, or whomever you could have a meeting with, explain the benefits that would be, the outcome of those kind of briefings.

Mr. JORJANI. It would really depend on the preferences of the Member of Congress. But we would—

Dr. HICE. Well, doing oversight is what we are trying to do.

Mr. JORJANI. Oh, a classic example is the great work by this Committee highlighting issues with our grants, raising a problem to our attention, allowing us to figure out what was going on, and to be responsive to the Committee. In this case, whether it is briefings on whatever topic you so desire, we would provide access, not just to the Office of Congressional and Legislative Affairs, but also to subject matter experts in the relevant bureaus.

Dr. HICE. OK. Mr. Chairman, with that I will yield back my time. Thank you.

The CHAIRMAN. Thank you. I recognize Mr. Gallego.

Mr. GALLEGO. Thank you, Mr. Chairman. On July 16, the Department of the Interior notified Congress of intent to move the Bureau of Land Management staff out of Washington, DC, where all other Federal land management agencies reside. Despite concerns from numerous lawmakers, including many on this Committee, the Department moved forward with finding a new space in Grand Junction, Colorado, a space that is shared with various oil and gas corporations and lobbies.

Not only did the Department forge ahead, despite Congress' concerns, but according to testimony we heard from Chairman Small of the Ute Indian Tribe, you also failed to carry out legal obligations to consult with Indian tribes before doing so.

Yes or no, can you commit to producing the documents before any staff begins to move their offices out of Washington, DC? Specifically, the cost/benefit analysis and other types of analysis.

Mr. JORJANI. If the Committee requests the documents, then we have a process in place that would allow us to be responsive to legitimate oversight requests from this Committee, while at the same time protecting important executive branch confidentiality and interests.

Mr. GALLEGO. From what I understand, we did request those documents and we have not received anything in return. This Committee has actually been pushing for this for quite a while.

To your knowledge, has there been a position-by-position cost/benefit analysis?

Mr. JORJANI. My apologies, sir. Could you repeat the question, please?

Mr. GALLEGO. To your knowledge, has there been a position-by-position cost/benefit analysis?

Mr. JORJANI. In my capacity as the Principal Deputy Solicitor within the Office of the Solicitor, I don't track CBAs done within respective bureaus.

Mr. GALLEGO. To your knowledge has there been any effort to systematically assess the impact on the workforce, should they move to Grand Junction, Colorado?

Mr. JORJANI. Again, I apologize, because I want to be responsive, but I am not—

Mr. GALLEGO. Is there documentation of Interior's consultation with sovereign tribal nations?

Mr. JORJANI. The importance of consultation with the sovereign tribes is incredibly important.

Mr. GALLEGO. Yes, I know that. But is there documentation of Interior's consultation with sovereign tribal nations?

Mr. JORJANI. I just want to emphasize, because it is our sovereign responsibility to consult with the tribes in certain situations.

Regarding what BLM has done for the process, I will have to work with the Bureau of Land Management and get back to you, sir.

Mr. GALLEGO. Has an impact analysis been done to determine effects on the diversity of Interior's workforce if they move to Grand Junction, Colorado?

Mr. JORJANI. I am sorry, sir, could you repeat that question?

Mr. GALLEGO. Has an impact analysis been done to determine the effects on diversity of the Interior's workforce, should they move to Grand Junction, Colorado?

Mr. JORJANI. I want to be careful with your time, so I will simply say, consistent with my previous response, I will work with BLM to get that answer to you.

Mr. GALLEGO. OK. This Committee asked for a witness who could answer these questions. Clearly, that is not happening right here. Since Interior sent someone who couldn't answer questions, it seems like Interior is trying to keep this reorganization under wraps. We don't have documentation, we can't even have simple questions asked. If you can't commit to producing all of these documents we have asked for—I am sorry, let me back up.

Do you commit to actually producing these documents that we have asked for, and this data that we have asked for?

Mr. JORJANI. Absolutely. I commit to working with the Office of Congressional and Legislative Affairs to get you the documents you have requested in a manner that protects the executive branch confidentiality interests, while at the same time respecting your legitimate non-partisan oversight request.

Mr. GALLEGO. So, do you believe, if I am asking for a position-by-position cost/benefit analysis, do you believe, in your opinion, that is going to somehow be—will we have access to that, or is that going to be somehow impaired because of some executive privilege that they are going to evoke?

Mr. JORJANI. I want to be careful and emphasize we adhere to the process that we have across all administrations. But you are asking important questions. I will speak to Deputy Director Pendley and the Office of Congressional and Legislative Affairs promptly.

Mr. GALLEGO. What is the timeline that you think this is going to be occurring in?

Mr. JORJANI. Do you have the date when the request was sent in, sir?

Mr. GALLEGO. I could have my staff work on it. Yesterday—so we could have my staff work on that with you, too.

Mr. JORJANI. Yes, sir, and we will—

Mr. GALLEGO. The other concern I still have is also the requests about the potential lack of consultation when it comes to tribal nations. This is an ongoing concern, has been an ongoing concern with our tribal nations, obviously not just this reorganization, but other actions with the Department of the Interior. So, please make sure you also provide documentation if it occurred, if there has been consultation with tribal nations.

At this point, speaking to at least some of the tribes that are involved in this move, or will be affected by this move, they have not been consulted with, so that is why we are asking if there is some other level of consultation that we have not heard of.

So, in addition, while you are looking for those documents, please also provide us with information where there was some tribal consultation.

Thank you, and I yield back my time.

The CHAIRMAN. Thank you, Mr. Gallego.

The gentlelady, Mrs. Radewagen.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Mr. Jorjani, I know you are dealing with a litany of oversight requests, and I wanted to give you the chance to provide a status update and any relevant information tied to the nine particular oversight requests that the Majority indicated they wanted to discuss today. Do you have a list of these requests in front of you?

Mr. JORJANI. I have an over-arching list, except for the one that was just delivered yesterday, of all the requests that have been submitted to this Committee so far, and I am happy to provide the written document to the Committee, to make sure the Committee is fully informed on the status of those requests.

Mrs. RADEWAGEN. Can you briefly go through each of these in the next few minutes to provide a status update, details about the proposed construction of the Villages at Vigneto development, the relocation of the Bureau of Land Management, drafts of three Endangered Species Act rules, information about biological opinions related to the impact of pesticides, information about a mountain-top removal mining study, a request into the Boundary Waters Twin Metals leasing decisions, decisions related to monument designations, inquiries about the Arctic National Wildlife Refuge oil and gas lease sale program, and requests for information about California biological opinions for water deliveries?

Mr. JORJANI. To go through each of those, I think, would take a significant amount of time. You have highlighted a number of very important policy issues, from California water, to bi-ops, to the villages. I commit to working with the Representative and with the Full Committee in a robust manner to get you the information that you require to fulfill your legitimate oversight needs in a manner that protects important executive branch confidentiality interests.

Mrs. RADEWAGEN. So, it appears that the Department has been sort of working toward full responses to these items, and many of them, some of them, have already received responses. Is that correct?

Mr. JORJANI. That is my understanding, yes.

Mrs. RADEWAGEN. In any of these instances, does the Department have intentions to illegally hide information from this Committee?

Mr. JORJANI. Thank you for the question. No, absolutely not. There is no desire to do anything that would be non-compliant, illegal, or inconsistent, even, with previous practice or previous administrations.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields. Ms. Haaland, the time is yours.

Ms. HAALAND. Thank you, Chairman. Thank you, Mr. Jorjani, for being with us this afternoon.

On March 6, the Committee requested Bureau of Safety and Environmental Enforcement Director Scott Angelle's—pardon me if I didn't pronounce it correctly—cell phone records. When we got those about 6 weeks later, we noticed a difference between the version we got and a version that was released under the Freedom of Information Act. I would like to put those two on the screen.

[Slide.]

Ms. HAALAND. I don't know if you can tell the difference, but the one that we received is on the left. That was the congressional piece that we got. And the one on the right is what was released under FOIA.

Why did the Department redact these documents when sending them to Congress, when clearly there was no valid reason to redact them under FOIA?

Mr. JORJANI. Looking at these documents, it looks like the Department made a mistake, and that the team of lawyers or officials who were doing FOIA response are different from the ones doing congressional response. And in this circumstance I would like to think that we got back to you quickly with the complete set of materials.

But, again, that is an oversight on our part, for which I apologize.

Ms. HAALAND. We didn't get the official cell phone bills for the entire time period we asked for.

Mr. JORJANI. I will work to make sure that happens.

Ms. HAALAND. Starting with November 2018 we just got a list of numbers. Here is what we received for all the calls in December 2018, those right there.

And here is what we later found out was released through FOIA to the group American Oversight—the entire December list, well, starting with November and into December.

This is over 60 calls from December 1 through December 17, far more than the 12 calls that we received over that period.

So, as you can see, the Department provided a response to Congress that was blatantly incomplete, and has not corrected it. Is this simply incompetence, do you think, on the part of the Department, or do you think they are purposefully withholding information from us?

Mr. JORJANI. I wouldn't like to use the word "incompetent" on the part of the team doing the congressional responses. Clearly, though, Congress has an important oversight responsibility.

I am pleased to see that the other response was more complete, and we need to do a better job of helping Congress fulfill its legitimate oversight responsibilities.

Ms. HAALAND. Are you thinking of how that might be done?

Mr. JORJANI. Not at this specific moment, but I commit to getting back to you.

Ms. HAALAND. Thank you. I will take that commitment as a true desire to right these wrongs.

My next question—I still have a little bit of time left—DOI has frequently held up the number of documents you have sent this Committee to demonstrate your responsiveness to congressional oversight, not including a document production that arrived last night: 29,414 of those pages and 3,437 of those documents were in response to our requests for further information on President Trump's illegal reduction of our national monuments.

But it is worth taking a closer look. As we have noted, e-mails from your staff suggest these documents went through extensive political reviews, yet we received 17,864 pages of e-mails that did not meet any of the requested criteria.

We have done our best to be here to work with you, and we appreciate there have been continued productions for this request. But there are still many questions about this process that we need to dig into further to understand what was behind these monument reductions. And I have a very strong interest in this because it affects the well-being of Indian tribes across the country.

I know we asked for a lot in that document request, but the documents have been very slow in coming. In addition to having a high proportion of empty padding, this Committee has tried without success to get the DOI to commit to timetables for productions. Are you prepared to give us a production deadline for the monuments request today?

Mr. JORJANI. I am not prepared to give you a deadline today.

You have highlighted an important point. We do have FOIA, congressional oversight, and robust ongoing litigation on this specific matter. But working in the accommodation process, I commit to getting you everything I can, while respecting executive branch confidentiality interests.

Ms. HAALAND. I appreciate that. There is one more thing that kind of troubles me, and Mr. Westerman kind of alluded to it, and that is how this process works.

When you submit these documents, is it just all electronic that you are putting onto a disk, or do you print them out first and then scan them? Like, all the documents with the blank Excel spreadsheets and the Wingdings and all of those things, are those printed out first before they are actually scanned and then put onto a disk?

Mr. JORJANI. I think it varies, depending on each individual production. The notion of sending you 12,000 blank pages, even with the best of intentions to make sure it was a complete response, is unacceptable. And I will be making sure I pay personal attention that it does not happen again.

Ms. HAALAND. Because it is troubling to me—thank you, I am sorry, Mr. Chairman, I yield.

The CHAIRMAN. Thank you.

The gentleman—the floor is yours.

Mr. WEBSTER. Thank you, Mr. Chair. I have a question. You just brought up litigation. Are there constraints because of ongoing litigation on the amount of data you can release?

Mr. JORJANI. Moderating and monitoring the litigation risk for the executive branch certainly plays a role, as we balance the interest of what to release and what not to release.

However, we are aware and seek to be even more responsive to the oversight requests of this Committee.

Mr. WEBSTER. Are there any other restraints that would keep you from giving out data that would be not self-imposed, but just imposed upon you?

Mr. JORJANI. Well, generally, sir, as part of the accommodation process, as set forth with the balance of powers between the executive branch and the legislative branch, through the accommodation process we seek to work closely with the legislative branch to make sure we are fulfilling your legitimate legislative oversight needs.

Mr. WEBSTER. What are the goals of the Department in responding to this Committee's request?

Mr. JORJANI. The goals are to absolutely respect the priorities and prerogatives of this Committee, to help you fulfill your legitimate oversight requests, while at the same time balancing legitimate executive branch confidentiality interests, pursuant to past practice and accommodation over centuries between the legislative and executive branches.

Mr. WEBSTER. Do you know if you or anyone else is purposefully restraining documents that normally could come here, normally flow here, or slowing them down?

Mr. JORJANI. We have a process in place that relies on seasoned career experts to ensure that we are squaring every corner, and that we are—

Mr. WEBSTER. OK, and so, in using that process, can it be purposely used to slow down the delivery of documents, or is it following normal course?

Mr. JORJANI. I think—and with awareness of the blank pages that were turned over, the tens of thousands of documents and the hundreds of thousands of pages that we have already submitted demonstrates a good-faith effort on the part of the Office of Congressional and Legislative Affairs to respect the legitimate interests of the legislative branch.

Mr. WEBSTER. Could you speak to the Secretary and your commitment to transparency and responsiveness to congressional requests?

Mr. JORJANI. The Secretary and the Office of Congressional and Legislative Affairs have absolutely prioritized working in good faith with members of this Committee across both aisles.

Mr. WEBSTER. Thank you very much. I yield back.

Mr. JORJANI. Thank you, sir.

The CHAIRMAN. Mr. Van Drew.

Mr. VAN DREW. Thank you, Chairman. And Solicitor Jorjani, thank you for being here.

I guess, a little bit I feel bad for you. There are so many questions, and so many are questions that you can't answer. And that is a terrible spot to be in. And I certainly hope the next time we have one of these hearings that the Secretary is here, or that you even bring a team here, because these are complex questions that really require complex and thorough answers.

And attempts at working with the staff—evidently, from people that I talk to—have been stalled. Phone calls are not timely returned, e-mails not timely responded to. A need very often of going back and conferring with someone else to make a decision, and that is obviously frustrating for everybody, and not the goal here of open information.

What do you think is a reasonable timetable frame to produce these types of documents, in your opinion? This is your opinion, so you can answer this one.

Mr. JORJANI. Rather than giving a specific timetable, I would prefer that the Department adhere to the process, which is similar to the process of previous administrations to respect the legitimate and incredibly important oversight responsibilities of this Committee and the legislative branch, more broadly, while at the same time protecting executive branch confidentiality—

Mr. VAN DREW. Thoughtfully, though, you must have a sense of—I mean, for example, 10 years would not be a reasonable timetable. You must have a sense in your head of what you would like, if you were on the other side of this.

Mr. JORJANI. I think we should be prompt and respectful to the legislative branch. And if there are instances when anyone in the Office of the Solicitor is not being responsive to requests from this Committee, please let me know directly, and I will make sure, working via OCL—

Mr. VAN DREW. Well, what is prompt and respectful, just so that we know when to contact you?

Mr. JORJANI. I would defer to your judgment on that, sir.

Mr. VAN DREW. I will yield the remainder of my time to the Chairman.

The CHAIRMAN. Thank you very much. I appreciate it, Mr. Van Drew.

Solicitor, one general question, and it is more of a personal request. The 2-week delay, if I, as a member of this Committee, were to ask for—and I do at the behest of Subcommittee Chairs and individual Members—document requests, informational requests to the Department, is that 2-week delay still in effect? And, if so, would it make a difference if Mr. Lowenthal signed it?

Mr. JORJANI. I am sorry, sir. What was the question?

The CHAIRMAN. The e-mail we have indicated internally that if I made a request, there would be a 2-week delay while they assessed that request. And then, after that, an additional 2 weeks' delay, where the Office of Congressional Affairs and the other political appointees made some assessment as to what they wanted to do with it. And that 2-week delay, my question is, is that still in effect? Is it internal policy? Yes, that is the question.

Mr. JORJANI. Thanks for the question, Chairman Grijalva. This is the first time I am seeing this e-mail. Any notion of a mandatory 2-week delay for the chairman of our oversight committee is incorrect, and I would be shocked if it were still in place, though that does appear to be dated March 14, 2019. So, I commit to going back and speaking to the head of OCLA regarding this alleged 2-week delay.

The CHAIRMAN. I appreciate that, because—real-time question in terms of the process. We made a request in July relative to the points that Steve Spangle made regarding the Villages of Vigneto, a development of 28,000 homes in southern Arizona. And in his discussion with the press he said, “I got rolled by political pressure at Interior to reverse an official agency decision he had made about it.” August 18—and we then documented and sent you information. The circumstances really raises serious concerns about the potentially improper influence of Mr. Spangle by the attorneys within the Department and others.

It has been nearly 3 months, and I just want to know. Let's walk through it: Have the documents been sent out for collection? Have the documents been collected? Has the bureau reviewed them? Has your office reviewed them? Has the Office of Congressional and Legislative Affairs reviewed them? How long have they been there, in this process, at this point in the process? And how long is it going to take to eventually get that documentation?

Mr. JORJANI. Thank you for the question, Chairman. My records show that we received a letter on July 3. We responded on July 19, but we owe this Committee additional documents. I believe it is part of the ongoing process.

The CHAIRMAN. We have received no documents at this point. And is Secretary Bernhardt personally involved in the review on this request? Or is Peg Romanik involved, the counsel that supposedly talked to Mr. Spangle? Is she involved in this?

And I would like those answered, as well, because that would cause some serious concerns about their involvement, given that the questions are directed, in the document request, at both of them.

With that, let me yield to the Acting Ranking Member, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman.

Congratulations on your confirmation, recorded vote and all.

Have you been given priorities? I know you furnished over 100,000 documents in recent months to requests made from this Committee. But have you been given any priorities? Obviously, you can't do everything at the same time.

Mr. JORJANI. It has been, at times, a challenge to get—as part of the ongoing dialogue with the Committee, among this multitude of requests, but we are seeking, through informal conversation—

Mr. GOHMERT. But have you gotten priorities from the Majority as to which they want first?

Mr. JORJANI. I want to be careful, because I have been in the role of Solicitor for 2 days now. It is possible they have conveyed to staff what priorities are, but to the best of my knowledge there hasn't been a formal prioritization put in place.

Mr. GOHMERT. OK.

Mr. JORJANI. But I could be mistaken on that, sir.

Mr. GOHMERT. No, I understand. But I know when you get hit with as many requests as you have gotten, you just can't fill them all at the same time. I get that.

With regard to—there was a lot of noise about a Democratic House staffer being removed from a congressional trip hosted by the BLM. That was back in August. The Appropriations Committee accused BLM of thwarting congressional oversight, and that it was the Trump administration's continuing pattern of interfering with Congress' oversight work. Do you know why the staffer was removed?

Mr. JORJANI. I did not directly witness the incident. My understanding, though, is that the staffer and the executive branch employee and the legislative branch employee—well, the short answer is I didn't personally witness it. I understand it was a somewhat abusive dialogue. But I don't have direct knowledge, sir.

Mr. GOHMERT. The paper reported that he had the Acting Chief of Staff thrown out of the meeting, and bullied and harassed the Acting Chief of Staff.

Mr. JORJANI. That is my understanding, sir.

Mr. GOHMERT. That was yours, as well? Yes. So, since they had low-level staff, it seemed like it should be OK for the Acting Chief of Staff to remain there to help.

But with regard—you were grilled about the Trump administration's ethics pledge. Did you author that? Was that your work?

Mr. JORJANI. No, sir. I did not author the Trump administration ethics pledge.

Mr. GOHMERT. Yes. How does the Office of Government Ethics interpret the ethics pledge?

Mr. JORJANI. The Office of Government Ethics, working closely with ethics officials across the executive branch provides guideline and regular informal guidance to the designated agency ethics official. We work closely with OGE, as does our DAEO, to ensure that we are consistent with and complying with the ethics pledge and any guidance, informal or otherwise, that OGE provides.

Mr. GOHMERT. Well, you had addressed in your written testimony that you believe that the compliance by Interior, furnishing of documents being requested, was on par with the previous administration. Correct?

Mr. JORJANI. Our policies are consistent with previous administrations. I think we have been even more robust in turning over both documents—

Mr. GOHMERT. Well, see, that is what I was thinking, because I have only been here for three presidents, but I have never seen the kind of stonewalling we got from the Obama administration. Not here, not in the Judiciary Committee. And there were serious crimes that had been committed, and all of that was covered up, and we weren't given the documentation.

So, I was just going to encourage you—you point out that you are being more robust than the last administration. I would encourage you not to use the last administration for the example of how Interior should comply with requests, because that was the lowest bar I have ever heard of. You want to do a whole lot better than the Obama administration, not just robustly better, but a whole lot better, because that was an abysmal record they set.

So, with that encouragement to you, I yield back my time. Thank you.

Mr. JORJANI. Thank you, sir.

The CHAIRMAN. Mr. Soto, you are recognized, sir.

Mr. SOTO. Thank you, Mr. Chairman.

Mr. Jorjani, have you submitted a privilege log for all the document requests that have been non-responsive?

Mr. JORJANI. I am sorry, sir, could you repeat the question?

Mr. SOTO. Have you submitted a privilege log for all the document requests that have been non-responsive? Because your—

Mr. JORJANI. Do you have a specific non-response request in mind?

Mr. SOTO. Sure, we could go down the list. So, I assume you haven't done a privilege log, then. Is that—

Mr. JORJANI. I am asking because, in my 2 days as Solicitor, I am not aware of privilege logs being submitted, but I want to be careful in how I am phrasing my responses.

Mr. SOTO. OK. I understand. So, you are not aware of one, which is fine. I know you are just on the job.

Do you know what privilege is being voiced in not responding to documents about the Alaska meetings during the government shutdown?

Mr. JORJANI. In the context of privilege, I want to be careful to make clear under no circumstances am I asserting, nor would it be appropriate for me to assert, privilege, whether ACP, attorney-client, DPP, executive privilege. I am simply asking that, consistent with previous administrations, that we are responsive to legitimate legislative branch—

Mr. SOTO. Well, we should know what privileges are being asserted. Otherwise, you could just be making it up.

Mr. JORJANI. Out of an abundance of caution I want to make clear, I am not asserting privileges at this time—

Mr. SOTO. So, on the proposed ESA regulations, there was at least a claim of privilege for a deliberative—you know, security, communications deliberative. You know the main ones, being an attorney.

But those regulations are now published, so how is it still deliberative if they are now published? I mean they have deliberated already.

Mr. JORJANI. Oh, that is a very good question. After a regulation is published, or a document goes final, it is a different weighting process, weighting the different interests of relevant parties, because it is so important whether, in a Republican or Democratic administration, that there be ongoing dialogue and robust conversation with policy makers.

So, if you are asking about how you weight different kinds of privileges after a document has gone final—

Mr. SOTO. So, for the mountain-top removal mining study—few documents. What is the privilege being asserted there? What are the specific grounds?

Mr. JORJANI. I commit to getting back to you on that specific request. I am aware of no privilege being asserted by the Department, or at least not by me at this time.

Mr. SOTO. OK. Well, that is responsive. What about incidents of non-compliance by BLM? What is the specific executive privilege or privileges, the grounds for them being asserted there?

Mr. JORJANI. What was the date of that request, sir?

Mr. SOTO. It was March 11, 2019.

Mr. JORJANI. March 11, 2019? My records show a substantive response on August 15, 2019. If it didn't meet your standards, I will work with you to get you additional materials. I am not aware of the invocation of any privilege in response to that particular—

Mr. SOTO. OK, so there is no privilege response there, OK.

Arctic National Wildlife Refuge leasing, no documents provided. What is the specific executive privilege—what is the nature of the executive privilege being claimed there?

Mr. JORJANI. What was the date of that request, sir?

Mr. SOTO. That was July 29, 2019. No documents were provided.

Mr. JORJANI. We sent an acknowledgment letter on July 30, 2019. My understanding is the review is underway, per standard processes, and that no privilege has been, nor would it be, implemented at this time.

Mr. SOTO. So, there is no privilege that you are aware of in that one?

What about the DOI reorganization plan? No documents have been provided yet. What specific executive privilege is being raised there?

Mr. JORJANI. What is being raised is adhering to the ongoing process, and making sure that we respect legitimate legislative oversight, while at the same time—I want to be careful how I am phrasing this—executive branch confidentiality interests. Not the invocation of executive privilege, which is beyond my authority.

Mr. SOTO. What are the nature of the confidentiality interests?

Mr. JORJANI. That would vary from matter to matter. We are happy to arrange, via—

Mr. SOTO. In this specific one, obviously, not generally.

Mr. JORJANI. I will have to get back to you with a specific answer on that. I want to make sure I am being responsive—

Mr. SOTO. I understand. And the BSEE offshore lease decommissioning, what was the specific executive privilege, the nature of it, there? Not responding—

Mr. JORJANI. I am sorry, what was the date for the BSEE request?

Mr. SOTO. It was July 30, 2019.

Mr. JORJANI. My documents only go up to June 11, 2019. But I am happy to track down that specific request.

I can say with near certainty executive privilege is not being asserted by the Department. That is a privilege that resides with the White House, and specifically the President.

Mr. SOTO. What about the biological opinion on three major pesticides? Is there executive privilege being made there? And what would be the nature of it, if so?

Mr. JORJANI. Out of an abundance of caution, what was the date of that request?

Mr. SOTO. It was March 26, 2019.

Mr. JORJANI. My documents show that it is in process, and that, obviously, we need to make sure we are being responsive to you. But, again, no invocation of executive privilege or any other privileges, merely adherence to making sure we are responsive to legislative oversight, while protecting important executive branch confidentiality interests.

Mr. SOTO. Are you willing to commit to a privilege log for these and the remainder of the non-responsive requests, so that we can understand the nature of the privileges being asserted under executive privilege, such as security, communications, deliberative privilege, or others?

Mr. JORJANI. Whether deliberative process privilege, attorney-client privilege, attorney-work product, executive privilege, I am not aware at this time, and I want to be careful—I am not aware, in my 2 days as the Solicitor, that executive privilege has been asserted, merely a rigorous adherence to the protection of executive branch confidentiality interest, while respecting legitimate oversight of the legislative branch.

But if there is a privilege log, I commit to working with the Office of Congressional and Legislative Affairs—

Mr. SOTO. I am asking that you generate one for us, so that we understand the nature of why certain documents are given or not.

Mr. JORJANI. I commit to getting back to you ASAP regarding if we have those privilege logs. Because I am not aware that executive branch privilege has been invoked or asserted at any point for these. But again, I want to be careful. It is executive branch privilege that we are not invoking.

Mr. SOTO. Thank you.

The CHAIRMAN. Thank you very much.

Mr. Tonko.

Mr. TONKO. Thank you, Mr. Chair. Thank you, Mr. Jorjani, for appearing before the Committee today.

In July, I shared with this Committee some of my concerns regarding the Trump administration's decision to renew two mining leases right next to the Boundary Waters Canoe Area Wilderness in Minnesota, ignoring good science to prioritize the interests of industry over all Americans.

On March 1, the Committee sent its first request regarding this issue well over a half-a-year ago. In this case we actually received some documents in response to our request. The files we received contained some 10,945 pages of documents, most of them entirely irrelevant. In fact, 3,131 pages—nearly one-third—were duplicates.

The other two-thirds that were actually original were comprised of documents with almost entirely redacted pages, others that are publicly available, several pages of computer code, irrelevant papers on the long-term storage of nuclear waste and, perhaps most peculiarly, the 934-page House Appropriations Committee report that—and I shouldn't need to point this out—is a February report from this House of Representatives.

So, in our request we asked for documents since the beginning of the Trump administration, which began, as we know, on January 20, 2017. You described sending us a 50-page legal complaint from July 2016 as being responsive. And can you explain why we were also sent five additional copies of that Obama-era document along with the original?

[Slide.]

Mr. TONKO. And I believe on this slide, Slide 1, we have six copies of the document.

Does that in any way look responsive? And what about our second slide here?

[Slide.]

Mr. TONKO. What about this? Do you consider this responsive?

[Slide.]

Mr. TONKO. And a third slide. This one, I think, is most telling. This one gave us a lot of information, a fully redacted page.

So, just so we know what we are not looking at here, can you tell me which briefing memo this is or isn't?

Mr. JORJANI. Regarding that specific document, I am not sure. I want to make sure, though, we adhere to our process. And you mentioned documents that were released via FOIA that were unredacted that were redacted when they came to you, fulfilling your legitimate oversight response. If that was the case, that is unacceptable.

And regarding this incredibly important issue, I am happy to provide staff briefings to you or to your staff, and to get you the information you need.

Mr. TONKO. And when would you do those?

Mr. JORJANI. Working via the Office of Congressional and Legislative Affairs, the Office of the Solicitor can work at your convenience, sir.

Mr. TONKO. Well, I just find it is grossly unprofessional, and it is just so short in responding to what are concerns about a very natural bit of treasure.

These and other documents were labeled with a FOIA exemption, saying they are pre-decisional. As you undoubtedly know, however, Congress is not subject to the exemptions under FOIA.

So, Mr. Jorjani, I do not agree with your ability to withhold these documents based on deliberative process. It is within the purview of this Committee to ask for these documents because it serves legitimate legislative purpose. And we would, again, want this information exchanged so that we can defend what we believe is a rightful concern for some very treasured natural resources.

I expect you to provide us with the actual documents. And would that be done through this Office of Congressional Affairs?

Mr. JORJANI. I do want to be careful. You have mentioned deliberative process privilege, and I want to be careful to ensure that I am making clear I am not invoking deliberative process privilege.

Regarding this specific matter, I commit to going back and working with the Office of the Solicitor, Office of Congressional and Legislative Affairs, and the Office of the Executive Secretary to get you a more responsive set of materials.

Mr. TONKO. Well, this certainly isn't a courtroom. And I have told you this Committee has a legitimate legislative purpose in seeking these documents. It is not up to the executive branch to define that purpose.

And if you would, please, just provide the documents. And if it takes the Office of Congressional Affairs, I would hope there would be some more organized effort, orderly effort by which the information can be exchanged.

Our staff notified Interior ahead of time that this request would be a topic of conversation today. We asked for a witness with knowledge of the status of the requests and the authority to commit to providing the documents. There is no excuse for us not, as a Committee, to be able to realize a definite commitment with a timetable.

So, if you could get back to the Committee ASAP, and let us know exactly when the Office of Congressional Affairs can provide this information, it would be most appreciated.

Mr. JORJANI. I commit to getting back to you, as you stated, ASAP, and I look forward to following up with you. Thank you, sir.

The CHAIRMAN. Thank you.

Mr. Lowenthal.

Dr. LOWENTHAL. Thank you again, Mr. Chair.

Mr. Jorjani, again, thank you for coming and testifying. I would like to focus on one of the letters which we did receive a response—well, let me rephrase that. We received files. I am not sure I would consider that a response, but we did get files.

For example, in February we sent a letter to Secretary Bernhardt about the DOI's abrupt decision to cancel the National Academy of Science Engineering and Medicine study on the potential human health effects of surface coal mining operations in Central Appalachia. And, our understanding, that study was half-way through, but it was abruptly canceled.

In February, we sent the letter. In May, we got a response of 47 pages on why this abrupt decision to cancel this study. Many of them had major redactions. I want to show you this on Slide 1, major redactions on that.

[Slide.]

Dr. LOWENTHAL. On June 4, which was almost 4 months ago, we asked for the un-redacted pages from this. We haven't received a response yet for that letter. As I just said, it has been almost 4 months.

You now have—you see these. Can you respond by next week with the un-redacted documents, or provide a specific explanation why it was redacted? We are talking about a study that was half-way completed and got canceled abruptly. We asked for just a response, and we got redaction.

Mr. JORJANI. Thank you for the question, sir. I commit to following up with you. The records before me show that it is a rolling production, because we are trying to have a sense of urgency in responding to your legitimate oversight request—so far we have produced 349 documents, totaling over 3,000 pages—

Dr. LOWENTHAL. Well, let's just talk about that. Those 349 documents you say you have responded with—and we received that disk on Friday of these—what you are saying are the 349 different documents—we had 348, you say 349, we will accept your number—on the mountain-top removal study. And that consisted of 3,004 pages of this that you responded to us.

My staff went through all of those, and roughly 2,700 pages were completely unrelated to what we asked. We got 30—a little over 3,000—2,700, which is about 90 percent—were unrelated. We got plenty of e-mails about the environmental achievement awards, technical training programs, a bunch of Office of Surface Mining handbooks, and dozens of irrelevant weekly progress reports.

[Slide.]

Dr. LOWENTHAL. A lot of the pages that we got looked like this—look at Slide 2. That doesn't make any sense. Can you tell us what this says? This was in those pages that you said you sent.

[Slide.]

Dr. LOWENTHAL. Or how about these? Those were very informative. We had a great discussion about what this meant. This was the entire file. There were no pages before or after it. This is what we received.

Can you tell me what this document is that you mentioned that you then sent to us?

Mr. JORJANI. Is that the entire production of the document?

Dr. LOWENTHAL. Of that page, of that document, of the 1 of the 348. There was nothing before it and nothing after it. That is it, 1 of the 348.

Mr. JORJANI. If that is the entire production, I would find that unacceptable, and I—

Dr. LOWENTHAL. Thank you, so did we.

Mr. JORJANI. I commit to sitting down with the Office of Congressional and Legislative Affairs, the Executive Secretary, and the Office of the Solicitor to see what executive branch confidentiality interest they thought they were protecting.

Dr. LOWENTHAL. We appreciate that, because, obviously, we don't know what this is. We don't know what we are getting when this is what we are getting.

You are telling us you want to be responsive, but that is meaningless when we get things like this, when you give us pages that may be responsive or not—this may have been the most important thing or not, but we don't have a clue what this is all about.

We would like to see the un-redacted pages, or an explanation of why they are being redacted, not one of the documents, 1 of the 348—this is it. It doesn't help us at all. It doesn't develop that oversight that can be developed on trust.

So, I just want to say we would like to have it by next week. We are asking just what this means, what is going on.

And I am not asking for a lot, you know? Even by next week, just tell us why you can't give us responses like this. This is what you said you sent us on 1 of the 348, this is an example of one of those stand-alone documents.

We need some explanation, and I hope that we can have that.

Mr. JORJANI. Getting that kind of response within that timeline, at least explaining what executive branch confidentiality interest—what the reason was for that type of redaction, it is the least we can do to be respectful to you and to the—

Dr. LOWENTHAL. Thank you. I appreciate that. This is very well written.

With that, I yield back.

The CHAIRMAN. Thank you, Mr. Lowenthal.

And thank you, sir. I want to thank you for your testimony. The hearing has helped us understand the nature and extent of what is going on from the Department of the Interior that is, quite frankly, hindering our legislative function on this Committee. I say that because, with both Secretaries, my office and oversight staff indicated that the relationship didn't need to be cozy, but it did need to be professional and up-front.

And we have been professional. We have been, in the estimates of some, patient to a fault. But, as we go through the current drama and trauma about the equal status of Congress to the executive branch, I think we are to the point now that, moving forward, we—as Mr. Lowenthal said—would like weekly updates on the production and the process of document requests. And that would not just be to me, but to all members on this Committee, to the Ranking Member, as well.

They are in your process—what are the target dates? The name of the person in charge of making sure individual document requests are fulfilled, when it is being sent to your office, when it is being sent to Legislative Affairs, the search terms, and the scope, and the date of those searches.

I feel that we are to the point, at least the Majority of this Committee is fully to the point, that if we continue to go through the process that we went through today, which is really an airing

of our grievances to you, and those continue to be brick walls, we will be left with one choice, and that would be to compel the release of those documents.

I look forward to your cooperation. I appreciate your attendance, and the meeting is adjourned. Thank you.

Mr. JORJANI. And can I just say thank you, Chairman? Thank you for the hearing. I look forward to—I actually have a list of our status I am happy to share with the Majority staff or Minority staff, at their discretion. Thank you.

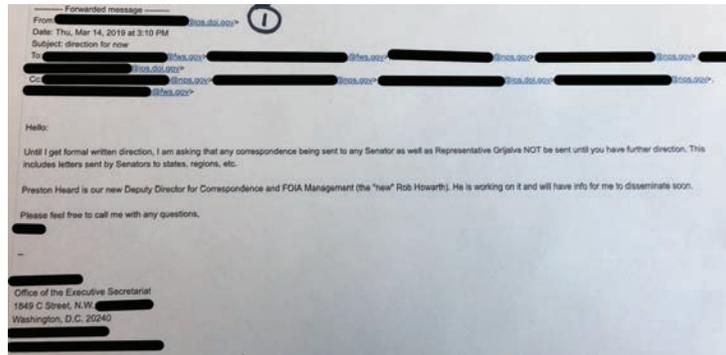
The CHAIRMAN. Thank you.

[Whereupon, at 3:47 p.m., the Committee was adjourned.]

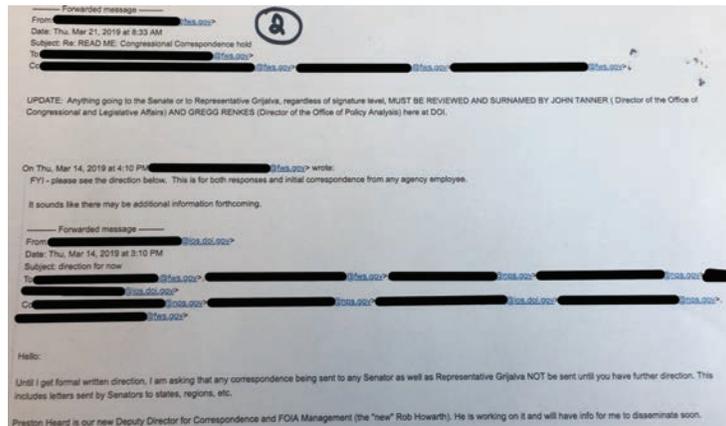
[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Grijalva

Internal DOI e-mail delaying correspondence with Chair Grijalva



Follow-up internal DOI e-mail delaying correspondence with Chair Grijalva



Submission for the Record by Rep. Lowenthal

Unresponsive and heavily redacted DOI document production

"Campbell, Joshua" <joshua.campbell@sol.doi.gov>

From: "Campbell, Joshua" <joshua.campbell@sol.doi.gov>
Sent: Thu Aug 17 2017 16:16:35 GMT-0600 (MDT)
To: Jim Weiner <jim.weiner@sol.doi.gov>, "Owens, Glenda" <gowens@osmre.gov>
CC: Katharine MacGregor <katharine_macgregor@ios.doi.gov>, "Davis, Landon" <landon_davis@ios.doi.gov>
Subject: NAS Study Review Period - Letter

Jim and Glenda,

Thank you both for working with us to enable us to review this study. I just spoke with Kate, who is cc'ed, and am given to understand that [REDACTED]

[REDACTED]

Jim - I understand that [REDACTED]

[REDACTED]

Glenda - Kate has asked me to follow up with you as DOI begins this review to assist you with any additional help or support you may need. Jim, of course, remains of great help and in the "loop" as well, to be clear. I will plan on contacting you tomorrow to help our efforts to move forward on this matter. Feel free to reach out to me as well. Please liberally share any questions or concerns you may have to Jim and me, [REDACTED]

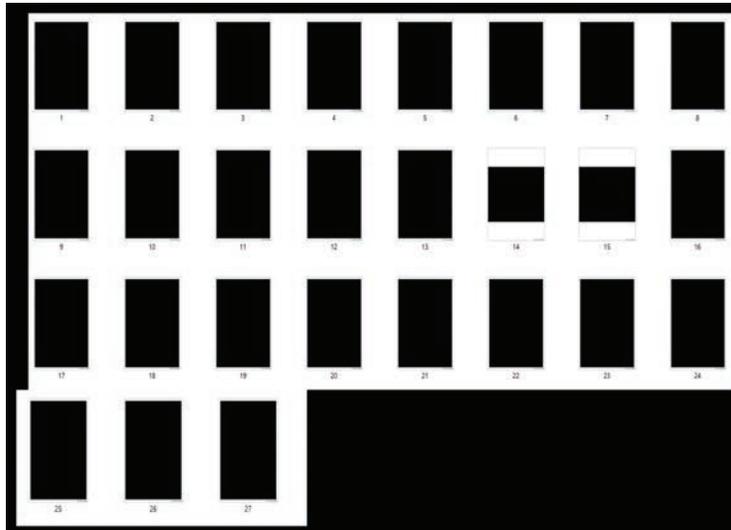
Also, [REDACTED]

[REDACTED] Please let me know a convenient time for us to coordinate tomorrow. I look forward to meeting you in person!

Best regards,

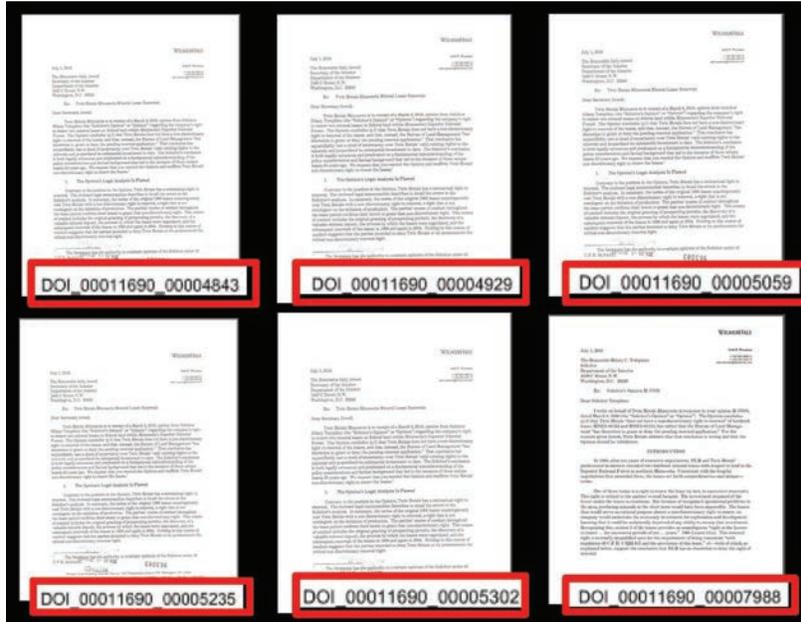
Josh

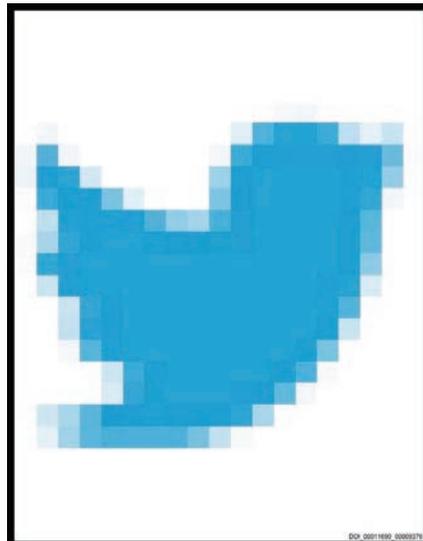




Submission for the Record by Rep. Tonko

Unresponsive and heavily redacted DOI document production





[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE
COMMITTEE'S OFFICIAL FILES]

Submissions for the Record by Rep. Grijalva

- Letter from Chair Grijalva to BLM Deputy Director Brian Steed on NPRA Integrated Activity Plan dated January 11, 2019.
- Letter from Chair Grijalva to DOI Acting Secretary David Bernhardt on ESA dated January 30, 2019.
- Letter from Chair Grijalva and Rep. Lowenthal to DOI Acting Secretary Bernhardt on Cancelled NAS Led Impact of Surface Mining Study dated February 11, 2019.
- Letter from Chair Grijalva and Rep. Lowenthal to DOI Acting Secretary Bernhardt on BLM Oil and Gas Enforcement dated March 11, 2019.
- Letter from Chair Grijalva and Reps. Huffman and Velázquez to DOI Acting Secretary Bernhardt on Pesticides and ESA dated March 26, 2019.
- Letter from Chair Grijalva and Rep. Cox to DOI Acting Secretary Bernhardt on DOI Reorganization dated April 10, 2019.
- Letter from Chair Grijalva to DOI Acting Secretary Bernhardt on Invite to Hearing and Document Requests Production Schedule dated May 6, 2019.
- Letter from Chair Grijalva and Reps. Lowenthal, Castor, and Pallone, Jr. to DOI Secretary Bernhardt on BOEM OCS DPP dated May 23, 2019.
- Letter from Chair Grijalva to the White House on DOI Vacancies dated June 12, 2019.
- Letter from Chair Grijalva to DOI Secretary Bernhardt on FLREA dated June 24, 2019.
- Letter from Chair Grijalva to DOI Secretary Bernhardt on El Dorado Holdings, Inc.'s Proposed Vigneto Arizona Development dated July 3, 2019.
- Letter from Chair Grijalva to BLM Acting Director Brian Steed on El Dorado Holdings, Inc.'s Proposed Vigneto Arizona Development dated July 3, 2019.
- Letter from Chair Grijalva and Reps. Huffman, Lowenthal, and DeGette to DOI Secretary Bernhardt on ANWR dated July 29, 2019.
- Letter from Chair Grijalva to DOI Secretary Bernhardt on BSEE Offshore Leasing dated July 30, 2019.
- Letter from Chair Grijalva and Reps. Huffman to DOI Secretary Bernhardt on CVP Biological Opinion dated August 19, 2019.
- PowerPoint of 400 of 12,000 Page DOI Document Production of Blank Excel Sheets.