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RECEIVING THE VIEWS AND PRIORITIES OF
INTERIOR SECRETARY SALLY JEWELL WITH
REGARD TO MATTERS OF INDIAN AFFAIRS

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

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**RECEIVING THE VIEWS AND PRIORITIES OF
INTERIOR SECRETARY SALLY JEWELL WITH
REGARD TO MATTERS OF INDIAN AFFAIRS**

WEDNESDAY, MAY 15, 2013

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room 628, Dirksen Senate Office Building, Hon. Maria Cantwell, Chairman of the Committee, presiding.

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

The CHAIRWOMAN. The Senate Committee on Indian Affairs oversight hearing will come to order.

We are here this afternoon to hold an oversight hearing on Receiving the Views and Priorities of Interior Secretary Sally Jewell on the Matters of Indian Affairs.

I am very happy to welcome Secretary Jewell, a good friend and fellow Washingtonian, to her first appearance before the Indian Affairs Committee. She was sworn in as Secretary of the Interior on April 12, 2013. Although she has only been Secretary for a little over a month, the Committee appreciates this opportunity to hear your priorities for the Indian affairs at the department.

It is important to hear from Secretary Jewell in her early tenure as Secretary of Interior because the relationship between tribal governments and the Federal Government is a unique one. The government-to-government relationship is grounded in the United States Constitution, treaties, Federal statutes and Supreme Court decisions.

This relationship is a mature relationship expressed in the terms of legal duties, moral obligations and expectancies that have arisen based on the continuous history of tribal interactions with the Federal Government since the formation of the United States.

This relationship, a trust relationship between the Federal Government and tribal governments exists at every Federal agency. However, because Congress has placed primary responsibility for Indian matters in the Department of Interior, the Department is seen as the agency leader on Indian matters. It is important to have this opportunity to hear from the Secretary and for the Committee to make sure that the trust responsibility is upheld at the Department.

There are many areas in which the Department and the tribes are working together. The Department and tribes have put significant resources and plans in place to improve public safety on Indian lands. The Department has been committed to settling long-standing trust resource cases and has created a Secretarial Commission on Trust Administration and Reform to look at ways that trust policies can be improved.

There are many other issues. I know the Vice Chairman and I are both personally very interested in energy issues in Indian Country and we know there are other areas that need to be improved. For example, only 52 percent of American students who attend Bureau of Indian Education schools graduate in comparison to 76 percent in public schools.

Recent General Accounting Office testimony before Congress found that high turnover at the Director position and a fragmented administrative structure within the Bureau has negatively impacted the education of Indian students.

The Committee has heard countless times about the poor conditions of Bureau of Indian Education facilities, so the Committee will be looking to you, Secretary Jewell, to provide the leadership in making improvements in this area.

We also want to encourage you to bring your strong business background into the position of Secretary to look for other ideas for enhancing the economic and job opportunities for tribal governments and tribal members and certainly in getting legislation passed on a *Carciari* fix and taking land into trust is an important aspect of economic development.

The Committee looks forward to hearing your views on these issues and we look forward to working with you in putting forward a very positive impact for Indian people throughout the United States of America.

The CHAIRWOMAN. I would like to now turn to Vice Chairman Barrasso for his opening statement.

**STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Thank you, Madam Chairwoman, for holding this hearing to receive testimony from Interior Secretary Jewell on her views and priorities for Indian country.

I would like to begin by welcoming Secretary Jewell to the Committee and again, congratulating her on her confirmation as the 51st Secretary of the Interior.

I know it has been a busy month and it is getting busier every day. We appreciate your taking the time to join us today.

I have questions for Secretary Jewell on a number of different topics. For now, I would just like to make a couple of points so that we can then proceed to the testimony.

First, I think it is worthwhile to pause and remind ourselves of some important historical facts about our country's Indian reservations. One of those is that Indian reservations were conceived of and created by the United States Government. Like many ideas emanating from Washington, D.C., the 19th Century policy of confining whole populations of Native peoples to reservations deserves,

in retrospect, about as much criticism as we can possibly heap upon it now, today, in the 21st Century.

But that is what the government did back then and there is no erasing it from the history books. Yet, as unfortunate as this policy was, these reservations we created were not supposed to be just a place to put people. They were supposed to be a homeland. They were supposed to be a place where Indian people would live, raise children and celebrate their lives and their cultures. Homeland means these things and much more.

My point is that this is not just land and not just a place. Each reservation represents a specific homeland that was set aside for the benefit of the specific Native people on that reservation. We often seem to forget this basic historical fact when we formulate Indian policy here in Washington.

Whenever we have witnesses from the BIA or the Department, I always ask about the status of things like the Indian irrigation projects and the deferred maintenance. The reason for that is that these projects were supposed to form the basis of local economies for specific Indian homelands.

The problem is that 100-plus years later, now they are falling apart and the Department and Congress do not seem to know what to do about it. When Washington, D.C. creates statutes, regulations and policies for Indian country, we simply must ask ourselves what are we doing to people's lives.

For example, take oil and gas development—the Chair mentioned our mutual interest in energy. I realize the Administration wants to promote alternative energy sources to shift away from fossil fuels. To one extent or another, some members of this Committee may feel the same way, and that is fine.

In fact, on some reservations, renewables like wind and solar may hold real promise. On other reservations, oil and gas or coal reserves held in trust by the United States for the tribes or for their members represent by far the number one best opportunity for prosperity of that tribe in that location.

Some tribes rightfully believe that now is the time to make something of these trust assets. Now is their chance to bring real benefits to the current and future generations. Are we going to tell them, no, we are sorry, but we don't like these things anymore? I am certainly not going to tell them that.

Instead, we should be asking, what can Congress do to help tribes and their members make use of the trust minerals that we set aside for their sole benefit if, in fact, that is what they want to do today? We should be asking the tribes, not the Sierra Club or the policy wonks in some think tank or some university what they want to do with their homelands.

After all, these are the tribes' homelands, not ours, and those trust assets were set aside for the benefit of the tribes.

Thank you, Madam Chair.

The CHAIRWOMAN. Thank you.

I am going to go back and forth on opening statements. Senator Johnson.

**STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator JOHNSON. Thank you, Chairwoman Cantwell, for holding this hearing with Interior Secretary Jewell to discuss the views at the Department regarding Indian affairs.

This is an important time to discuss issues regarding Indian country. The effect of sequester cuts is starting to impact tribal programming. In February, I shared my views with former Secretary Ken Salazar and Secretary Sebelius regarding the devastating impacts these cuts would have on already under-funded programs.

Based on treaties, the Federal Government has a special relationship with American Indian tribes. It is important that the United States Government recognizes this obligation to uphold and honor these treaties and trust responsibilities. We all play an important role at the Federal level to promote economic development, public safety and self sufficiency for Indian communities.

Today, I look forward to the testimony of Secretary Jewell.

Thank you again, Madam Chair, for holding this hearing.

The CHAIRWOMAN. Senator Fischer, do you have an opening statement?

**STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Madam Chair and Vice Chairman Barrasso.

Welcome and it is nice to see you here, Madam Secretary. I appreciate you taking the time to come before the Committee to have a conversation with us about this very important issue.

As you know, the BLS statistics indicate that the unemployment rate for American Indians and Alaska Natives is nearly double the national average. This is not acceptable.

In your testimony, you said that no area holds more promise for growing our economy and creating jobs than American energy. I am following up on what Senator Barrasso talked about because I believe that the Department needs to be committed, as you say in your testimony, to assisting tribes in expanding safe and responsible oil and gas development in accordance with tribal objectives.

I do agree with Senator Barrasso that our government needs to work with Native people in developing their resources and managing their resources in a responsible manner so that they can grow their economies and help their citizens, as well as grow their communities. I think that is vitally important.

I look forward to having that conversation with you. Thank you again for being here.

The CHAIRWOMAN. Senator Tester.

**STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. Thank you, Madam Chair. Once again, I want to thank you and the Ranking Member for having this hearing.

I welcome Secretary Jewell. This is the second time you have been before one of my committees. I appreciate the opportunity.

I would like to say from the outset, you are setting a great example of leadership in the Department. Not only are you visionary in what you want to do but you also hired away one of my best staff members in Stephanie Harding.

In all truthfulness, I think you are off to a very good start. Indian country is a little different than the rest of the issues you will be dealing with. There are trust responsibilities, how we deal with Indian lands compared to lands like BLM and the relationship we have between Native Americans and the Federal Government.

I refer back to a friend of mine, now deceased, who was head of the Crow Tribe when I was first elected to this position, Carl Van. Carl used to say, give us the tools to succeed and then get out of the road. I think those are words to live by in Indian country.

I want to say there are a ton of issues out there. We will get into some of them today. I certainly appreciate your openness to improve Indian country and make it all it can be.

Thank you.

The CHAIRWOMAN. Senator Franken.

**STATEMENT OF HON. AL FRANKEN,
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Thank you, Madam Chair. Thank you for this hearing and thank you, Secretary Jewell for coming before the Committee.

I had the pleasure of following your nomination from my seat on the Energy Committee. I have already discussed the important role that the Department of Interior plays in the relationship between the Federal Government and Indian Country. Congratulations on your confirmation and I look forward to working with you as Secretary of the Interior.

As you know from our earliest conversations during your confirmation process, I am extremely concerned about the condition of schools under the Bureau of Indian Affairs. The Bureau lists 46 schools in poor condition that need to be rebuilt. With the lack of funding over the years there is now a backlog of \$1.3 billion in Indian school construction projects.

One such school, you have heard me discuss, is the Bug O Nay Ge Shig School on the Leech Lake Reservation in my home State of Minnesota. The Bug school is desperately in need of replacement. Students and teachers have to deal with leaking roofs, mold, rodent infestations and sewer problems. If the wind starts blowing at a certain rate, they have to leave the school because it doesn't meet the safety standards. This can be when it is 20 degrees below zero in northern Minnesota. It puts the Bureau of Indian Education to shame.

Despite the fact that many schools need to be rebuilt, this year, like last year, the President requested that no funding go to rebuilding these schools, leaving thousands of Indian children to study in crumbling and even dangerous buildings. This is unacceptable and I hope you will work to change that request in the future. We have to work to do something about it this year as well.

I was happy to see you discuss in your testimony the potential for renewable energy development on Indian lands. There are immense, untapped renewable energy resources on tribal lands. Your

department plays a key role in unlocking that potential. Support to help tribes invest in renewable energy and energy efficiency can help tribes become energy independent, create jobs and enhance economic development.

The last thing I would like to touch on is sequestration. These extreme cuts are having an outsized impact on the services the Federal Government provides to the tribal nations. As with many issues in this Committee, those impacts do not receive the national attention that many other sequestration cuts are receiving.

These include cuts to health benefits under Indian Health Service where Medicaid, Medicare and veterans health benefits are exempt from sequestration cuts and rightly so, but singling out Native American programs for sequestration cuts is unfair and at odds with the Federal Government's trust responsibility.

I hope you will use your position as Secretary of Interior to help raise the profile of the impact of sequestration on tribal communities. We need to replace these devastating cuts with a more responsible and balanced approach.

Thank you for coming today. I look forward to your testimony and the questions.

The CHAIRWOMAN. Senator Schatz.

**STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII**

Senator SCHATZ. Thank you, Madam Chairwoman and Vice Chairman Barrasso.

Thank you, Secretary Jewell. I appreciate your willingness to come before the Committee. I note this is your first post-confirmation appearance before an authorizing committee of the Congress.

For almost two centuries, policies of removal, relocation, assimilation and termination dominated and often worsened the conditions for all Native peoples—Native Alaskans, Native Americans and Native Hawaiians—and their communities. In 1968 and 1970, the Administrations of President Johnson and Nixon introduced Federal policy statements supporting tribal self determination and called for a shift in responsibility of public programs to tribal governments. This marked a new policy of self-determination and self-governance.

Federal reaffirmation of tribal sovereignty through self-governance programs has enabled tribes to generate revenues through their own business enterprises, manage and prioritize program funding and design school curricula to better meet the needs of Native students.

While there is much work to be done to enhance the ability of tribal nations to strengthen and sustain their communities, the Federal focus on self-determination and self-governance has proven to be the only Federal policy that works in Native communities.

Unfortunately, Madam Secretary, Native Hawaiians are the only federally-recognized Native people without a government-to-government relationship with the United States. I believe strongly that Native Hawaiians deserve the same access to the prevailing Federal policy on self-determination as American Indians and Alaska Natives.

Separate is not equal and that is why I urge your support for parity in Federal policy for Native Hawaiians. This year marks 120 years since the Kingdom of Hawaii was overthrown by force by agents of the United States. It is long past time for the Native Hawaiian people to regain their right to self governance.

I look forward to working with the members of the Committee, the Department and the White House to right this wrong.

Thank you, Madam Chairwoman.

The CHAIRWOMAN. Thank you, Senator Schatz.
Senator Heitkamp.

**STATEMENT OF HON. HEIDI HEITKAMP,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Thank you, Chairwoman Cantwell and Vice Chair Barrasso for this very important first meeting and what we hope will be a long relationship with the Secretary and the Department of Interior on critical issues.

For eight years, I served as North Dakota's Attorney General and Madam Secretary, you will have the honor of meeting with the Western AG's probably once a year. I always sat as the last speaker. As we talked about problems with endangered species, problems with water and land management, everyone would address their concerns, I said the same thing for eight years. I said, what are you going to do to improve the conditions for Native American children in Indian country. For eight years, I got the same response which was, we share your concern.

The last year that I was AG and raised it, I said, could you humor me and actually do something about it. Could you actually make a commitment to when you leave office that the condition for Native American children will be improved in Indian country because that is the future, not only for our Native people, but it is also the future of our States who enjoy a large percentage of our population who are Native people who live in Indian country and who are looking for an opportunity and housing.

They are looking for quality education, whether it is Head Start or higher education. They are looking for public safety. They want the same things we want which is to be safe in our homes. They are looking for an economic opportunity. They are looking for an infrastructure that addresses their needs.

Their veterans serve in record numbers, record percentages, highest percentage of anyone in the Armed Services of any group and they deserve that recognition and attention.

I would close with the great words of Sitting Bull who said, "Let's put our heads together and see what we can accomplish for our children." I hope you will make a personal commitment, along with this Committee, that when you walk out of the Department of Interior that the conditions in Indian country for Native children and their families have been improved.

Thank you so much. I look forward to your testimony.

The CHAIRWOMAN. Thank you.

Secretary Jewell, thank you for being before the Committee. Welcome to both you and Deputy Assistant Secretary Roberts. Thank you both for being here. We look forward to your testimony.

STATEMENT OF HON. SALLY JEWELL, SECRETARY, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY: LAWRENCE ROBERTS, DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS

Secretary JEWELL. Thank you very much, Chairwoman Cantwell, Vice Chairman Barrasso and members of the Committee.

Thanks also for your collective opening statements. It is very helpful.

I want to say that Kevin Washburn, the Assistant Secretary, is sad that he cannot be here. He is in South Dakota working on child welfare issues with a gathering of nine tribes dealing with the issues of foster parenting of children on tribal lands.

I know that Larry Roberts is going to do a great job standing in for him as Deputy Assistant Secretary. I think it would be fair to say that Larry and I and Kevin would gladly hold hands and say at the end of our tenure, life will be better for Indian children than it is at this point. It is certainly a commitment that I have and also the two gentlemen I referenced have, and I sense throughout the Department of the Interior.

I was very happy to meet with tribal leaders my first week on the job. It was really an opportunity for me to learn from them, to listen to them and hear what they had to say. They were a great representative sample of the 566 federally-recognized tribes that we have, but by no means, the end of my communication, just the very start. It was a great opportunity to hear what they had to say.

I am completely committed to upholding the Federal Government's trust and treaty responsibilities and the nation-to-nation relationship that we have with Indian tribes and Alaska Natives. It is difficult to do, as you know. It is very important to do and I cannot do it without your help and without Congress' help. I hope we can be partners together in strengthening tribal nations, in promoting self-governance and self-determination, which are a part of what many of you just referenced.

Quickly, on the personal side, I have had a number of connections with tribes over the years, mostly as a commercial banker. I was the lead banker for NANA, an Alaska Regional Corporation based in Kotzebue. I did work with Doyon, Sealaska, Cook Inlet and others in the State of Washington. In my work in banking there, I did work with the Squaxin Tribe, the Colville Tribe and had engagement with other tribes sometimes behind the scenes, sometimes on the front lines.

That gave me an appreciation of both the government-to-government relationship that we have, the regulations, the opportunities they have and frankly, a lot of the challenges that they have as well.

In talking about my priorities for this job, my role and how it knits together with all of you, first is honoring our trust relationship with tribes, fulfilling our moral and our legal obligations to tribes, protecting and restoring tribal homelands, following through on the Cobell settlement, the historic recent settlement and making sure that is operationalized.

Also, it is addressing the challenges Chairwoman Cantwell mentioned on *Carciari* and also the Patchak litigation. These are things that we need legislative support to address.

It is developing tribal energy resources. To Vice Chairman Barrasso and Senator Fischer, it is conventional energy, it is also renewable energy as Senator Franken referenced. On the renewable side, we have 50 projects already going on 35 reservations. With up to 267 reservations we think have potential there.

On the conventional side, we have opportunities to improve the leasing process, in particular to accelerate development. With the price of oil in particular, this can bring tremendous economic value to tribes. We are committed to developing energy resources, both conventional and renewable.

Indian education is an embarrassment to you and to us. It is not for lack of desire. This is the one part of the Department of the Interior that deals with Indian affairs, but particularly Indian education that deals directly with services to children. We know that self-determination and self-governance is going to play an important role in bringing the kind of academically rigorous and culturally appropriate education that children need. It is not easy to do.

To Senator Franken's comment concerning facilities, we have put \$2 billion into facilities over the last ten years and still have something like 68 that are in poor condition. We need support from a resource standpoint to do that. Perhaps there are some opportunities to do something creative outside of what we thought of before to help address the circumstances that you speak so passionately about, Senator Franken.

Climate change adaptation, not surprisingly perhaps, when things get tough, it feels like the tribes take it on the chin more than others. In Alaska, climate change is far more evident in subsistence, in melting snow packs earlier and the changes to wildlife and the ability to get out on pack ice to do hunts and so on. It is very up close and personal.

Also, throughout parts of the west, we have wild land fires where we have significant tribal lands, and need to make sure we have water resources, and even flooding as we saw in the upper Midwest earlier this season. Climate change adaptation will hit tribes harder than other communities. We have to be prepared for that.

Lastly, in terms of priorities, regulatory reform, particularly in the acknowledgement process for tribes, it is going to be a very high priority to figure out what we can do within the Department, how we can work with you, how we can work with tribes to consult on what is wrong with the process and how we can enhance the process to bring clarity on those rules and the roles we each have.

Regarding challenges, several of you mentioned the sequester. This is the part of Interior that deals with the people. When the cuts are indiscriminant and across every category, we can say we are concerned about Indian education but we have whacked directly \$40 million out of the Indian education budget. That hurts and it is a budget that cannot take it.

Overall, for Indian affairs, \$119 million has been cut, \$52 million in contracts to tribes where they are providing services directly themselves and \$67 million in total for federal direct services.

We have tough choices going forward in the budget. Some of you referenced some of those. Contract support costs are one. They are not fully funded in the budget in spite of the Supreme Court deci-

sion in *Salazar v. Ramah* but we are trading off direct programing costs relative to contract support costs.

We know we need to consult with tribes to work with them on the long term solutions that benefit them. How can we support, in more effective ways, self-governance and self-determination. I am committed to working with you in all of those areas.

In conclusion, I recognize you have a lot more experience on this than I do. I am now beginning my fifth week on the job. I do have great colleagues at the Department of the Interior and at Indian Affairs, in particular, who are very, very helpful to me and certainly will be helpful to me in this hearing as you drill into detail.

I also will say that the meetings I have had with tribal leaders have been enormously powerful and helpful in understanding the issues they face. Tribal consultation will be an important part of the role I play in carrying out the responsibilities entrusted to me.

I look forward to continuing the commitment of this Administration to the Federal Government's role as a respectful and productive partner with American Indians and Alaska Natives through our work at the Department of the Interior, working with other departments of the Federal Government and working together with you.

Thank you very much and I look forward to your questions.
[The prepared statement of Secretary Jewell follows:]

PREPARED STATEMENT OF HON. SALLY JEWELL, SECRETARY, U.S. DEPARTMENT OF
THE INTERIOR

Good afternoon, Chairwoman Cantwell, Vice-Chairman Barrasso, and Members of the Committee. I would like to thank my friend and fellow Washingtonian Senator Cantwell for inviting me to be here today. It is a pleasure to appear before your Committee to discuss my views and priorities relating to Indian Affairs at the Department of the Interior.

Introduction

As I have become more familiar with the details of the Department's many missions and programs over these past few weeks, I have come to see the truly astonishing breadth of the issues and responsibilities located within this one agency. As I said at my confirmation hearing, it is with deep humility that I acknowledge the scale of the duties entrusted to the office, from upholding our solemn trust responsibilities to American Indians and Alaska Natives to making wise decisions about the use and conservation of the resources with which we have been blessed. Almost all of these duties and responsibilities are applicable to the Indian Affairs programs.

As Secretary of the Interior I have the responsibility to oversee the work of all components of the Department that intersect with Indian Country, including the important work performed by the Office of the Assistant Secretary—Indian Affairs, the Bureau of Indian Affairs, the Bureau of Indian Education, and the Office of the Special Trustee.

My familiarity with Native American issues developed through my 19 years in commercial banking from 1981 to 2000. During that time, I worked with a number of Indian tribes in the Northwest, and served for several years as the lead banker for NANA, an Alaska Regional Corporation. I learned that, through treaties, the Constitution, Federal law, and court decisions, the United States has a government-to-government relationship with, and obligations to, American Indian tribes and Alaska Natives. I also learned that American Indian tribes and Alaska Native groups are governments with inherent sovereignty.

As Secretary of the Interior, I am committed to upholding the Federal government's obligations to Native Americans and to strengthening the United States' government-to-government relationship with Indian tribes and Alaska Natives. I realize that the Federal Government has not always honored its trust responsibilities or fully recognized the sovereign status of tribes. I acknowledge this before discussing my broad goals and the challenges that we face.

American Indians and Alaska Natives are survivors of efforts to assimilate indigenous people, terminate tribal governments, and wipe out native languages and cultures. The emotional, spiritual, psychological, and physical violence perpetrated on continues to haunt Native American communities today. American Indians and Alaska Natives consistently rank near the bottom of every economic, social and health indicator. While nothing can undo this tragic history, I am learning that this Administration, including my predecessor Secretary Ken Salazar, has taken action to address these disparities in Native American communities.

That effort began with a promise by then presidential candidate Barack Obama to hold a yearly summit with tribal leaders from all Federally-recognized tribes. Beginning with his first address to the first gathering of tribal leaders in 2009, President Obama told these tribal leaders that this time would be different and that he would begin a lasting conversation—one that would be crucial to our shared future. He also committed to forging a new and better future together where those in Indian Country could be full partners in pursuing the American Dream. As you can imagine, Indian Country was skeptical. But with the passage of the Tribal Law and Order Act, the settlement of the *Cobell* case and tribal trust litigation and, more recently, the passage of the tribal criminal jurisdiction provisions in the Violence Against Women Act, all with the full support of the Obama Administration, we have made great progress in showing that it is indeed a new day.

As Secretary, I intend to carry on the Obama Administration's policy with respect to Indian Affairs. The cornerstone of that policy continues to be promoting tribal self-governance and self-determination and recognizing the inherent right of tribal governments to make their own decisions to strengthen their communities. Over the past few weeks, I have reviewed the various programs and issues at the Department and have identified a number of important priorities with regard to Indian Affairs programs. Those priorities generally fall within several broad issue areas: honoring the trust relationship by restoring tribal homelands; upholding treaty obligations and protecting trust and natural resources; strengthening tribal nations; and promoting self-governance.

Successful management of all of these priorities is important to Indian Country. At the end of our tenure here, I hope that Indian Country will have no doubt that the Federal Government can be a respectful and productive partner.

Working Toward the Promise: Departmental Goals and Priorities

Honoring the Trust Relationship

Restoring Tribal Homelands

One way that the Obama Administration has sought to advance a nation-to-nation relationship with tribal governments and the long-standing policy goals established in the Indian Reorganization Act (IRA) is by protecting and restoring tribal homelands. We must never forget that through the destructive federal policies of allotment and assimilation, Tribes lost tens of millions of acres of tribal lands. At the present time, tribes use lands acquired in trust for housing, schools, hospitals, tribal government administrative offices and economic development projects. More generally, tribes use trust lands to promote the health, safety, social, and economic welfare of tribal members and tribal governments. Over the last four years, Indian Affairs has processed more than 1,100 separate applications and acquired over 205,000 acres of land in trust on behalf of Indian tribes and individuals. Nonetheless, efforts to restore tribal homelands have been hindered by the United States Supreme Court decisions in *Carcieri v. Salazar* and *Salazar v. Patchak*.

In *Carcieri v. Salazar*, 555 U.S. 379 (2009), the Supreme Court held that land could not be taken into trust for the Narragansett Tribe of Rhode Island under Section 5 of the Indian Reorganization Act of 1934 because the Tribe was not under Federal jurisdiction in 1934. The *Carcieri* decision represents a step back toward misguided policies of a century ago and is wholly inconsistent with the United States long-standing policy of self-governance and self-determination for all Federally-recognized tribes.

The decision has placed unnecessary and substantial administrative burdens on the Department and tribes, and has significantly increased litigation risks. The historical inquiry into whether an Indian tribe was "under federal jurisdiction" in 1934 is often fact-intensive and can make the Department's review process for acquiring land in trust pursuant to Section 5 of the IRA both time consuming and costly for tribes and the Department.

Then, after the Department's decision is complete, it is not atypical for suits to be filed challenging the acquisition. The Department is currently engaged in both Federal court and administrative litigation regarding the Secretary's authority to acquire land in trust pursuant to the IRA following the *Carcieri* decision. The in-

crease in litigation results in years of delay and significant additional cost to the Department, tribes, and also the Department of Justice. These litigation costs have real life consequences—including the unwarranted diversion of time and resources that could be expended on services and programs in tribal communities. Overall, the *Carcieri* decision creates uncertainty and adversely affects the tribes' ability to progress as a government.

The Administration continues to support a legislative solution to address the negative impacts and increased burdens on the Department and on Indian Country resulting from this decision. The President's Fiscal Year 2014 Budget includes language that, if enacted, would resolve this issue.

The Supreme Court's decision in *Salazar v. Patchak*, or *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 132 S. Ct. 2199 (2012), has exacerbated the problems created by the *Carcieri* decision. In *Patchak*, the Court held that, despite the Quiet Title Act, the decisions of the Secretary to acquire land in trust for tribes could be challenged even if the land at issue was already held in trust by the United States. The Supreme Court rejected the Government's argument that there was a widely-held understanding that once land was held in trust by the United States for the benefit of a tribe, the Quiet Title Act prevented a litigant from seeking to divest the United States of such trust title.

The Administration could support a legislative solution to the *Patchak* decision that allows for judicial review of the Secretary's decisions to acquire land in trust while also protecting the tribal land base after title to the land transfers to the United States in trust for a tribe.

Cobell Settlement Implementation

Congress approved the *Cobell* Settlement Agreement in the Claims Resolution Act of 2010, Pub. L. No. 111-291 (Dec. 8, 2010). The Settlement was finalized on November 24, 2012, following the end of the appeal process. The \$3.4 billion Settlement addresses the Federal Government's responsibility for trust accounts and trust assets maintained by the United States on behalf of more than 300,000 individual Indians.

I know that Secretary Salazar, Deputy Secretary Hayes, and Solicitor Tompkins were major proponents of that settlement. Its implementation will ultimately serve to strengthen the relationship between Native Americans and the Federal Government. I am pleased to continue to make implementation of this historic settlement a priority at the Department.

Individual Compensation

Of the Settlement funds, \$1.5 billion compensates class members for their historical accounting, trust fund, and asset mismanagement claims regarding the Individual Indian Money accounts held in trust by the Federal Government. The Department's involvement in this phase of the settlement is limited to supplying the "best and most current" contact information for each beneficiary class member and indicating if the class member is a minor; non-compos mentis; an individual under legal disability; in need of assistance; or whose whereabouts is unknown. Settlement payments to the Historical Accounting Class members began on December 17, 2012 for Stage 1. Payments to Trust Administration Class (Stage 2) members may occur before the end of 2013.

OST's Trust Beneficiary Call Center has increased its capacity to address the increased number of calls that occurred following Stage 1 payments, and we expect even more capacity will be needed to meet the volume increase expected with the Stage 2 payments.

Land Buy-Back Program

The remaining part of the Settlement establishes a \$1.9 billion fund to consolidate fractionated ownership of land interests in Indian Country. The Land Buy-Back Program provides for voluntary purchases of fractionated interests in trust or restricted parcels from willing Individual Indian Money Account holders. The Settlement gives the Department ten years to consolidate such fractional interests under the program for beneficial use by tribal communities.

Given the Land Buy-Back Program's size, limited duration, and importance, the Department established an office within the Office of the Secretary, subject to the oversight of the Deputy Secretary, to facilitate coordinated engagement and accountability within the Department and to streamline projects and the prioritization of resources. The Department hopes to make offers to purchase fractional interests at initial locations by December 2013.

Indian Education Scholarship Fund

As an additional incentive to participate in the Land Buy-Back Program, the Settlement authorizes up to \$60.0 million to be set aside for an Indian Education Scholarship Fund for American Indian and Alaska Native students when individuals sell fractional interests under the Land Buy-Back Program. On March 12, 2013, Secretary Salazar announced the selection of the American Indian College Fund to administer the student scholarship fund, with a fifth of the annual scholarships to be awarded by the American Indian Graduate Center.

Indian Trust Commission

One of the many outcomes of the *Cobell* Settlement was the creation of the Secretarial Commission on Indian Trust Administration and Reform. This five-member Commission is charged with conducting a comprehensive evaluation of the Department's management of nearly \$4 billion in American Indian trust assets and offering recommendations for improvement. The Commission is expected to deliver a report at the end of November 2013.

Honoring Treaty Commitments

The Obama Administration has made it a high priority to honor our treaty obligations and trust responsibility to Native Americans and Alaska Natives, and I intend to carry out that commitment.

One important way the Department honors its commitments is through the Rights Protection Implementation program, which supports the implementation of Federal court orders that resulted from decisions in complex, off-reservation treaty rights litigation. Generally speaking, these cases involved treaties in which the signatory tribes conveyed significant amounts of land to the United States and reserved the right to hunt, fish, and gather within the ceded territory. The rights involved are shared among multiple tribes and involve co-management with other jurisdictions.

There are 49 tribes whose off-reservation hunting, fishing and gathering rights in the Pacific Northwest and Great Lakes regions are supported by this program. Five umbrella intertribal organizations assist the tribes in implementing relevant court orders and carrying out co-management responsibilities. The court decisions and orders implemented through this program include *U.S. v. Washington*, *U.S. v. Michigan*, *Lac Courte Oreilles v. Voigt*, *U.S. v. Oregon*, *Minnesota v. Mille Lacs* and *Grand Portage v. Minnesota*. In addition, this program supports implementation of the US/Canada Pacific Salmon Treaty.

Settling Indian Water Rights Disputes

With respect to Indian water rights, I am committed to continuing and enhancing the Department's longstanding initiative of settling Indian water rights disputes whenever possible. Indian water settlements help fulfill the United States' general trust responsibility to tribes and ensure that Indian people have safe, reliable, and accessible water supplies. Indian water settlements also end decades of controversy and contention among tribes and neighboring communities and promote cooperation in the management of water resources.

The Administration is committed to resolving Indian water rights claims and ensuring that Native American communities can use and manage water to meet domestic, economic, cultural, and ecological needs, as demonstrated by the six Indian water rights settlements that have been enacted into law during this Administration. These settlements include the four enacted under the Claims Resolution Act of 2010, Pub. L. No. 111-291 (Dec. 8, 2010), benefitting seven tribes in three different states at a total Federal cost of more than \$1 billion: White Mountain Apache Tribe in Arizona, the Crow Tribe in Montana, and the Pueblo of Taos, Pueblo of Nambe, Pueblo of Pojoaque, Pueblo of San Ildefonso, and Pueblo of Tesuque in New Mexico; and the two settlements enacted under the Omnibus Public Lands Act, Pub. L. No. 111-11, 123 Stat. 991 (2009), including the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement (Nevada), and the Navajo-San Juan River Indian Water Rights Settlement Agreement (New Mexico).

To help the Department more effectively partner with tribes on water issues, the Department assists tribes during the assessment, litigation, negotiation and implementation phases of establishing and enforcing tribal water rights. Currently, there are 17 appointed Federal Indian Water Rights Negotiation Teams active in negotiating water rights claims in the western United States. An additional 21 Federal Indian Water Rights Implementation Teams work on implementing congressionally enacted settlements, including the four enacted in 2010. With increasing drought conditions in the United States and pressure from an expanding population, the number of requests for the appointment of new negotiation teams continues to grow.

Strengthening Tribal Communities

Increasing Renewable and Conventional Energy Development on Indian Lands

A stronger America depends on a growing economy that creates jobs. No area holds more promise than investments in American energy. As the President has stated many times, our success depends in significant part on pursuing an all-of-the-above energy strategy. As a part of this strategy, the Department is committed to assisting tribes in expanding on Indian lands renewable, low cost, reliable, and secure energy supplies as well as and safe and responsible oil and gas development in accordance with tribal objectives. Implementing the President's all-of-the-above energy strategy in Indian Country will contribute to the goals of increasing our nation's domestic energy supplies and of improving the economies of many Indian tribes and Alaska Native villages.

Under the Assistant Secretary, the BIA is responsible for developing, implementing and reviewing bureau-wide policies, plans, processes, environmental impact studies, industry leasing and development activities, and other functions related to development and production of energy and mineral resources on Indian lands. In addition, the Office of Indian Energy and Economic Development (IEED), within the Office of the Assistant Secretary for Indian Affairs, provides financial and technical assistance to tribes, supporting development and management of their energy resources. This includes resource assessments, geologic studies, economic analyses, and market studies.

The Department currently holds in trust 55 million surface acres and 57 million acres of subsurface mineral estate throughout Indian Country. The potential on Indian lands for the development of both conventional and renewable energy resources is significant.

Renewable Energy Development

More than 50 renewable energy projects are ongoing on an estimated 35 reservations. This, however, is barely tapping into the renewable energy potential that exists in Indian Country. While the resources on these reservations have not yet been fully determined, the BIA has identified 267 reservations with renewable energy potential.

An example of this great potential is the solar energy project on Moapa Band of Paiute's trust lands in Nevada, approved by the Department last year. This milestone project is the first-ever, utility-scale solar project approved for development on tribal lands. The project will generate lease income for the Tribe, create new jobs and employment opportunities for tribal members, and connect the existing tribally-owned Travel Plaza to the electrical grid, decreasing its dependence on a diesel powered generator. The procurement of construction materials and equipment is expected to generate additional sales and use tax revenues for the county and the State. In addition, the Tribe's agreement with the Los Angeles City Council for a 25-year power purchase agreement will provide enough energy to power over 100,000 Los Angeles households.

Conventional Energy Development

The BIA is also working closely with tribal nations that are interested in developing conventional energy resources. Together, BIA and Indian tribes are defining, quantifying, and developing tribal energy resources for industrial scale energy production. The Department has estimated that energy and mineral development on Indian lands in 2012 supported over \$16.0 billion of economic activity and nearly 120,000 jobs related to trust resources. In the last three years, IEED assisted Indian mineral owners in the negotiation of 55 leases for oil, gas, renewable energy, and aggregate materials development on approximately 3.1 million acres.

The IEED assisted the Three Affiliated Tribes of the Fort Berthold Reservation in the negotiation of lease agreements with oil and gas companies that have allowed the Tribes to share in the success of the oil and gas leasing boom in the Bakken Formation in the Williston Basin. In 2011, over 200 drilling permits and associated rights-of-ways were approved in the area. In 2012, the number of drilling permits and associated rights-of-way permits rose to over 300. Also in 2012, the Department approved a fee-to-trust application from the Tribes to build a refinery on the Fort Berthold Reservation. Once all required approvals are obtained, this will be the first new refinery built in the U.S. in more than 30 years.

Advancing Indian Education

Education of Native American children is an issue of paramount concern. These children experience some of the highest levels of poverty in the United States, which not only affects the possibilities for their academic success but may also limit other possibilities for success later in life. The Administration is committed to ensuring

Native American students receive an academically rigorous, culturally appropriate education that will prepare them to be productive citizens and leaders in their communities and help build safer, stronger, healthier, and more prosperous Indian communities.

The BIE elementary and secondary school system currently has 183 academic or resident-only facilities located on 64 reservations in 23 States. During the 2011–2012 school year, the BIE-funded schools served nearly 48,000 individual K–12 American Indian students and residential boarders. After accounting for transfers, absences, and dropout rates, this equates to an average daily membership of around 41,000 students. Currently 125 of the BIE’s schools are tribally-controlled with grant support funding helping to cover administrative and indirect costs incurred by tribes operating contract and grant schools. The BIE also operates two post-secondary schools, administers operating grants to 27 tribal colleges and universities and two tribal technical colleges, and promotes post-secondary opportunities with scholarships to approximately 32,000 students attending other institutions of learning.

The BIE’s mission is to provide quality educational opportunities from early childhood through life in accordance with a tribe’s needs for cultural and economic wellbeing while respecting the diversity of Indian tribes as distinct cultural and governmental entities. The BIE’s vision for success includes:

- *Maximizing student achievement*—Teaching its students well is the number one priority for BIE. Effective instruction is a critical element in turning BIE schools around. The BIE has increased the number of School Improvement Grants to encourage school turnaround models across BIE schools.
- *Advancing Indian education through self-determination*—Self-determination and self-governance are an integral part of advancing Indian education. Over the past year, BIE consulted with tribal governments and their leaders on topics such as the Johnson-O’Malley student count, the Indian Affairs Administrative Assessment, and the Public Law 100–297 grant assurance form. Consultations have resulted in agency-wide collaborative efforts in the areas of education, language, culture, and economic development.
- *Optimizing school operations*—To support the President’s commitment to provide every student even footing when it comes to education, BIE has expressed a desire to adopt the Common Core State Standards, as have 46 States and the District of Columbia, to allow BIE to pursue a unified system of standards, assessments, and accountability rather than using the standards, assessments, and average yearly progress definitions of the 23 different States where BIE schools are located.
- *Improving school facilities*—Indian Affairs provides funds for facility programs for 183 academic and resident only campuses. From 2002 through 2012, \$2.0 billion has been invested in construction, improvement, and repair projects that have reduced the number of schools in poor condition from more than 120 to 63. This includes 42 complete school replacements and 62 major renovations, which are either completed, funded or under construction. The physical state of our schools remains a significant challenge, as it does for so many other parts of the Interior infrastructure.
- *Seeking partners*—The BIE signed eleven Memorandums of Understanding, Memorandums of Agreement, and cooperative agreements with other federal agencies, tribal colleges, and tribal governments to increase access to new programs and initiatives as well as to build capacity at tribal colleges and within tribal governments. The BIE recently partnered with Teach for America to increase BIE-funded schools’ access to highly qualified teachers in hard-to-fill locations in the BIE system.

Protecting Native Communities and Natural Resources Through Climate Change Adaptation

The Department recognizes that climate change may disproportionately affect Indian tribes and Alaska Natives because they are often heavily dependent on their natural resources for economic development and cultural identity. The Department has a special role to play in working with Indian tribes to safeguard resources and to maintain fish and wildlife needed for subsistence harvests. These protections are especially critical for Native Alaskan populations given the rate of change observed in the state. Given these responsibilities, the BIA will have an essential role in the Department’s response to the impacts of climate change in Indian Country.

Climate change impacts are becoming increasingly evident for Indian tribes, and tribal leaders have voiced their growing concerns with the effects of climate change on their surrounding environment. For example:

- In Alaska, the loss of sea ice and resulting shore erosion places subsistence life-ways at risk as well as entire communities experiencing coastal erosion;
- The Fond du Lac Band of Lake Superior Chippewa Indians lost its entire wild rice crop last spring in a record flood;
- For the Confederated Tribes of the Umatilla, the Chinook were late again this spring, resulting in one ceremony without fish and the late root crop just delayed another traditional feast;
- In Oklahoma, Kansas, and the Southwest, extended drought has decimated crops and groundcover, and allowed the wind to move soils, making recovery harder once the drought does break.

These types of events pose significant challenges to any affected community. For Indian nations, these challenges are exacerbated because they not only impact Native economies—they also threaten Native cultures. The Cooperative Landscape Conservation Program, BIA's primary climate change adaptation program, allows the BIA to expand tribal climate adaptation planning and increase BIA capacity to transfer technical information. The Program engages field level managers, Indian Affairs staff and tribal representatives and provides them with the opportunities to improve technical skills.

Other programs at the Department address climate change adaptation as a key purpose, such as the Department's nationwide network of Landscape Conservation Cooperatives, which allows the BIA to assist tribes in identifying and implementing strategies to address impacts on tribal lands. Another example is the work of the United States Geological Survey (USGS) to identify best practices for the potential integration of traditional ecological knowledge into science and funding opportunities. To this end, USGS is interviewing Indian elders who are familiar with the local climate and terrain. This facilitates the incorporation of different and traditional forms of knowledge that allow for a more comprehensive understanding of the complex challenges posed by climate change. The indigenous knowledge encompasses observations, lessons, and stories about the environment that have been handed down for generations. This data provides a long history of environmental knowledge and also can help uncover new areas for scientific study.

Promoting Self-Governance in Tight Fiscal Times

For the Country as a whole, one key challenge moving forward is the uncertainty of the Nation's budget. In these hard fiscal times, tough choices and hard decisions will have to be made at all levels of government. As I said in my introduction, the cornerstone of my policy as Secretary of the Interior will be centered on promoting self-governance and self-determination, and the inherent right of tribal governments to make their own decisions to strengthen their communities. Nonetheless, given the financial climate, tough choices must be made with respect to Departmental programs. One such decision involves the need to balance funding for contract support costs with funding for direct programming and other tribal priorities within constrained resources.

Congress and the Administration have not fully funded contract support costs for many years. Shortfalls in the Department's appropriations for contract support costs have led to litigation to recoup unpaid support costs, most recently in a Supreme Court decision in *Salazar v. Ramah Navajo Chapter*, 132 S. Ct. 2181 (2012). The Administration intends to consult with tribes and work with Congress on a long term solution that will further promote the shared goal of tribal self-determination and self-governance.

The President's Budget for Fiscal Year 2014 has two key features related to contract support costs. First, it proposes \$231 million for contract support costs, which is \$10 million more than the Fiscal Year 2012 enacted level, and approximately 91 percent of the amount identified in the most recent projections as the estimated full funding requirement. Second, to accompany the proposed appropriations language in the President's Budget for Fiscal Year 2014, the Department will submit to the House and Senate Committees on Appropriations a Contract Support Cost Table that identifies an amount to be made available for each self-determination contract for Fiscal Year 2014, consistent with one of the Supreme Court's solutions. The appropriation will also make available a lump-sum amount for contract support costs associated with new or expanded self-determination contracts. This would provide certainty to tribes on the funding they will receive. The contract support costs proposal in the President's FY 2014 Budget is designed to be an interim step toward

a long term solution reached by working with Congress and consulting with Indian tribes.

To be clear, the Administration is strongly committed to supporting and advancing self-determination and self-governance for Federally-recognized tribes. For the reasons discussed above, I hope a long-term, mutually beneficial solution can be achieved by working with Congress and consulting with Indian tribes.

Regulatory Reform

As part of this Administration's goal to improve regulatory processes, the Department has been looking at a number of areas, including programs within Indian Affairs.

Reform of the Federal acknowledgment process is a high priority for the Department. The acknowledgment of the continued existence of another sovereign entity is one of the most solemn and important responsibilities undertaken by the Department. Federal acknowledgment permanently confirms the existence of a nation-to-nation relationship between a Federally-recognized Indian tribe and the United States. The work of Assistant Secretary Washburn and his staff on this issue is important and we are committed to improving the process.

The Department's process for acknowledging an Indian tribe provides for the Assistant Secretary for Indian Affairs to make a decision on whether to acknowledge a petitioner's government-to-government relationship with the United States. Some have criticized the process as expensive, inefficient, burdensome, intrusive, less than transparent and unpredictable. The Department is aware of these critiques, and we are reviewing our existing regulations to consider ways to improve the process and address these criticisms and concerns. With this in mind, the Department is actively working to develop draft revised Federal Acknowledgement regulations and will be initiating the Tribal Consultation soon. Pending the outcome from tribal consultation, the next step would be to release the proposed rule for public comment, which will be published in the Federal Register. While the current goal is to publish a final rule sometime in 2014, the timing for publication of a final rule depends upon the volume and complexity of comments and revisions necessary to address the comments received.

Conclusion

Thank you for the opportunity to share my views with the Committee on some of the critical issues affecting tribal nations. I look forward to working with you as we collectively work to uphold our responsibilities.

The CHAIRWOMAN. Thank you, Secretary Jewell.

You mentioned taking land into trust. Obviously the agency has acquired over 200,000 acres in trust for tribes and individual tribal members. Why do you think it is important to still get a *Carciari* fix if the agency is able to continue to do this?

Secretary JEWELL. The key issue of the *Carciari* fix is one of resources. The way *Carciari* is written with the requirement that we have to identify that every tribe was federally recognized back in 1934 requires a lot of staff time to assess records and prove all of that. It is almost universally litigated at the end as people cross check that work.

When you think about effective use of limited resources in Federal Government, without a *Carciari* fix, we cannot effectively use our resources and we get sued for just about everything we do. I think it really is a function of trying to put our resources where they need to go and assessing the land values, making the transfers and carrying through the trust obligations and not spending our time researching historical records and fighting lawsuits.

Larry, do you have anything you want to add?

Mr. ROBERTS. I just want to add that it does have real live consequences. For example, I am a member of the Oneida Nation of Wisconsin. When we acquire land within the boundaries of our reservation and someone challenges that acquisition, the Oneida Nation was one of the first nations to sign treaties with the United

States from 1794, so the notion we were not under Federal jurisdiction in 1934 is mind boggling.

It is those resources that not only the Federal Government is contributing to analyze this issue, but it is the resources of tribes taking money away from other limited resources and pouring those into applications and litigation. I think it has real life consequences in Indian Country and for the Department.

The CHAIRWOMAN. You stated both your interest and the Administration's interest to honor treaty obligations and trust responsibilities. The Department has a number of bureaus and agencies with a duty to honor that responsibility as well. Frequently Interior offices, like the Office of Policy Management and Budget or the Bureau of Oceans Management have, in my opinion, exhibited a lack of understanding of those obligations to protect treaty rights.

Specifically, will you ensure that the Bureau of Ocean Energy Management in its trust responsibility will engage with coastal tribes as they move forward in important roles like national ocean policies and things of that nature?

Secretary JEWELL. Yes is the short answer. The slightly longer answer, just to use an example from our home State of Washington, the Bureau of Ocean Management, Pacific Team, has been working with a number of tribes on offshore issues in the State of Washington. I know they have convened with the Quinault, Makah, Quileute, Hoh, and Shoalwater Bay Tribe last November to talk about these issues. That is just an example from our home State.

In talking with Tommy Beaudreau, who is director of that, it certainly is a commitment to working with tribes on offshore issues. As we look at both renewable development, as well as conventional development, particularly renewables, tribes will have an important seat at the table as we come up with these plans.

The CHAIRWOMAN. I am sure you know that places like Neah Bay can be treacherous waterways. The Makah Tribe has basically become a Federal partner with the Coast Guard in the protection and management of that area because it is so remote. I would hope the agency would have the same partnership mentality when it comes to working with tribes on these resource issues.

I have just a last question. Will you commit to appointing a team to work in resolving outstanding issues as part of the Spokane settlement legislation?

Secretary JEWELL. A quick answer to that is I am happy to have some people work on that, specifically Alaska Assistant Secretary Kevin Washburn to look into it, to bring some resources to the table to better understand exactly what the issues are what we might be able to do to address them.

The CHAIRWOMAN. Thank you.

Vice Chairman Barrasso.

Senator BARRASSO. Thank you, Madam Chairwoman.

I want to talk about irrigation. At no less than eight committee hearings, I have raised the issue of the enormous backlog of deferred maintenance on the 15 Indian irrigation projects operated by the BIA. Assistant Secretary Washburn recently testified there was no long term plan to address the backlog.

While there has been some progress in assessing the extent and the valuation of the deferred maintenance, we are a long way away from a plan to address the problem and the causes of the problem. Will you commit to making this deferred maintenance problem a high priority within the Department?

Secretary JEWELL. Senator, I appreciate the maintenance issue. I know there are some specifics in your region—I think the Wind River is one area of particular concern. I know we have an opportunity to charge operating and maintenance for these projects to customers to help reimburse the costs. That should be part of the offset.

It will be important for me to know more about this, to have Kevin work with you or your staff on this to figure out how we can address the issues. It certainly doesn't make sense to build projects and not be able to maintain them.

Senator BARRASSO. We will go into additional depth on that but the amount they are able to charge for the services they are receiving are so dwindled because of the lack of maintenance that it is hard to charge for the services they are not getting. That is kind of the issue there.

With regard to park safety, as with irrigation, I have raised the issue of safety at the Grand Teton National Park with the Department on several occasions. We discussed this in a letter to Park Service Director Jarvis dated February 1 and then I mentioned it to you on March 6 in our meeting with follow up questions at your confirmation hearing on April 8. Then we had a phone conversation on April 26.

The safety of the park visitors is extremely important and I have not yet gotten a response from you or the Department. I have another copy of the letter here and perhaps can get it to you today. I would just ask that I get some answers to my concerns.

Secretary JEWELL. I will check into it. I am sorry you haven't had a response. Is this on the road?

Senator BARRASSO. Yes.

Secretary JEWELL. The bicycles?

Senator BARRASSO. Yes, the pathways and the road.

Secretary JEWELL. I will figure out where that is.

Senator BARRASSO. Thank you, Madam Secretary.

With regard to energy, for some tribes oil and gas revenues make up a substantial portion of the tribal operating budget which is used for essential tribal services. As I understand it, the BLM is expected to release new regulations on hydraulic fracturing very soon.

I just hope you realize that any new regulations are likely to exacerbate delays and costs and continue to hinder tribes in their efforts to develop their trust mineral resources. Have you done any economic analysis on the negative impacts that any new hydraulic fracturing regulations will have on tribal economies?

Secretary JEWELL. Senator, we are close to releasing the proposed rule and there will be a comment period after that. We do not anticipate additional costs associated with this. We have worked in concert with industry to come up with the rules. We have also looked at the science that is out there.

Our obligation, as it relates to tribal matters, is to ensure that we are overseeing the appropriate procedures on the subsurface mineral estate. It is our obligation to do that so it is carrying out that obligation and fulfilling the regulations. I don't anticipate that it would cost the tribes any more.

Senator BARRASSO. The Office of the Inspector General issued a report on Indian oil and gas leasing last September. It identified several problem areas, including lack of a coordinated strategy or organizational structure to manage the BIA's oil and gas activities, extra layers of governmental review and complexities associated with self-determination by the tribes. These are some of the problems identified, not by us, but by the Office of the Inspector General that push oil and gas develop off Indian reservations.

One of the recommendations was that the Department of the Interior should work with Congress in improving something we worked on which is the Tribal Energy Resources Agreement. Last year, I introduced a bill designed to do that. Will you work with the Committee to help implement these recommendations from the Office of the Inspector General?

Secretary JEWELL. Yes, I would be happy to work with the Committee. I will tell you that in discussions with my colleagues in Indian Affairs, there is a commitment to streamline leasing, in general, on Indian reservations. Certainly that encompasses leasing for mineral development.

Senator BARRASSO. Madam Chairwoman, I have additional questions on education, law enforcement, energy and wild horses on Indian land. Perhaps I could submit those for written answers.

The CHAIRWOMAN. Absolutely. We will keep the record open for members to do just that and get responses.

Senator JOHNSON.

Senator JOHNSON. Secretary Jewell, as you know building a house in Indian Country is not a simple process. Each Federal agency plays a role from obtaining the lease, ensuring proper water infrastructure and leveraging the funds.

As Chairman of the Banking, Housing and Urban Affairs Committee, it is important to me to find solutions to our critical housing needs. How will you ensure that Interior programs are working effectively with other federal agencies to address the dire need for Indian housing?

Secretary JEWELL. Thank you, Senator Johnson.

I think there are things that we can do and things we can do working with other agencies. In terms of what we can do, there is no question that leasing lands for housing or other purposes in Indian Country has been a cumbersome process, one where one size doesn't fit all and yet we have had the same process no matter whether it is a complicated, commercial enterprise or a single family residence. There are opportunities to improve that and those are underway.

Second, in working with other agencies, Housing and Urban Development is a place with which we need to work. I am actually having dinner with Secretary Donovan tonight. I am building a relationship with him and getting to know the resources HUD has and how that knits together with the Bureau of Indian Affairs and our responsibilities in Indian Affairs broadly.

Larry, do you want to add anything to that?

Mr. ROBERTS. I know this has been a high priority for Assistant Secretary Washburn as well. I know he has already met with HUD on issues and where we can collaborate on this. Also, with regard to our new leasing regulations, hopefully that will streamline issues of leasing for housing.

Senator JOHNSON. I have had Secretary Donovan visit with me at the Rosebud Indian Reservation in South Dakota.

As you know, the Department of Interior operates one of two federally-operated school systems. In my home State of South Dakota, nearly 60 percent of BIE or tribal-controlled schools are in poor or fair condition according to the Education Facility Condition Index.

With the elimination of funding for education construction and a decrease to ISEP funds, how does the Interior ensure our children are learning in an adequate and secure environment?

Secretary JEWELL. Senator, you identify a very, very difficult issue that I would say is going to require our cooperation and working together. We cannot repair and replace schools without money. We are prioritizing our budget in these lean times on what happens in the classroom and on repairs and maintenance as opposed to school replacement.

Over the last ten years, we put \$2 billion into school replacement and upgrades, including \$300 million of stimulus money. We have to make sure we are maintaining the structures we have. In a tight budget, the 2014 budget focuses on repairs and maintenance and not on new construction.

I don't know if there are creative ways. I asked in the car on the way here whether there was an opportunity for private philanthropy as happens in so many other areas to support this. I don't think that legislation allows that right now but it is an attractable challenge. I know that a learning environment where people feel respected is more conducive to high quality learning than one where children don't feel valued.

I think you identify an important issue that I will need your help in addressing.

Senator JOHNSON. Secretary Jewell, you mentioned in your testimony that we have not fully undertaken the potential for energy projects in Indian country. Many of the South Dakota tribes are interested in wind and solar energy, both large scale projects and residential scale projects.

Please explain the Interior's plans for working on tribal energy projects in tribal communities and on tribal lands.

Secretary JEWELL. As I mentioned in my opening statement, there is a lot of potential in surface development of renewable energy projects. We have 50 projects underway on 35 reservations right now. There are great examples of local solar that supports local businesses. In one particular case in Nevada, there is a utility scale solar project.

It is definitely a priority to address that because it can help lift those tribes economically and provide reliable sources of power. It is certainly on our radar. I think there are opportunities to overhaul outdated leasing practices and engage the Hearth Act signed into law to help streamline and smooth out those projects.

Senator JOHNSON. My time has expired. Thank you.

The CHAIRWOMAN. Thank you.
Senator Hoeven.

**STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HOEVEN. Thank you, Madam Chairwoman.

Madam Secretary, it is good to see you again. Deputy Secretary Roberts, it is good to see you. Thank you for your help. I want to express my appreciation. I am going to touch on the subject of Spirit Lake in just a moment.

In general, law enforcement is a real need on all of our reservations. In the 2013 budget, the Administration did not fund \$3.5 million that BIA requested for law enforcement. In the Senate budget, I inserted that \$3.5 million for law enforcement. It is a crying need in our part of the world and I think probably all over on reservations.

We put it in the 2013 budget. My question is in the 2014 budget, are you satisfied that you have adequate funding for law enforcement and child protective services?

Secretary JEWELL. I will address the law enforcement. We have an increase of nearly \$20 million for public safety and justice in the 2014 budget. From talking with some of the U.S. Park Police, the effort we made in putting a surge into reservations with law enforcement from a variety of different agencies proved that additional law enforcement resources would make a significant difference. The 2014 budget represents a step in the direction of implementing some of the learning from that.

It will provide I think \$5.5 million for additional law enforcement personnel and another \$13 million for detention centers that are tribally-operated in Indian country.

In terms of child welfare, I think it is fair to say it would be difficult to put enough money into that really important program. It is critical. It is what Assistant Secretary Washburn is doing right now, working with tribes in South Dakota on this difficult issue. I cannot speak specifically to the 2014 budget. Do you know, Larry, how much is in their for child welfare?

Mr. ROBERTS. I don't have that information in front of me.

Secretary JEWELL. We will find out and make sure we get that to you specifically as it relates to child welfare.

Senator HOEVEN. I appreciate your commitment to come to our State. I know we are working on that schedule right now. We can provide you with very different examples that create some of the same challenges.

For example, as we have talked and as Deputy Secretary Roberts has seen firsthand, we have issues with social service, child protective services on the Spirit Lake Nation. BIA, of course, has now taken over and is working to remedy that. I think it is very important that you see it. As I say, Deputy Secretary Roberts has been there.

I think that level of commitment is very much needed and will help in terms of the whole effort, both to make the real progress we need to make, but also for transparency.

Another example we want to show you is the whole energy patch. The Three Affiliated Tribes, another one of our reservations, is

right in the middle of this incredible energy play so they are going through this huge boom in terms of development and drilling but that also creates law enforcement needs.

You have this influx of people so different situations but both emphasize the incredible need to make sure we are addressing law enforcement and social services, the whole gamut of things, not only child protective services but drug addiction and so many of these things. We want to get them going economically or help them, but we really cannot do it without having the kind of law enforcement, social services in some of the fundamental, basic areas so that people feel safe and protected.

Your coming is very important so you get a firsthand look. I know you want to see the energy aspect of it too and we are very much interested in that.

The hydraulic fracturing is very important. You and I talked about this before. It is very important to States but it is really important to tribes and another reason for you to come out and see. We will show you a reservation, Three Affiliated Tribes, doing incredible things. They have just broken ground on a new refinery, green field refinery. Think how amazing that is. They need to be able to hydraulically fracture.

How these rules come out will be very important. I want your commitment that you will work with the States and the tribes on a rule that works.

Secretary JEWELL. You have my commitment. We have been working with the States and the tribes on the rules that will be released shortly. You have my commitment to continue to make sure that this is a collaborative process. I would throw broader stakeholder groups into that mix as well.

Senator HOEVEN. I appreciate that. I think you will find there are tremendous things we can do on transparency and everything else if we just work together to have something that is simple and straightforward and empowers States' first approach that would apply to the tribes as well.

Secretary JEWELL. Just to be clear, on the Subsurface Mineral Estate, on tribal lands, our responsibility is the same as it is on Federal lands which is to be the regulator on those resources as distinct from State lands. We are certainly working alongside States to align regulations. You will see that in any proposed rules that come out.

I just wanted to say that our obligation to the tribes is to manage the Subsurface Estate on their behalf by statute.

Senator HOEVEN. Madam Chairwoman, just a brief indulgence.

If we can follow the approach that we have taken both with Interior and the White House like our BLM streamlining legislation where we have worked together, that is the kind of approach I am talking about where I think we can do good things. That is what I am asking for.

The CHAIRWOMAN. Thank you.

Senator TESTER.

Senator TESTER. Thank you, Madam Chairwoman.

I want to talk about water project funding first. The DOI has authorized the Montana loan, two projects, several hundred million

dollars each. Have you been able to talk to Commissioner Connor about the size and scope of the projects? Good.

I would just say a lot of these water projects, at least the two in Montana, are offsprings of the Water Compact Agreements. This particular year, we have about \$5 million to build them. At this rate, I can tell you by the time the projects get done they are going to have to start over and rebuild them because they will be worn out. I will be long dead and gone and dust by the time these projects get built.

Is there a plan to move forward on these projects in a way that will get them done in a reasonable amount of time?

Secretary JEWELL. I will give you the information that I have and will ask my colleague, Larry, to weigh in on more detail.

We have in the 2014 budget about \$40 million in the request for rural water projects.

Senator TESTER. For the whole country?

Secretary JEWELL. Pardon me?

Senator TESTER. For the whole country?

Secretary JEWELL. Yes, for the whole country. These are expensive projects. There is not a lot of excess money to go around. I would love to see where I get additional money and would certainly welcome your support in advocating for that.

I have a list of where the projects are. The one I see in Montana is north central Montana, the Rocky Boys.

Senator TESTER. That is one and then northeastern Ft. Peck is the other.

Secretary JEWELL. Ft. Peck is another \$4.3 million. Montana is doing well out of the list that I have but there is way too much of a need relative to the funds.

Senator TESTER. Exactly right. Here is the deal. You get one finger pointing that way, you have three fingers pointing back at Congress and that is no truer than in this situation. I am telling you that you have to fight if you can allow me to fight. The truth is these projects are never going to get done.

It was 1998 when I got in the State Senate. These were \$100 million projects and now they are over \$300 million each. It is just not happening. If there is a way you can develop a plan, I think we can get people to support it to get it done.

Little Shell has been recognized, they have been turned down, they have said yes and no. Honestly, straight up, are you going to reconsider Little Shell as far as recognition?

Secretary JEWELL. As I understand specifically as it relates to Little Shell, there is litigation so I have been advised that I cannot comment on Little Shell specifically because of the litigation.

Senator TESTER. That's all right. That's okay.

I have another situation that deals with firefighting costs, the Hazardous Fuel Reduction Program. Good, you are nodding your head.

A couple of years ago, it was at \$206 million and last year, \$183 million. This year you are asking for \$96 million. I could ask you a lot of questions about is there 60 percent less fire danger than there was three years ago or is it more or less expensive to do mitigation versus fighting fires.

I won't do that. What I am going to ask is this. I think the Ranking Member talked about when reservations were set up, there were blocks of land set up and tribes were sent there to live. In our particular case, we have one in western Montana called Salish & Kootenai. Their hazard fuel reduction program has been cut extensively. They do a hell of a job with that money, quite frankly. That is not brag, that is fact.

These guys didn't have a choice, they were put there, to live there and now they can't do the mitigation. On the other side, just using fairness, we have mansions built in the middle of the forest so damned deep you have to pump light into them through a tube. When those catch on fire, they burn but they are mansions.

My question I have is this. Is it really fair to short change the Native Americans who were told to live there versus the people who choose to build a house in the middle of the wilderness?

Secretary JEWELL. Senator, I just returned from NIFC, the National Interagency Fire Center in Boise, Idaho. I had an all hands meeting with all Interior and Forest Service staff. I went with Secretary Vilsack.

We have a Sophie's Choice to make as it relates to firefighting in the budget we are dealing with. There is not enough money for hazardous fuel reduction. We have to accommodate fire within our budget. There is not the capacity to use emergency funds unless it is specifically authorized. We treat hurricanes and floods as emergencies. We do not do the same with fires.

When you have a limit on what you can spend, you put more into suppression because you have to put out the fires. There is a responsibility of homeowners to clear the area around their land. I used the megaphone I had and it was in the newspaper to make sure that homeowners recognize the responsibility.

We are making decisions to suppress fires now because we have to suppress certain fires instead of doing hazardous fuel reduction because we don't have enough money to support both.

The jobs you referenced on reservations, the jobs in rural communities associated with hazardous fuel reduction are very important.

Senator TESTER. And effective.

Secretary JEWELL. And effective. They are being impacted in 2013 significantly by the sequester and in 2014 by the overall budget limit and the fact we know that we have to fight fires.

There is, I think, a potential solution in terms of taking emergency firefighting outside of the regular budget process so that we can effectively look at hazardous fuels reduction in the future. We have run over on that one.

Senator TESTER. I got it and I have one point and I will let you go. I apologize, Madam Chairwoman.

We have three fires burning in Montana right now. This is the middle of May. This is our rainy season.

Secretary JEWELL. It is early.

Senator TESTER. This is not going to get any better. I know climate change is on your radar screen and is certainly on mine. Unless we wake up around here, we aren't going to have the resources to manage because they are all going to be burnt up. I don't point that at you. I point that as much at us as I do you.

Thank you for the work you do.

Secretary JEWELL. Thank you.

The CHAIRWOMAN. Senator Franken.

Senator FRANKEN. Thank you, Madam Chair.

We got into the sequester, we got into warming, we have a fire burning in Minnesota now, I understand. Talking about climate change, there is a lot of potential for renewable energy in Indian country. Indian country makes up just 2 percent of the U.S. but contains 5 percent of our renewable resources.

I particularly think that tribes have a lot to gain through the deployment of distributed generation which is you don't have to necessarily be connected to the grid. Distributed generation technology is like solar, small wind, methane digesters or geothermal can alleviate the need for large and expensive powerplants that have a lot of upfront costs.

There is a lot of job creation potential in distributed generation. Those technologies are good for the environment.

I have had really good conversations with DOE on these issues. I spoke a couple times recently with Dr. Dave Danielson who heads the Energy Efficiency and Renewable Energy section of the DOE. I asked him to work with me on these issues.

The Departments of Interior and Energy have tribal assistance programs for these purposes. I want to make sure these programs are strengthened and coordinated. The other governmental agency that has a real interest in this is the Department of Defense. The military benefits from distributed energy technology at forward operating bases.

We have lost a lot of men and women in Iraq and Afghanistan just in convoys hauling fuel for generators. It would be much better to have solar there in those theaters. We are doing that in Afghanistan now.

In Minnesota, I recently hosted DOD Assistant Secretary Sharon Burke who is the lead on energy issues at DOD and talked to her about these very issues.

I think there is a real opportunity for these three departments—Energy, Interior and Defense—to work together on renewable energy and distributed energy. I would really love to help on this. My question is, would you please commit to me that you will work closely with DOE and with DOD on these renewable energy issues, in particular on the issue of developing and deploying distributed generation on Indian lands?

Secretary JEWELL. Senator, I am happy to work on these issues. One of my early conversations through the confirmation process was with the Secretary of the Navy. It surprised me when he said we actually had a lot we were working on together. It was, in fact, around renewables. I recently had conversation about the research money Defense has put into renewables and distributed power. I think there are a lot of opportunities and I certainly look forward to working with them on that and DOE.

I know Dr. Moniz is working his way through the process. I have been in regular contact with him. We have talked about these issues as well.

We have a role to play in streamlining leasing and the process if these opportunities arise as well. There is no question that there is an opportunity for us to step up.

Senator FRANKEN. Everyone should realize that DOD is very much leading the way in renewables.

Secretary JEWELL. Yes.

Senator FRANKEN. It is really smart. It is about saving lives in theater. If you go to Walter Reed or Bethesda since it is now all Walter Reed, the soldiers there, the Army is there mainly because of IEDs, because they were in convoys.

Will you work with your office and provide my office with recommendations on how we can achieve the goal of expanding distributed generation on Indian lands? Would you work up a plan? I would really love that.

Secretary JEWELL. Yes.

Senator FRANKEN. I am going to submit some questions for the record because I am running out of time. Obviously I brought up the Bug School in my opening remarks. Moving forward, I would love to keep working with you on that school and on school construction. I know the Chair is very interested in that as well. I am very concerned about it.

Thank you. Thanks for being here. We are off to a good start.

The CHAIRWOMAN. Senator Heitkamp.

Senator HEITKAMP. Thank you so much, Madam Chairwoman.

You are going to feel like you were double teamed by North Dakota when I tell you how important we consider these issues to be.

I want to follow up on an additional point beyond what Senator Hoeven talked about. Obviously we are deeply concerned about law enforcement resources and the role that you play. I want to make one point and encourage you to look at encouraging memoranda of understanding because the dual jurisdiction issues are critical.

If you want chapter and verse, there have been a number of national stories about the challenges that we have trying to make all that fit. I hope when we introduce you to North Dakota, we will be able to talk a little bit about working with county sheriffs, local law enforcement and highway patrol to expand the ability to do additional law enforcement.

I want to talk about law enforcement training because we know how critical that is. Right now, there is only one law enforcement training center that we are familiar with, BIA, and it is in New Mexico. United Tribes has been working on a law enforcement training center in Bismarck, North Dakota. They have been working on an MOU with BIA to try and provide basic law enforcement training.

The MOU really has not moved near as we can tell. I am wondering if you are familiar with this or if you can give me any assurance that we are going to see that moving forward in the near future.

Secretary JEWELL. I have a great staff and as we discuss this in preparation for the hearing, we are open to exploring ways we can work more closely with the United Tribes Technical College on this in North Dakota. Larry, do you want to elaborate?

Mr. ROBERTS. Just to say we already use the facilities a little bit to conduct training there but we are open to looking at how we can expand.

Senator HEITKAMP. Just to give you some background, the United Tribes also has a very good collaborative relationship with

law enforcement throughout North Dakota so it would be a very good fit. I just want to put in a plug there.

The second question I have relates to VAWA, some concern and awareness about the need to implement certain procedures before VAWA will work in Indian country or before they can begin to protect Native American women and children the same way we protect them outside of Indian country.

What are you doing with the Department of Justice, with tribal governments and tribal courts to guarantee an early implementation in Indian Country of the Violence Against Women Act so that we can begin this protection as early as possible?

Secretary JEWELL. We are certainly delighted that VAWA passed. We appreciate the bipartisan leadership. It is a critical issue in Indian Country, so whatever we can do with the Department of Justice to ensure that it is implemented as intended and as swiftly as possible, we are committed to doing.

I am going to turn to Larry for any specifics on what we are currently doing with Justice.

Mr. ROBERTS. We are coordinating with the Department of Justice to implement those provisions. One of the things we are doing is looking at a two-year pilot project in which tribal courts can choose to exercise jurisdiction. We are participating with DOJ in their formal and informal consultations with tribes and we are doing our own training and technical assistance as well for tribes. I am trying to implement the VAWA provisions as quickly as possible.

I know our Office of Justice Services and our tribal courts staff are working very closely with the Department of Justice to ensure implementation.

Senator HEITKAMP. Just to put a point on this, it is so critical given how hard fought this provision was and how incredibly necessary this provision was that we come out of this with a good, solid, couple first good steps and that we prove this up.

Last, I would like to thank you for your assistance in Spirit Lake to recognize that we need to move forward in Spirit Lake in a respectful government-to-government kind of relationship as they work through their tribal government issues. We will continue to be very concerned about the protection of children on the Spirit Lake Reservation.

If you could give a quick—I guess you only have 30 seconds and that would be quick—rundown on where you are with Spirit Lake.

Mr. ROBERTS. I appreciate your leadership on this issue. I did go out to Spirit Lake for a public meeting. It was very helpful to meet with members of the community, meet with tribal leadership and hear directly in that conversation.

One of the things that we heard loudest from that conversation was the need for continuity and to have permanent staff there. We are working very diligently to bring on permanent staff to run that program. We have hired two additional child welfare specialists and a social services assistant.

We are in the process of advertising for the social services director position and are making great headway there. We are working closely with the regional office to ensure that it is fully staffed and to make sure that we do have good continuity.

I also want to say that had it not been for the Assistant Secretary having to testify, he would have been out there personally. It is a high priority for Assistant Secretary Washburn and me.

The CHAIRWOMAN. Thank you.
Senator Begich.

**STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much. I have a couple questions. It is good to see you. Thank you for being here.

First a quick comment on how you view tribal consultation and I want to give you one piece of that. Tribal consultation may be different than what happens in the Lower 48 in Alaska because obviously we have village corporations and regional corporations recognized under ANCSA, which is our Native land claim settlement act. Could you give your general comment on that?

Senator JEWELL. Certainly. I want to even expand on the answer to Senator Heitkamp around MOUs.

Tribal consultation, in everything we do, is critical. We want to work with tribes to be helpful to them. If it means partnering in law enforcement, child welfare services or education, we will take the tribes' lead in providing services. If they would like to do it themselves, we will bring whatever resources can be useful to them in carrying that out.

Specific to Alaska, in my opening statement I referenced a bit about my own connections with regional corporations in Alaska and village corporations, certainly very directly with NANA, but also SeaAlaska, Doyon and several villages as a banker so I have an understanding of how those work with shareholders, without the reservations in the same way and with the tribal leadership as distinct from corporation leadership.

When we think about tribal consultations there, it really is with tribal leadership. To the extent there is overlap, we will work with corporations but the corporations are set up as for-profit corporations generally, so we would work with tribal leadership, if that gets to your question.

Senator BEGICH. It does. I want to encourage you that even under that scenario, we would encourage you with the village corporation leadership and the regional corporation leadership that you expand into that because it is a unique model.

If we don't have this, we just have reservations, one entity, but because there is overlap but also because the corporations are the landholders on behalf of the tribes, it creates a unique situation that when you start talking about land use, corporations own it for the benefit of the shareholders which are the tribal members.

It is a very complicated piece and I would encourage you as you think about that, in areas where you can't expand that, I would encourage you.

We have a unique situation again because we don't have reservations and we also have Alaska considered Indian Country in total. This is more specific. It is Seward and Dillingham. The tribal members there do not have a designated tribe. They have been working on it since the 1990s. It has been moving forward but now has been

delayed because there is no Alaska individual within your department they are waiting for recommendations from.

Right now, you or consultation with Assistant Secretary Washburn could make this decision. We are worried because come January 1, they will lose their health care benefits because there is no tribe to associate with in order to get the health care benefits that as Alaska Natives, they are entitled to. There is a cross that is going to occur very quickly on January 1, 2014.

We have to get this resolved. It has been pending for a long time. We know there have been some errors in the process but now waiting for the Alaska person to be selected means more delay when you or Assistant Secretary Washburn could make the decision. We are worried that people who are qualified right now for Indian health services may become disqualified as of January 1 because of the way the Health Care Reform Act works. You have to have health care.

If you are not associated with a tribe because you have to be enrolled in a tribe to get the health care but there is no tribe, now they are in a quandary. Do either of you want to respond to that?

Mr. ROBERTS. I am familiar with the situation. I don't think it will be hung up just because there is a regional director vacancy. It is something I am working on personally and we are working through that process.

Senator BEGICH. We appreciate it. Our office would be happy to help in any way on that issue. You can see the dilemma that is about to occur which should not occur because of their current requirements or opportunity to get health care.

I know in your opening statement you mentioned climate change. Depending on what committee we are in, you always want to debate the science. I am not interested in that. Science has proven itself. The bottom line is in my State, the environment is changing rapidly. We are at ground zero when it comes to climate change.

As strong as I am on supporting oil and gas development, you have heard that presentation from me before, I also recognize we have an obligation. In Alaska, we will be utilizing renewable energy at a rate of 50 percent of our use. By 2025, we will be the highest percentage in the country. At the same time we are seeing the effects of global climate change and climate change overall.

I am very happy the Interior Department has some focus on this. I want to echo that we are anxious to work with you. You are right about the Navy. The Navy also has a Climate Change Task Force which is working on these issues because they have multibillion dollars of issues.

I would be interested at some point to hear from the Interior Department what the economic impact would be if we don't address these issues around the changing climate. The Navy is doing it now and it is going to be in billions because they have to change ports. That is just a fact. You have infrastructure and other issues that are related.

I would be curious and something in the future if you wouldn't mind sharing with us as a committee or individually how you see climate change impacting the work you do at the Interior Department and the economic cost. I get the environmental issues. I think people are missing the boat on what it is going to cost us. I know

what it is doing to Alaska. We are literally losing villages and will probably be the first refugees because of climate change. We have lost villages into the ocean.

I don't know if you have any comment and I will end there.

Thank you, Madam Chair.

Secretary JEWELL. I need to look into that in terms of our capacity to do economic analysis on that and balancing that with the needs. It is certainly an interesting exercise.

In my opening comments, I talked about Alaska really being on the leading edge, unfortunately for you.

Senator BEGICH. Or the falling edge.

Secretary JEWELL. Or the falling edge of climate change.

The CHAIRWOMAN. Senator Udall.

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you very much, Madam Chair.

It was very interesting to listen to my colleagues and all the great concerns they have. I appreciate many of them and share their concerns and will add a few here.

As you know, Madam Secretary, your department is really at the front of the trust responsibility. It is your effort that gets out there and weighs in to make sure the trust responsibility works in specific circumstances. The first one I want to focus on is the wild fires in the west.

In the last few years, New Mexico has been hit with record-breaking fires. After the fires, we have flooding that is many times worse than the fires that occur and the watersheds are damaged, wildlife, all of that. We are talking about 46 percent of New Mexico Federal land and another 11.3 percent tribal land.

My question is, how is the Department of the Interior coordinating with tribes in New Mexico and other States on fire preparedness, fire suppression and post-fire remediation? It seems to me all of those things are absolutely crucial when we look at Indian country and the impact wild fire has on it.

Secretary JEWELL. I am fresh back this week from a visit to the National Interagency Fire Center in Boise. One of the striking things about the visit was it truly is interagency. It is about triaging and fighting fires or putting resources where they need to be most for the landscapes without regard to who that land manager is.

The BIA was at the table, the U.S. Forest Service was at the table, the Bureau of Land Management and other agencies working collectively together. It didn't matter what bureau or what department.

There is not enough money to go round for the fire risk that we face, so we have to prioritize within that. Senator Tester had some similar issues he raised. New Mexico, just in looking at the fire risk chart, is in serious shape in terms of dryness and multiple years of very high temperatures and low water. We are aware of the risks throughout the west but specifically to your State as well.

The money is being prioritized for suppression. It does not support the longer term needs. We really need additional resources to do the longer term needs of both prevention, which is hazardous

fuels removal, and prescribed burns, which are controversial but an essential way of helping clear the landscape.

Post-fire remediation, I can tell you specifically on BLM lands, we are only able to reseed a fraction of what actually burns. When you think about sage grass habitat, for example, other critical habitats if we don't get in and reseed, cheatgrass takes over and increases the fire risk but there is not enough money to go around.

One of the things I would like to see changed, and would be happy to work with the appropriate committees here, is take the emergency firefighting out of our day-to-day budgets because it makes it very difficult to put that in an emergency fund so that we really focus on long term, sensible management of our lands around fire because it is not going to get better, it is going to get worse in climate change.

Senator UDALL. No doubt about it and it seems to me with all the different agencies that are in there when we are working with fires, if the Bureau of Indian Affairs was kind of the lead of coordinating and bringing together—and this isn't to be overly critical of them but there needs to be a coordination force in terms of pulling together those trust responsibilities throughout government and maybe beyond your department.

They need an advocate. Somebody needs to be saying to the Federal Government throughout, this is a responsibility, you need to get over here and help with this.

Secretary JEWELL. I am sorry to interrupt. They do and I was very encouraged. The representative from the BIA is assigned to a particular part of the country to manage all fires. The representative from the U.S. Forest Service is the same. They don't treat tribal lands any different than any other lands. They treat all lands in a way that says what is the fire risk, not who is responsible or who is the agency manager.

I felt really good in speaking with the BIA representative there that we are not treating Indian lands any differently than other lands, that we are all working closely and that also includes State and local fire responders. It is the most coordinated thing I have seen in government yet.

Senator UDALL. I see I have run out of time.

The CHAIRWOMAN. Do you have a follow-up to that?

Senator UDALL. I have an additional question.

The CHAIRWOMAN. Go ahead.

Senator UDALL. I didn't know whether you were doing a second round. I don't want to deprive my colleague from North Dakota.

The CHAIRWOMAN. Go right ahead.

Senator UDALL. First of all, you started off on the right foot in my opinion because you met with a small group of tribal leaders. I know one of them was Richard Luarkie, the Governor of Laguna Pueblo. He very much appreciated being able to meet in the Secretary's office in a larger tribal setting roundtable, to have a discussion with you and have a one-on-one with him and hearing his tribal concerns. Thank you for doing that.

I wanted to speak with you a bit more. Issues have been raised on sequestration but there are some big picture issues on sequestration that I think we are missing because I am tremendously

frustrated in our efforts to protect our Nation's most vulnerable communities.

When we put the sequester in place, we said we were exempting the most vulnerable. We didn't really push on Medicare and these other areas. Somehow, we forgot about the tribes. I don't know how we are ever going to get out of the sequester. We obviously have it in the current budget and are living with it. Many of us want to get out of it immediately but we cannot find a way, a bipartisan way working with our colleagues.

It seems to me whenever this is renegotiated, if we are coming up with the next budget cycle in October, we need to remember that our tribal communities are the most vulnerable and they should be exempted from something like this. That is where I am coming from on this.

Could you just give your big picture, your overall impressions of the sequester and what it is doing in Indian Country? I see it in New Mexico and it is absolutely devastating to schools, to Head Start, on and on the list goes.

Secretary JEWELL. You have it right, it is devastating. It disproportionately impacts this budget because it is a more people intensive budget. When you apply the sequester, it means you are reducing people and it is also reducing payments to individuals. I think 2,400 individuals will have their payments stopped as a result of the sequester.

It impacts Indian education. Nobody on this Committee, from the hearing so far, would argue that it is an under-resourced challenge part of our responsibility that is very difficult to fulfill and yet that got the same degree of cuts that other areas did as well. There are really severe consequences.

Larry, do you want to add any specific detail to that?

Mr. ROBERTS. I think there are a couple concrete examples in terms of how sequestration is affecting Indian Country.

One of the long term examples is that forest management plans, which we are working on with the goal mandated to have those in place by 2015, obviously we were on track to meet those. Sequestration has impacted those deadlines. The impact of missing that deadline is that forest revenue isn't realized and current positions are going to be lost, the revenues generated by those forestry programs.

A more short term example that the staff has shared with us is dam inspections are at risk because we have fewer resources to conduct those inspections as we are making these cutbacks.

Our sense is that the realty functions the Bureau performs, title functions, those are going to be impacted by sequestration. That is going to impact our fee to trust processing and those areas that are really important to the Department.

Senator UDALL. Thank you, Secretary Jewell.

Thank you, Larry.

I will submit a few questions for the record on Salazar v. Ramah which you have a different approach on how to deal with that Supreme Court case, also energy development in Indian Country, specifically renewables and the long term plan in backlogs in terms of BIA.

Let me just give a shout out to my friend, Congressman Bill Delahunt in the back, a great advocate for tribes, Madam Chair. With that, thank you.

The CHAIRWOMAN. Thank you.

Secretary Jewell and Assistant Secretary Roberts, thank you for being here today. We appreciate your statements and views on these issues. As you can see, we had a very good turnout of members today, partly because they have respect for the views they wanted to hear from you and partly because they are looking for that partnership of working with the Department of the Interior on many issues, whether it is backlog on irrigation, settlements, fire-fighting coordination or just a stronger government relationship.

I hope as Interior Secretary, you will embrace this area of responsibility of working with this Committee and these various entities and help us in trying to solve these problems and to live up to that pledge that you made to leave this a more improved system. We appreciate it very much.

We are adjourned.

[Whereupon, at 4:00 p.m., the Committee was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. SALLY JEWELL

Trust Responsibility Throughout Federal Agencies

Background: The United States has legal obligations to Indian tribes that are grounded in the United States Constitution, treaties, federal statutes, and Supreme Court decisions. Much of the federal Indian policy revolves around this special relationship, which is expressed in term of legal duties, moral obligations, and expectancies that have arisen from treaties, federal statutes, federal court decisions, and historical dealings between Indian tribes and the Federal Government. This relationship is described as a trust relationship between the trustee and the beneficiary. The Congress has placed primary responsibility for Indian matters in the Department of the Interior, primarily within Indian Affairs.

Although every agency within the Federal Government that has dealings with tribes must uphold the Federal Government's trust responsibility to tribes, the Department of the Interior is the agency charged with primary responsibility for Indian matters. Many tribal programs overlap among several agencies so the Department must work with Department of Education on education policy, Housing and Urban Development on housing, and the Department of Justice on public safety.

Question 1. What leadership role do you think you can play as Secretary to bring all the agencies who deal with tribes together to better understand and implement the trust responsibility across all federal agencies?

Answer. The leadership role I can play as Secretary of the Interior, and as a colleague with other Cabinet members, is to continue this Administration's work on the Strengthening Tribal Nations initiative. This initiative takes a multi-faceted approach to advance Nation-to-Nation relationships, protect Indian communities, advance Indian education, and continue reforms in trust-land management, with the ultimate goal of greater tribal self-determination and self-governance. This initiative has been highlighted over the past four years as President Obama and his Administration have engaged in direct dialogue with tribal nations. Held in November 2009, and December in 2010, 2011, and 2012, at the Department's Yates Auditorium, over 300 tribal leaders have attended this yearly White House Tribal Nations Conference. Through my role as the Chair of the White House Council on Native American Affairs established by Executive Order 13647 on June 26, 2013, I will continue to engage in direct dialogue across all federal agencies with the goal of improving coordination of federal programs and the use of resources available to tribal communities. I convened the first meeting of this Council on July 29, 2013 and we are working diligently to meet the challenges in Indian Country.

Indian Education—Management Challenges

Background: The Bureau of Indian Education system operates 183 schools and dormitories located on 64 reservations in 23 states. Approximately 7 percent of all Indian students attend Bureau of Indian Education schools. Recent General Accounting Office testimony stated that the high school graduation rate for Bureau students is 52 percent compared to 76 percent for public school students. Although the mission of the Bureau of Indian Education is to provide quality education opportunities to Indian students, poor student outcomes and outdated school facilities raise questions about whether that mission is being achieved. The General Accounting Office testified at a recent House hearing that "Management Challenges Continue to Hinder Efforts to Improve Indian Education". The report uses the word "Continue" because this is a subject that has been studied for some time with seemingly no significant improvement. For example, a 1977 GAO report is entitled "Concerted Effort Needed to Improve Indian Education" and a 1980 GAO report asks "Should the Bureau of Indian Affairs Continue to Provide Education Services to Indian Children?"

Question 2. Serious issues have plagued the Bureau of Indian Education for decades now, and we have seen little improvement in how education services are being provided. What can you do as a new Secretary at Interior to take a hard look at this program and make sure quality education is provided to Indian students?

Answer. The first action I am taking is to recruit a permanent Director for the BIE. The position has been vacant since last July and a new leader is needed to set the course for the BIE schools and programs.

The second action is to promote high quality education for the BIE schools. The BIE has a number of programs under the Elementary and Secondary Education Act of 1965 (ESEA) and it must comply with the requirements of the U.S. Department of Education. In that respect, I will work with Secretary of Education, Arne Duncan, to ensure that BIE has the necessary tools to meet the demands of a school district and to provide the necessary support to the BIE in its commitment to improving the learning environment for its students. The reauthorization of the ESEA will assist in this effort.

Additionally, I will work with Secretary Duncan to ensure effective implementation of the Memorandum of Understanding between the Department of Education and the Department of the Interior and will work to support better collaboration between our Departments to improve Indian education. This MOU is an important component of the Executive Order 13592—Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities of which I am a co-chair with Secretary Duncan. Both Departments are working to strengthen the Tribally Controlled Colleges and Universities and to support the President's college completion goals.

To highlight our commitment, Secretary Duncan and I convened an American Indian Education Study Group (Study Group) in September of this year. The Study Group will visit schools and classrooms, Tribal Governments, and Indian Affairs employees to gather information, listen to their concerns and, most importantly, try to find ways to improve American Indian education. Members of the Study Group are from the Departments of Education and Defense, as well as Brown University. The Assistant Secretary—Indian Affairs, Kevin Washburn, oversee the Study Group.

Finally, I will work closely with Assistant Secretary Washburn to ensure that we are making progress on the education of Indian children. In addition, the FY 2014 President's Budget requests \$2 million for a formal, independent evaluation of the BIE focusing on both structural issues of the system and the outcomes to be achieved.

Question 2a. In your testimony you stated that 63 of the Bureau of Indian Affairs schools are in poor condition. Can you provide the Committee with a list of those schools?

Answer. A list of schools identified as in poor condition is included as Attachment 1. This recent list, from September 2013, includes 43 schools.

Contract Support Costs

Background: The Indian Self-Determination and Education Assistance Act authorizes tribes to enter into contracts with the Department of the Interior and Indian Health Service to operate federal programs at the tribal level. The Act also provides for the tribe receiving contract support costs which are the essential for the proper administration of federal contracts. Federal budgets have rarely provided enough resources to fully compensate tribes for their contract support costs. The Supreme Court ruled last year in *Ramah v. Salazar* that the Government must pay each tribe's contract support costs in full. However, in the Fiscal Year 2014 budget, the Department of the Interior did not request enough funding to cover all contract support costs. Further, Interior's budget request seeks to cap each tribe's contract support costs by statute to limit the Department's liability. Tribal self-determination and self-governance has been one of the most successful policies in the history of the nation-to-nation relationship between the United States and Tribes. However, tribes have constantly been short-changed with respect to the contract support costs. Tribes recently won a big legal victory in the recent *Ramah* (RAY-MUH) decision.

Question 3. Secretary Jewell, I know that you were not involved in the 2014 budget, but can you tell the Committee why the Department is proposing an interim solution to cap contract support costs for each tribe, instead of taking the time to consult with tribes on all of the options mentioned in the Supreme Court's decision in *Ramah*?

Answer. The 2014 budget proposes an interim solution in the way in which funds are budgeted for contract-support costs, which are important to the furtherance of self-governance and Indian self-determination. In light of the Supreme Court's decision in *Salazar v. Ramah Navajo Chapter*, the Administration is proposing that Congress appropriate contract-support cost funding to Tribes on a contract-by-con-

contract basis. On June 14, 2013, Interior and HHS submitted initial contract-by-contract funding tables for incorporation into the Appropriations Act to clarify to tribes their funding level for FY 2014. This change is an interim step towards a more comprehensive solution, through consultation with Tribes.

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Question 4. Secretary Jewell, the proposed fiscal year 2014 budget estimates only an \$11 million shortfall for contract support costs. Wouldn't the better policy be to fully fund contract support costs and save tribes from costly litigation, especially when they have already pursued and won those claims all the way through the Supreme Court?

Answer. Given the financial climate, tough choices must be made with respect to Departmental programs. One such decision involves the need to balance funding for contract support costs with funding for direct programming and other tribal priorities within constrained resources. This interim solution is designed to address litigation exposure from Indian tribes for contract support costs, and is consistent with one of the remedies identified in the Supreme Court's *Ramah* decision. We believe that this interim solution leads to a mutually beneficial long-term solution by working with Congress and consulting with Indian tribes.

Energy Development

Background: Tribal lands contain vast amounts of both conventional and renewable energy resources. Development of these resources can provide tribes with much needed revenues and provide tribal communities with greater job opportunities. The Department of the Interior's energy development assistance to tribes is mostly provided through grants and lease processing, and through technical assistance and training.

The Department of the Interior, through the Bureau of Indian Affairs and Bureau of Land Management, has the lead role in approving lease and permit documents associated with energy development on tribal lands. The Office of Indian Energy and Economic Development also assists tribes and individual Indians with lease negotiations, and provides energy resource assessments and technical assistance.

Tribes have often testified in the past about the delays in processing leases and applications for permits to drill in Indian Country. Tribes would like to see the Department focus on streamlining the lease and permitting process and provide technical assistance and grants for energy development with a focus on renewal energy projects.

In your testimony you state that the Department estimates that energy and mineral development on Indian lands in 2012 supported over \$16 billion of economic activity and nearly 120,000 jobs related to trust resources.

Question 5. How many of those 120,000 jobs went to tribal members and how much of the \$16 billion went to tribal governments or tribal entities?

Answer. Our estimates of economic activity and employment were based on a standard economic model that took as inputs the revenues received from energy and mining production activities on Indian lands. We do not have the information to estimate how much of this economic activity went to tribal governments or tribal entities, or how much employment included tribal members.

Renewable Energy Development

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In your testimony you state that more than 50 renewable energy projects are ongoing on an estimated 35 reservations, but the Department has identified 267 reservations with renewable energy potential.

Question 6. What tools does the Department need, either administrative or legislative, to increase its capability to expand renewable energy projects to some of these 267 reservations?

Answer. Developing renewable energy in Indian Country has four principal components: assessing the resource(s); determining how to transmit the energy to market; securing a Purchase Power Agreement and financing the project.

Under the Indian Tribal Energy Development and Self-Determination Act of 2005, the Office of Indian Energy and Economic Development (OIEED) administers a tribal grant program to help assess energy resource potential and market feasibility. Within available resources, the office assists tribes with increased understanding of the renewable energy potential of their resources so that they can craft viable development strategies.

The IEED also administers the Tribal Energy Development Capacity grant program as also authorized by the Act to help tribes establish the managerial and technical expertise necessary to assume greater authority over their energy resources. OIEED funds Tribal applications within the resources available for grants.

As it relates to the transmission of energy, renewable or traditional, Congress could assist by keeping Indian Country in mind as Congress helps shape the location and design of the Nation's and Indian Country's future transmission infrastructure with laws and incentives. In addition, to the extent tribes could help facilitate the existence of energy transmission lines by granting rights-of-way under a tribal energy resource agreement (TERA), making the TERA process simpler (as recommended below) would also help address the energy transmission challenge.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN BARRASSO TO
HON. SALLY JEWELL

Oil and Gas Development on Indian Lands

On May 3, 2013, the Bureau of Land Management announced that it is postponing all oil and gas lease sales in California for the rest of Fiscal Year 2013. In the BLM press release (New Release No. CC-13-50), the BLM states that this is due to budget constraints resulting from sequestration and an emphasis on the higher priorities for conducting inspection and enforcement on existing leases and processing new Applications for Permit to Drill.

Question 7. Does this suspension in California include any proposed leases to drill on Indian lands?

Answer. No, none of the four parcels in the postponed lease sale in California were on Indian lands. Further, the BLM does not have the authority to issue oil and gas leases for Indian lands. The Bureau of Indian Affairs is vested with authority to issue oil and gas leases on Indian lands on behalf of Federally recognized Tribes and individual Indian allottees.

Question 8. Does the BLM plan to suspend auctioning of leases on Indian lands in other parts of the country? If so, which other areas will be subject to suspension of leasing?

Answer. As stated above, the BLM does not have the authority to issue oil and gas leases on Indian lands. The Bureau of Indian Affairs is vested with the authority to issue oil and gas leases on Indian lands on behalf of Federally recognized Tribes and Indian allottees.

During our outreach for the Indian bill that I introduced in the 112th Congress, S.1684, the Indian Tribal Energy Development and Self-Determination Act Amend-

ments of 2012, tribes confirmed that the high application for permit to drill fees on Indian lands are impacting development of Indian trust minerals. According to the Bureau of Land Management Fiscal Year 2014 Budget Justification, the President's Fiscal Year 2014 budget proposal would impose \$60 million in new oil and gas inspection fees each year.

Question 9. Will these proposed new oil and gas inspection fees to apply to Indian lands?

Answer. The proposed new oil and gas inspection fees would expand and strengthen BLM's oil and gas inspections and oversight capability and improve production accountability, safety, and environmental protection of oil and gas operations, and would apply to BLM inspection activities on Federal and Indian Trust oil and gas mineral estate.

Question 10. If your answer is "yes," what analysis has the Department conducted on the economic impact that these fees will have on oil and gas development on Indian lands?

Answer. Increased funding is aimed at, among other things, correcting deficiencies identified by the Government Accountability Office in a February 2011 report, which found that the BLM needs a comprehensive strategy to better manage potential oil and gas well liabilities on Federal and Indian oil and gas leases, including enhancing the agency's ability to verify production from these leases to assure accurate revenue collection for the American public, tribes, and individual Indians. While there has not been a specific analysis of the economic impact that these proposed fees will have on oil and gas development on Indian lands, the inspection fees would help expand and strengthen BLM's oil and gas inspection and oversight capability and improve production accountability and environmental protection of oil and gas operations on Indian lands.

In September 2012, the Office of Inspector General within the Department of the Interior issued a report titled *Oil and Gas Leasing in Indian Country: An Opportunity for Economic Development*, Report No. CR-EV-BIA-0001-2011. This report identifies several problem areas, including the lack of a coordinated strategy or organizational structure to manage Bureau of Indian Affairs' oil and gas activities; extra layers of governmental review; perceived risk of doing business with tribal governments; high well permit fees assessed by the Bureau of Land Management; and complexities associated with self-determination.

These are just some of the problems identified by the Office of Inspector General report that create disincentives for oil and gas development on Indian reservations. One recommendation from the Office of Inspector General is that the Assistant Secretary for Indian Affairs should work with the Department of the Interior and Congress to improve the Tribal Energy Resource Agreement statutes and regulations to enable Indian tribes to exercise self-determination over tribal oil and gas operations. As noted above, last Congress, I introduced S. 1684, the Indian Tribal Energy Development and Self-Determination Act Amendments of 2012, which was designed to do exactly what the Inspector General is recommending.

Question 11. Will you work with the Senate Committee on Indian Affairs and the Assistant Secretary for Indian Affairs to implement that OIG recommendation?

Answer. Yes, we will work with the Committee to implement improvements to the Tribal Energy Resource Agreement related statutes and regulations to enable Indian tribes to exercise self-determination over tribal oil and gas operations. The Department is committed to improving conditions in Indian Country, and to allow Indian nations to develop their energy resources in the efficient, responsible manner they choose.

Hydraulic Fracturing

On May 24, 2013, the BLM published in the Federal Register its proposed rule on "hydraulic fracturing on Federal and Indian lands." As the executive summary points out, "this revised proposed rule would apply to Indian lands so that these lands and communities receive the same level of protection provided on public lands."

The summary goes on to state that, while the BLM "fully embraces" the laws, rules and policies that promote tribal self-determination and control of resources, the "Indian Mineral Leasing Act (IMLA) . . . subjects all oil and gas operations on trust or restricted Indian lands to the Secretary's regulations and does not authorize the Secretary to allow tribes to opt out of these regulations." (Emphasis added.)

Furthermore, part II of the preamble ("Background") of the proposed rule states that the Department of the Interior "has consistently interpreted" the IMLA "as allowing uniform regulations governing mineral resource development on Indian lands." (Emphasis added.)

Although some of the Department's mineral development regulations do apply to both public and Indian lands, the Department has also adopted regulations regarding the development of Indian lands under the IMLA, the Indian Mineral Development Act, and Energy Policy Act of 2005 that are separate, distinct, and different from the regulations that the Department has adopted for public lands pursuant to the Mineral Leasing Act.

Question 12. Is the Department stating or suggesting in the revised proposed rule that current law requires the Department to address hydraulic fracturing on Indian lands in the same set of regulations as public or other federal lands?

Answer. In the proposed rule, the Department is not stating that current law requires the Department to address hydraulic fracturing on Indian lands in the same set of regulations as federal lands. However, as a matter of policy the Department has proposed uniform regulations.

Question 13. Is the Department stating or suggesting in the revised proposed rule that current law requires the Department to impose the same hydraulic fracturing rules and regulations on Indian lands that it imposes on public or other federal lands?

Answer. In fulfilling the Department's Indian trust responsibilities, the Department follows the Indian Mineral Leasing Act of 1938, which requires that all oil and gas operations on trust or restricted Indian lands be subject to the rules and regulations promulgated by the Secretary. The Department also fully embraces the statutes, Executive Orders, and other statements of governmental or departmental policy in favor of promoting tribal self-determination and control of resources, which is why the revised proposed rule includes a variance process. The process would enable the BLM to accept an operator's compliance with a tribe's hydraulic fracturing standards or procedures provided the tribe's standards or procedures meets or exceeds the effectiveness proposed by this rule.

Question 14. Has the Department considered whether it is in the best interest of Indian tribes or their members to treat their trust lands exactly the same as public lands under the revised proposed rule?

Answer. This rule applies to Indian lands so that these lands and communities receive the same level of protection provided on public lands. The BLM fully embraces the statutes, Executive Orders, and other statements of governmental or departmental policy in favor of promoting tribal self-determination and control of resources. The Indian Mineral Leasing Act, however, subjects all oil and gas operations on trust or restricted Indian lands to the Secretary's regulations and does not authorize the Secretary to allow tribes to opt out of these regulations. The revised proposed rule, however, includes a variance process that would enable the BLM to accept an operator's compliance with a tribe's hydraulic fracturing standards provided the tribe's standards or procedures meets or exceeds the effectiveness proposed by this rule.

Question 15. Is the treatment of Indian lands the same as public lands under the revised proposed rule consistent with the way in which Indian lands are treated under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*)?

Answer. The Federal Government holds approximately 56 million acres of Indian Minerals in trust for the benefit of tribes and individual Indians. As trustee of those lands, the Secretary must ensure that the resources are protected, and that they are used for the benefit of the tribes and individual Indians. The trust doctrine establishes the responsibility of the Federal Government to exercise a protective supervision over transactions and activities related to tribal lands in the tribes' interest. The Federal Government is expected to exercise similar diligence in conservation and protection of health, safety, and the environment on lands held in trust as on lands of the Federal Government.

Question 16. Does the Department lack the authority to adopt regulations on hydraulic fracturing that would in turn apply, adopt, recognize or otherwise give effect to tribal laws or regulations applicable to hydraulic fracturing activities on the trust or restricted lands of the Indian tribe in lieu of the requirements set forth in the revised proposed rule? Are there any circumstances or conditions under which the Department would be authorized to adopt regulations that would do that? If the answer to the latter question is "yes," please explain in detail the circumstances or conditions, under which the Department could apply, adopt, recognize or otherwise give effect to tribal laws to the trust or restricted lands of the tribe.

Answer. The BLM fully embraces the statutes, Executive Orders, and other statements of governmental or departmental policy in favor of promoting tribal self-determination and control of resources. The Federal Government must fulfill its responsibilities as established by the trust doctrine to oversee transactions and activi-

ties related to tribal lands in the tribes' interest. This rule will not weaken tribal regulations currently followed by operators working on Indian lands. The revised proposed rule includes a variance process that would enable the BLM to accept an operator's compliance with a tribe's hydraulic fracturing standards or procedures, provided the tribe's standards or procedures meets or exceeds the effectiveness proposed by this rule.

Question 17. Please explain in detail how you intend the tribal variance provision in the new hydraulic fracturing proposal to be implemented, including any process or procedures that will be followed for obtaining a variance.

Answer. The revised proposed rule adds a provision allowing the BLM to approve a variance that would apply to all lands within the boundaries of a tribe or described as field-wide or basin-wide, that is commensurate with the tribal regulatory scheme. The BLM must determine that the variance would meet or exceed the effectiveness of the revised proposed rule. Tribes would be invited to work with the BLM to craft variances that would allow technologies, processes, or standards required or allowed by the tribe to be accepted as compliance with the rule. Such variances would allow the BLM and the tribes to improve efficiency, increase flexibility, reduce regulatory duplication, and reduce costs for operators and for the BLM and the tribe.

Cobell Buy-Back Program

According to the Department's "Initial Implementation Plan" for the \$1.9 billion land buy-back program under the *Cobell* settlement, 90 percent of the purchasable fractionated interests are located on 40 reservations. According to the Initial Implementation Plan, the Department intends to focus buy-back efforts, at least initially, on these 40 reservations in descending order of fractionation. However, to determine the best sequence of implementation, the Plan also states that the Department will consider other factors such as location, status of title records, availability of valuation-related information, and tribal priorities and involvement.

Question 18. Will the Department be able to prioritize and implement the program for direct service tribes equally as well as it will for self-governance and contracting tribes? Please explain.

Answer. The Program will purchase fractional interests at locations where tribes have self-governance compacts and contracts. The Department is not prioritizing or implementing the Program based on the manner in which resources or services are provided to a tribe. In addition, because the Program will utilize cooperative agreements to obtain tribal involvement in the implementation of the Program (rather than through Self-Determination contracts or Self-Governance compacts), there is less likelihood of differences as the Program is implemented.

According to the Initial Implementation Plan, the buy-back program will also first target those fractionated interests that are most amenable to cost-efficient, mass valuation techniques.

Question 19. In what instances would land interests be unsuitable for mass valuation techniques?

Answer. Mass appraisals are most appropriate when all of the parcels appraised are of consistent/similar in nature, which would include (1) all parcels are vacant or have similar improvements, (2) all parcels are located within a relatively homogeneous geographical area, (3) all parcels have the same, or a similar, highest and best use, (4) the most relevant method of valuation is the same for all parcels, and (5) the same array of market sale data will be relied on in the valuation of each parcel.

Therefore, mass appraisals are not appropriate when the parcels are not consistent/similar in nature (not homogeneous), parcels are not vacant or do not have similar improvements, parcels are not located in a homogeneous geographical area, the highest and best of each parcel vastly differ, the method of valuation is not same for all parcels, and multiple sets of market sale data will be relied on in the valuation of each parcel requiring separate analysis thus separate appraisals.

Question 20. Will the Department be able to implement the buy-back program in a fair, effective, and efficient manner in those instances when mass appraisals cannot be utilized? Please explain.

Answer. The *Cobell* Settlement, and the Claims Resolution Act of 2010, requires the Department to offer fair market value to owners of fractionated interests. The Department will use mass appraisal and other methods as appropriate, to establish the fair market value. The Program will use mass appraisal techniques to appraise homogeneous, non-complex, vacant lands that have comparable land sales available. The Program will use methods other than mass appraisals for commercial or other lands within urbanized zones where greater variation may exist. The presence of po-

tentially valuable mineral commodities or timber may also necessitate the use of additional methods or analyses.

All appraisal methods used by the Department will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). Moreover, in order to ensure that the valuation process complies with appraisal industry practices and USPAP, the Department is working with the Appraisal Foundation, a non-profit organization, to obtain an independent review of the Department's methods.

Mass appraisals methods are expected to be the most efficient way to value fractionated tracts. Consistent with the Program's Initial Implementation Plan, a demonstrated showing of interested sellers may be appropriate before appraisal work proceeds in order to ensure that administrative expenditures are well founded (which showing may become especially important in those instances where tracts are not amendable to mass appraisal techniques).

Question 21. How will the Department proceed when certain lands are high tribal priorities but are not amenable to mass appraisal techniques?

Answer. Tribal acquisition priorities are vitally important to achieving a foundational goal of the Program, which is to strengthen tribal sovereignty and promote consolidated trust land bases for conservation, stewardship, and beneficial use by sovereign tribal nations. The Department cannot guarantee that it will be able to purchase all tribal priorities given its financial and operational constraints (e.g., inability to purchase fee lands); however, it will actively consult with tribes to identify tribal acquisition priorities and accommodate those priorities to the fullest extent possible.

Question 22. Please describe how the Department will engage the tribal governments to assist in the buy-back program. Will the tribes have any discretion in selecting land for re-purchasing?

Answer. Tribal involvement will be critical to the success of the Buy-Back Program, especially in the area of outreach. The Program will consult with tribes to ascertain tribal priority properties and will incorporate those into acquisition plans to the maximum extent possible.

The Buy-Back Program will enter into Cooperative Agreements with tribes to conduct land consolidation activities, especially in the area of outreach. The Program will not use P.L. 93-638 contracts and self-governance compacts to implement Buy-Back activities because the provisions of the Self-Determination Act specifically do not apply to such agreements.

When the Department targets a specific reservation, the Department will consult with the tribe to ascertain whether the tribe has the desire and the capacity to conduct land consolidation activities within its reservation. Additionally, as the Department will be active only at a limited number of reservations at any one time, tribes not initially targeted by the Buy-Back Program may be able to utilize cooperative agreements to begin activities within their respective reservations. Utilizing a cooperative agreement that includes land research work might, for example, allow for Buy-Back Program valuation activities to be completed before the time initially scheduled by the Department.

The Program is finalizing a cooperative agreement template and scope of work. It is also finalizing a list of answers to the most frequently asked questions regarding cooperative agreements. Once these documents are completed, the Department will make them available to tribes and post them on the Program's website.

Question 23. Please describe how the Department will address the problem of improvements located on fractionated land. Will the Department purchase improvements along with the land?

Answer. Improvements located on fractionated land are not trust property pursuant to the Indian Land Consolidation Act, and thus cannot be purchased through the Buy-Back program.

Wild and Feral Horses

The BLM is struggling to gather and adopt out wild and feral horses. The agency is spending \$75 million dollars a year but is still failing to protect our western rangelands from overgrazing. The National Tribal Horse Coalition has told me that the situation in Indian Country is even more severe-wild elk and deer herds have been lost, native grasslands destroyed, and riparian ecosystems ruined."

Question 24. What will you do to prevent the further destruction of tribal resources caused by wild and feral horse populations? Please give details."

Answer. The BLM's Wild Horse and Burro program protects, manages, and controls wild horses and burros on public lands managed by the BLM and Forest Service under the Wild Free-Roaming Horses and Burros Act of 1971. The BLM defers to the Bureau of Indian Affairs on issues of trust responsibilities for the manage-

ment of tribal lands. The Wild Free-Roaming Horses and Burros Act, and the BLM's program, do not provide for the management of feral horses. In the few areas where tribal horses exist across a fence from adjacent public land wild horse Herd Management Areas, efforts are made to maintain fences. In these situations, animals on tribal lands are considered tribal horses, and those on public lands are considered wild horses to be protected and managed by the BLM. If BLM-managed wild horses or burros stray onto tribal lands and a request is made for their removal, the BLM complies within its capability to do so.

The BLM takes seriously its commitment to ensure the health and productivity of public rangelands in coordination with tribal nations. The BLM's Cultural and Tribal Consultation program specifically prioritizes enhancing tribal engagement in agency decisionmaking processes through both formal and informal Government-to-Government consultation. This coordination with tribal stakeholders remains an important component in the BLM's landscape-level approach to public land management concerns like rangeland health.

In keeping with its multiple-use mission, the goal of the BLM in managing public lands is to provide healthy rangelands that support healthy herds, permitted livestock, and native wildlife. The conservation of cultural and tribal resources located on public lands is another of the BLM's multiple-use responsibilities. To promote the sustained health of public rangelands, the BLM uses professional range conservation staff and technicians to carefully monitor range conditions and to make determinations, as directed by the Wild Free-Roaming Horses and Burros Act, to manage herd populations for Appropriate Management Levels (AML). Wild horse and burro management differs from management of other wildlife or livestock because Federal protections and a lack of natural predators allow herd populations to double every four years. The BLM's Wild Horse and Burro program utilizes a variety of strategies to maintain herd populations consistent with the land's capacity to support them, including population growth suppression treatments, gathers, holding facilities, adoptions, and eco-sanctuaries.

Distance Learning Project

On May 9, 2013, the Albuquerque news affiliate KRQE reported that a distance learning project developed by the Department of Interior—the Enhanced Learning and Knowledge Network or “ELKNet”—wasted \$10 million of taxpayer money, reaching only a handful of BIE schools before the program ended after only 21 months.

Question 25. Please explain (1) the justification for this program and (2) why it ended so abruptly.

Answer. The purpose of the ELKNet was to provide training and information to BIE teachers and instructors through distance learning. Various methods of delivery to the BIE schools were planned and some were implemented. However, faced with the intent to reduce inefficiencies and waste in our budget, the Department of the Interior evaluated usage and maintenance costs of the ELKNet system and made the decision to discontinue its use. Discontinuing the satellite time and maintenance contracts generates a savings of \$500,000 annually.

The infrastructure remains in place at the schools and juvenile detention centers where it was previously used, and the satellite capabilities can be reinstated should additional federal dollars become available to make the operation a worthwhile venture once again. The National Indian Program Training Center (NIPTC) studio continues to be used for the development of training videos for BIE and BIA as well as other DOI Bureaus.

Academic Achievement

The low academic outcome at BIE schools has been an ongoing concern. According to the BIE 2010–2011 Annual Report Card, the BIE graduation rate stands at 59 percent, and only one-third of students perform at proficient levels in language arts and mathematics. On February 27, 2013, the Government Accountability Office testified before the House Appropriations Committee, Subcommittee on Interior, Environment, and Related Agencies that management and communication issues between Indian Affairs offices may have a negative effect on student achievement at BIE schools. In your testimony before the Committee on Indian Affairs on May 15, 2013, you characterized the state of Indian education as “an embarrassment.”

Question 26. How do you plan to improve academic achievement at BIE schools? Please be specific.

Answer. The comments from the GAO on communications issues between Indian Affairs offices refers to the provision of administrative support services by Indian Affairs to the BIE and its schools. The provision of contracting, financial, budgeting, facilities, safety, and property management services to BIE schools by Indian Affairs

offices is difficult due to the geographic isolation of many BIE schools. Without proper and efficient delivery of such support services to the BIE schools, academic progress suffers. Efforts are under way to remedy the situation by improving communications and deliverables by the service entity to BIE.

Regarding student achievement, graduation rates and schools making Adequate Yearly Progress (AYP) under the requirements of the ESEA, the BIE-funded schools are required under 25 CFR 30.104 to use the standards of the state in which the school resides. Since the BIE funds schools in 23 different states, it is difficult to measure education quality due to the fragmentation of the accountability system for the BIE-funded schools. Under this situation, no BIE school can be compared with other BIE schools across state lines to gauge the success of the school programs.

In a 2001 report, GAO reported that academic achievement of BIE students suffers because Indian parents' educational, employment, and earning levels are significantly lower than the national average. BIE schools find it difficult to recruit and maintain highly qualified teachers and instructors in such remote locations. Educational technology, as well as access levels to computers and the Internet for students in BIE schools is more limited than for students in public schools.

BIE is pursuing a waiver, from the U.S. Department of Education for certain requirements of the ESEA, which includes a request to establish its own system of measuring student achievement and educational accountability in the near future. BIE is also working to promote high quality education for the BIE schools. In that respect, I will work with Secretary of Education, Arne Duncan, to ensure that BIE has the necessary tools to meet the demands of a school district and to provide the necessary support to the BIE in its commitment to improving the learning environment for its students. The reauthorization of the ESEA will assist in this effort.

On September 23, 2013, Secretary Duncan and I convened an American Indian Education Study Group (Study Group), which the Assistant Secretary—Indian Affairs Washburn oversees. The Study Group will visit schools and classrooms, Tribal Governments, and Indian Affairs employees to gather information, listen to their concerns and, most importantly, try to find ways to improve American Indian education. Members of the Study Group are from the Department of Education, Brown University, and the Department of Defense.

In addition, the FY 2014 President's Budget requests \$2 million for a comprehensive evaluation of the BIE school system. Once the evaluation is completed, we will be in a better position to determine what the system should look like in the future.

School Construction

According to testimony from Mr. John Rever, the Bureau of Indian Affairs Director of the Office of Facilities, Environmental and Cultural Resources, before the Committee on September 11, 2010, the estimated need for BIE school construction is as high as \$1.3 billion. Despite this significant need, the President's Fiscal Year 2014 Budget Request proposes a \$17.8 million cut that would zero-out the replacement school construction funds for the BIE.

In your testimony before the Committee on May 15, 2013, you stated that because of budget restraints, the Department is prioritizing maintenance of its current structures over funding any new construction. However, recognizing the poor condition of many BIE schools, you indicated that the Department has also been considering other channels for funding, such as private philanthropy, noting that current law may not allow private funds to be used for the purpose of BIE school construction.

Question 27. What, if anything, could be done legislatively to help the Department find alternative ways to meet the need for BIE school construction?

Answer. There is no simple legislative fix for Indian school construction needs given the current fiscal climate. Currently, legislation prevents combining or curtailment education programs without tribal authorization. In some locations, however, school sites are closely located, with some just a few miles apart. For historic reasons, combining these programs has been rejected by tribes.

Contract Support Costs

In its Fiscal Year 2014 Budget Request, the Administration proposes to address the Supreme Court's decision in *Ramah v. Salazar*, regarding the payment of full funding for the Contract Support Costs (CSC) incurred by Indian tribal contractors and to reduce the government's liability for the CSCs. Under the Administration's proposal, Congress is requested to appropriate CSC funding for tribal contractors of both the Bureau of Indian Affairs and the Indian Health Service on a contract-by-contract basis by incorporating by reference a table reflecting each of these individual contract amounts.

Question 28. When does the Department plan to provide such a table?

Answer. The Department of the Interior provided the contract-by-contact CSC table to the Congressional appropriations committees on June 14, 2013. The table and the accompanying congressional transmittal letters can be found at the following Department website: <http://www.doi.gov/budget/index.cfm>.

Question 29. Will the Department consult with the affected tribes regarding the amounts to be included in the table? If so, how?

Answer. In addition to providing the contract-by-contact CSC to the Congress, the Assistant Secretary—Indian Affairs reached out to Tribes in a June 14, 2013 Tribal Leader letter regarding the CSC list. It requests tribal leaders to submit any technical correction(s) to the BIA by July 29, 2013. In addition, the BIA held a CSC consultation session at the National Congress of American Indian conference in Reno, NV on June 25, 2013. DOI is pursuing the broader goal of developing a longer-term solution through consultation with Tribes as well as streamlining and simplifying the contract support costs process, which is considered by many as overly complex and cumbersome to both Tribes and the Federal Government. Department of the Interior officials will be available to hear tribal leaders views on this issue.

Question 30. What is the methodology and process the Department will use to determine the amounts to be included in the table?

Answer. Various OMB Circulars establish principles and standards that are applicable for determining contract support costs applicable to the awardee. Section 106(k) of P.L. 93-638, as amended, has made modifications to the OMB cost principles otherwise applicable to awardees, and section 106(a) of P.L. 93-638, as amended, defines which of an awardee's costs qualify under the statute for contract support costs funding. Also Appendix A-Standards for review and approval of contract support costs in the Bureau of Indian Affairs was applied.

In determining the amount of CSC required, BIA Awarding Officials review the awardee's cost allocation plan, its associated IDC proposal, and approved IDC negotiations agreement for fiscal year 2012 to reduce the possibility of duplication of funding. The process of allocating funding available for CSC is outlined within the Bureau of Indian Affairs National Policy Memorandum, NPM-SELD-1. The contract support cost fiscal year 2012 actual agreed upon rates and payments are used as the base. In addition, a prorated amount of the \$9.8 million increase included in the 2014 request level of \$231.0 million is added. The increase strengthens the capacity of tribes to manage Indian Affairs programs for which they contract.

Social Services

In a March, 2013 report entitled, *Management of Social Services in BIA: Opportunity for Action*, Report No. WR-EV-BIA-0001-2012, the Department of the Interior Office of Inspector General (OIG) evaluated the Bureau of Indian Affairs' (BIA) Social Services Program, which includes child welfare and protective services. The report found ongoing problems hindering the effective functioning of the program, including the lack of any clear standards, guidance, or defined program performance benchmarks; and inadequate communication among managers, staff, and tribes. According to the OIG report, these findings are almost identical to findings of independent evaluations contracted by the BIA in 1999 and again in 2012 to help improve BIA operations, including social services.

Question 31. What is the Department doing to address these findings and recommendations to improve the functioning of the BIA Social Services Program? Please describe any progress that has been made to date in addressing the OIG findings.

Answer. The Bureau of Indian Affairs, Office of Indian Services (OIS), Division of Human Services prepared two responses, dated February 4, 2013 and April 18, 2013, to the recommendations and findings cited under the OIG Report entitled, *Management of Social Services in BIA: Opportunity for Action*, Report No. WR-EV-BIA-0001-2012.

The OIS, Division of Human Services continues to work on addressing the findings and has established internal deadlines for each recommendation. However, the Division of Human Services progress in addressing the recommendations contained within the OIG report has been hindered by the constraints caused by the sequestration.

The OS, Division of Human Services is working towards meeting the goals established in its response to the OIG.

High Priority Performance Pilot Program

Crime in Indian Country remains a significant problem and one of the BIA's most important responsibilities to address. According to recent information from the BIA,

in the third year of operation, the High Priority Performance (HPPG) pilot program has reduced violent crime by 56 percent on the Wind River Indian reservation.

This downward trend in crime rates reflects persistent efforts by law enforcement personnel to fight crimes and develop community relations. However, that continued diligence may be disrupted by the difficulties in retaining law enforcement personnel, in part due to the lack of housing.

Question 32. What can you do to help these officers with their housing needs on the Wind River Indian Reservation?

Answer. The Bureau of Indian Affairs has collaborated internally with the Office of Facilities Management and Construction (OFMC) and the Shoshone and Arapaho Housing Division to identify resources and assistance to address housing needs for law enforcement officers.

Currently, the OFMC is building four residential homes that will be designated for law enforcement officers and will be located in the government housing area. The Shoshone and Arapaho Housing Division is working with the Department of Housing and Urban Development (HUD) to address the maximum income stipulation that currently precludes law enforcement officers from residing in tribal housing.

The BIA Wind River Agency provides law enforcement officers with information for housing in the Riverton and Lander area during the new employee orientation process. The law enforcement officers who reside in the towns of Riverton or Lander are permitted to use a government vehicle. The town of Riverton is 35 miles from the agency office. The town of Lander is 17 miles from the agency office, but both towns offer solid housing options for law enforcement officers.

Question 33. What other efforts is the Department undertaking to retain qualified law enforcement personnel on the HPPG sites and other Indian reservations?

Answer. The BIA has increased its retention of qualified law enforcement personnel at HPPG sites through employee relations that include opportunities for skill development through work assignments; employee development through training for specialized duties such as school resource officer, or K-9 Unit; employee recognition for successful individual or unit performance; and opportunities for promotion.

Detention Staffing

On March 31, 2011, the Department of the Interior Office of Inspector General (OIG) issued its evaluation entitled *Bureau of Indian Affairs' Detention Facilities*, Report No. WR-EV-BIA-2005-2010, specifically to determine how BIA spent its increased funding and how it addressed staffing problems. The OIG found that BIA has failed to address staffing shortages, which has created an unsafe atmosphere for both staff and inmates. In addition, OIG found egregious physical conditions at the detention facilities including, but not limited to, unsecure fencing, doors, and windows; absence of practiced safety and security measures; leaky roofs; rusted sinks, toilets, and showers; and an overall lack of cleanliness.

Question 34. What is the Department currently doing to address the staffing and conditions at the Indian Country detention facilities? What if any progress has been made to date to address the problems identified in the OIG report?

Answer. *Staffing:* One of the OIG's primary recommendations addressed the need to identify and remedy staffing shortages. To mitigate safety concerns related to understaffing, IA calculated the standard space staffing requirement for each facility throughout Indian Country. This report differentiated the size of the facility according to the National Institute of Corrections' (NIC) standards. To aid in meeting the staffing standards, the salaries of BIA correctional officers were increased to be more competitive with their counterparts in other agencies. Additionally, in FY 2010, BIA implemented an aggressive recruitment and hiring strategy, harnessing multimedia tools and broadening the pool of qualified applicants by modifying the recruitment process, recruiting veterans and current non-IA law enforcement officers, and working with universities to develop a cooperative student law enforcement program. BIA continued the recruitment initiative in FY 2011 and FY 2012 and continues to see successful results in filling vacant police and correction officer positions. The new strategy continues to be a great success as evidenced by a clear growth trend of 128 FTE or 22 percent from the FY 2009 baseline through the first quarter of FY 2013.

Facility Conditions: The FY 2014 President's Budget includes \$11.3 million for Public Safety and Justice (PS&J) construction, which funds the repair and improvement of IA detention and other public and safety facilities to increase public safety and improve the quality of life in Indian Country. From FY 2009 through FY 2013, over \$104.5 million has been appropriated for PS&J construction. The resources fund Facilities Improvement and Repair (FI&R) projects that facilitate compliance

with the requirements of the Americans with Disabilities Act (ADA), Environmental Protection Agency (EPA) mandates, and other safety code requirements, reducing IA's exposure to liability.

To ensure resources reach the facilities of greatest need, a priority list of projects has been established within the PS&J program. Detention centers have the highest funding priority; the second priority is for short term holding cell facilities; and the third priority is for court facilities and law enforcement administrative offices. Detention facilities in the worst conditions and highest demand receive the highest priority for funding. To support this effort, work plans, financial program plans, and preventative maintenance plans are developed by IA detention centers.

Employment and Labor Report

The *Indian Employment, Training, and Related Services Demonstration Act of 1992* requires the Department of the Interior, in consultation with the Department of Labor, to publish not less than every two years an *American Indian Population and Labor Force Report* ("Report") to provide accurate statistical information on population and employment rates for tribes.

On July 2, 2012, the Department of the Interior issued a statement that they will not be releasing the 2010 Report because methodology inconsistencies resulted in data that did not meet the standards of quality and reliability required of Federal agencies and that past reports, sometimes used to set Indian policy, were also faulty. On July 16, 2012, Senator Murkowski and I sent a letter to Secretary Salazar, pointing out the lack of information and urging the Department to release the report or fully explain their failure to comply with the law.

The Department responded by letter that it intended to convene a working group, consult with tribes, and conduct a new survey before issuing a new report. However, it did not provide a clear timeframe for releasing the new report. At the end of 2012, the working group held four consultation and information sessions with the tribes, but no further update has been provided to the Committee.

Question 35. Please explain the current efforts underway to issue a new report.

Answer. Indian Affairs is continuing its efforts and is working in collaboration with senior members of the Interagency Working Group that was formed to advise Indian Affairs on the report's preparation. The group includes senior members from inside Indian Affairs, as well as senior members from the Office of Management and Budget, the U.S. Bureau of the Census, and the Secretary's Office.

Question 36. Please provide a date certain when this new report will be issued?

Answer. The target date for release of the report is December 2013.

Management

On August 10, 2012, the Department of the Interior Office of Inspector General (OIG) issued a report entitled *Hanna, Jeannette, et al.*, Case No. PI-PI-11-0616-I, finding a significant waste of Federal funds within the BIA for excessive spending for equipment, travel, and an employment detail without required justifications just for one senior official. This senior official was detailed to the Office of the Assistant Secretary (against advice from the Interior's Office of Civil Rights) for 775 days, 535 days more than what Federal regulations allow.

Question 37. Please explain in detail what accountability and management measures have been established to ensure this sort of waste does not occur again?

Answer. The Indian Affairs OIG Referral Program was moved under the operational control of the Director, Office of Human Capital Management, where there is a comprehensive understanding of federal personnel policies and practices. Training regarding travel regulations was developed that was consistent with Federal Travel Regulations and DOI travel policies and provided to all Indian Affairs administrative support staff for them to provide appropriate advice, guidance, and assistance to employees and managers. Also, travel review and responsibilities was addressed at top Indian Affairs leadership staff meetings. Finally, a memorandum from the Assistant Secretary—Indian Affairs was issued to all travelers highlighting and outlining both the individual travelers' and the reviewing supervisors' responsibilities for adhering to federal travel regulations. A copy of this memorandum, as well as a slide presentation concerning travel training, is prominently posted on the Indian Affairs Travel intranet website for all employees to review.

In May, 2012, the OIG issued a report entitled *Bureau of Indian Affairs' Law Enforcement Recruitment Services Contract with the National Native American Law Enforcement Association*, Report No. WR-EV-BIA-0005-2011. This Report found that the Bureau of Indian Affairs Office of Justice Services (OJS) had entered into a contract with the National Native American Law Enforcement Association for law enforcement recruitment services, which violated federal procurement regulations

and Department policy, and cost the Department almost \$1 million. This failure to follow the necessary procedures resulted in the contract being poorly written, under which the OJS paid this contractor for recruitment services and received *no* benefit whatsoever, thus wasting almost \$1 million.

Question 38. What action has the Department taken to address the findings in this Report?

Answer. After the current Office of Justice Services management team became aware of the previous Bureau of Indian Affairs' (BIA) Law Enforcement Recruitment Services Contract with the National Native American Law Enforcement Association (NNALEA), the issues that surrounded the failed contract award highlighted the need to improve the administrative guidance and support available to OJS management and field staff. Please see our response to the third question below regarding additional actions taken to address the findings in the report.

Question 39. Has the Department recovered this \$1 million? If not, why not?

Answer. To date, we have been unable to confirm the recovery of any amount under this contract. We will continue to research and provide an updated status.

Question 40. What accountability, management, and procurement measures are in place to ensure this sort of mismanagement does not occur again?

Answer. The BIA's Office of Justice Services (OJS) has implemented measures to ensure staff have the appropriate guidance when developing future contracts and are adhering to the Federal Acquisition Regulations (FAR). OJS has also taken steps to ensure in-house staff and resources are utilized prior to seeking external contractual services. Specifically, in 2011, OJS management moved the Associate Director of Administration position from Albuquerque, NM to the Washington, DC office and established a Support Services division that works closely with Indian Affairs Office of the Chief Financial Officer (OCFO) to provide guidance for operational support.

In addition, internal control process reviews related to the acquisition function are completed on an annual basis and documented in the OMB Circular A-123, Appendix A, Internal Control over Financial Reporting process document and submitted to the Indian Affairs Office of Internal Evaluation and Assessment.

Question 41. How is the BIA currently conducting recruitment activities for law enforcement personnel?

Answer. The BIA OJS recruits for law enforcement personnel through regional/tribal level collaboration with educational institutes and local events. District and agency law enforcement agencies participate in local career fairs and traditional events for recruitment. Examples of partner organizations include United Tribes Technical College (ND), Dull Knife Community College (MT), Little Big Horn Community College (MT), Haskell Indian Nations University (KS), Northeastern Oklahoma A&M College (OK), Cameron University (OK), University of Science and Arts (OK), and Santa Fe Indian School (NM). At these events, OJS recruitment outreach consists of a variation of activities which may include a recruitment booth with recruitment information and application assistance, law enforcement vehicle presentation, K-9 presentations, and formal presentations on Indian Country law enforcement.

This collaboration has resulted in a significant increase in new appointments to vacant positions. OJS also utilizes social media as a recruitment tool. Its other outreach efforts include collaborating with other such organizations as the American University's Washington Internship for Native Students (WINS) to share employment opportunities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. HEIDI HEITKAMP TO
HON. SALLY JEWELL

Law Enforcement Training

I strongly encourage the Department of Interior and Bureau of Indian Affairs to better utilize the resources and vision of United Tribes Technical College (UTTC) in Bismarck, North Dakota, to become a major provider of law enforcement training for Indian Country, eventually leading to an academy involving an array of training, academics and research.

Question 42. What is the graduation rate (i.e., successful completion of training) among BIA/Tribal law enforcement trainees participating in the academy at Artesia? How many law enforcement offers does the BIA certify annually?

Answer. The BIA Indian Police Academy (IPA) conducts four Basic Training programs annually. In total for FY 2012, the IPA graduated 287 Officers from these Basic Training Programs, which equated to a 74 percent graduation rate:

- The Basic Police Officer Training Program (16 week) graduated 81 Police Officers; the program's graduation Rate for FY-2012 was 65 percent.
- The Basic Correction Officer Training Program (6 week) graduated 123 Correction Officers; the program's graduation rate for FY-2012 was 70 percent.
- The Basic Criminal Investigator Training Program (10 week) graduated 59 Criminal Investigators; the program's graduation rate for FY-2012 was 97 percent.
- The Basic Police Officer Bridge Training Program (2.5 week) graduated 24 Police Officers; the program's graduation rate for FY-2012 was 88 percent.

The IPA also conducted 100 Advanced Level Training Programs (BIA Outreach/FLETC Advanced) that were offered to BIA and Tribal Indian Country Public Safety and Court personnel. The Advanced Training Programs included specific training for Law Enforcement, Corrections, Tribal Courts, and Management personnel throughout Indian Country. In FY 2012, a total of 1,735 public safety personnel completed Advanced/Outreach Training programs.

Question 43. If trainees are not successful at Artesia, are there other means by which BIA/Tribal law enforcement personnel are certified by the BIA? Are there reciprocity agreements with state training sources?

Answer. Trainees that do not successfully complete a Basic Training Program fail to complete for the following reasons:

- (1) Failure of Examination/Practical Exercises—The student has the opportunity to attend a future program.
- (2) Personal Resignation—If employed by a BIA or Tribal program, the student has the opportunity to attend a future program.
- (3) Conduct Violations—Based on the severity of the Conduct Violation, the student may or may not have the opportunity to attend a future program.
- (4) Health Reasons—The student has the opportunity to attend a future program.

All BIA officers have to meet the BIA Basic Training Requirements which requires completion of a Federal Basic Training Program. This will require all BIA officers to attend and complete the BIA Basic Police Officer Training, BIA Basic Corrections Officer Training, BIA Basic Criminal Investigator Training, or BIA Basic Police Officer Bridge Training programs.

There are many tribal programs that utilize their respective State Police Academies to provide basic Training to their Police officers. Tribal Correction Officers attend the IPA. Tribal Criminal Investigators attend the BIA/FLETC Criminal Investigator Training Program. Regarding Basic Police Officer Training, each specific tribal program chooses to send their Officers either to their respective State Academy or attend the IPA based on their tribal government's needs. Therefore tribes have the discretion to choose which academy they send their Police Officers in order to meet Basic Training Requirements. For example for the two tribal law enforcement programs in North Dakota, the Three Affiliated Tribes utilize the North Dakota State Police Academy and the Sisseton Wahpeton Tribal Police send their Police Officers to either the State of South Dakota Police Academy or the IPA.

There are no formal reciprocity agreements with State Law Enforcement Academies. The IPA conducts a BIA Basic Police Officer Bridge Training Program that is designed to provide STATE POST certified police officers with a 2.5 week program that provides curriculum on Federal Court Procedures, Criminal Jurisdiction in Indian country and BIA Standards. Completion of the BIA Basic Police Officer Bridge Program will provide the Officer with BIA Basic Training Requirements.

Question 44. UTTC is fully accredited by the North Central Association on Colleges and Schools and among its offerings are two- and four-year criminal justice degrees, shorter-term training and certificates. I understand the program at Artesia does not offer college training and credit to persons participating in the program. Wouldn't it be an advantage to have a program which could meet the broader long-term needs of law enforcement trainees?

Answer. The IPA supports and promotes education of all public safety personnel in Indian Country. As a participating organization of the Federal Law Enforcement Training Center, the IPA has solely concentrated on conducting Basic and Advanced training for law enforcement, corrections, and Courts personnel that are hired and working for a Tribe or the BIA. To be eligible to attend an IPA program, the student has to be a full time, law enforcement or corrections officer. The intent of the training provided at the IPA is to train and develop personnel on the core competencies of the position for which they perform in the public safety field.

Also of note is that higher education institutions, universities, and colleges do request training records of IPA graduates with the intent to provide the graduate with college credits toward their degree or certificate. The IPA understands the importance of partnering with higher education institutions to promote education for current law enforcement professionals and future law enforcement professionals. In 2010, the IPA provided resources to East Central Oklahoma State University (Oklahoma) and the United Tribes Technical College to support their respective degree programs and continual development of law enforcement personnel. The IPA has made the commitment to continue a partnership with the United Tribes Technical College and will continue to seek engagement with other universities or Tribal colleges across the nation.

Question 45. What percent of law enforcement officer positions are vacant throughout Indian Country? Please provide a breakout by position.

Answer. The overall vacancy rate for BIA law enforcement officer positions nationwide is currently 28 percent. This number is comprised of a vacancy rate of 31 percent for police officer positions and 24 percent for criminal investigator positions.

Question 46. What percent of law enforcement officer positions are needed throughout Indian Country? Please provide a breakout by position.

Answer. A report detailing public safety and justice needs was compiled by BIA and submitted to the appropriate congressional committees in accordance with Section 211(b)(2) Title II of Public Law 111–211, The Tribal Law and Order Act (TLOA). In the report, BIA provided an unmet need estimate for law enforcement programs by using a ratio of officers per 1,000 residents. The data used to determine the appropriate ratio are found in the FBI Uniform Crime Report (UCR).¹ Based upon the 2010 UCR staffing tables, county agencies have an average of 2.8 officers per 1,000 residents.² The UCR does not have a specific ratio for Indian Country, but the 2.8 sworn personnel per 1,000 residents may be the comparable ratio to the majority of Indian communities. Applying this ratio to the resident populations of the tribes served by BIA would produce a need of 3,187 officer positions throughout Indian Country that current BIA law enforcement funding does not cover. As a step toward addressing this need, the FY 2014 President’s Budget includes a program increase of \$5.5 million for Criminal Investigations and Police Services.

Question 47. Has the BIA conducted any long-term assessment of law enforcement needs in Indian Country?

Answer. A report detailing public safety and justice needs was compiled by BIA and submitted to the appropriate congressional committees in accordance with Section 211(b)(2) Title II of Public Law 111–211, The Tribal Law and Order Act (TLOA). See response to previous question.

Question 48. Do you expect the recent expansion of tribal jurisdiction afforded by the Tribal Law and Order Act and the Violence Against Women Act to increase the need for law enforcement officials in Indian Country?

Answer. There is a potential for increased law enforcement needs developing in P.L. 280 states in response to enactment of provisions under the TLOA regarding concurrent federal jurisdiction. As affected tribes that meet certain criteria under TLOA make the determination to establish a law enforcement program and begin a dialogue with the BIA about doing so, a clearer picture of need for these tribes will be possible. As an indication of the work that lies ahead, there are currently 105 federally recognized tribes located in the state of California, but only five receive public safety and justice funding from BIA.

The recent passage of the Violence Against Women Reauthorization Act of 2013 (VAWA) will have a significant impact on tribal justice systems as well. The law amends, among other statutes: the Indian Civil Rights Act, 25 U.S.C. 1301; the Federal Assault provisions under 18 U.S.C. 113; the Domestic Violence and Stalking Chapter, specifically addressing the full faith and credit given to tribal protection orders, under 18 U.S.C. 2265. As a result of provisions contained in the law, the BIA may need to develop and implement training for our direct service program staff in the areas of law enforcement, social services, victim services, and especially courts. The BIA may also need to provide additional technical assistance and training to tribes operating these programs under self-determination contracts and compacts. Final determination of need will be based on Tribal requests themselves.

¹ The UCR Program was conceived in 1929 by the International Association of Chiefs of Police to meet a need for reliable, uniform crime statistics for the nation. In 1930, the FBI was tasked with collecting, publishing, and archiving those statistics.

² See 2010 Uniform Crime Report table 71 at www.fbi.gov/ucr/cius2010/police/index.html

Question 49. What steps can the BIA take now to work with UTTC in expanding training opportunities and to provide certification for BIA/Tribal law enforcement personnel?

Answer. The BIA has provided resources and developed a training partnership with the United Tribes Technical College (UTTC). The BIA has dedicated a full time BIA Indian Police Academy Training Sergeant (Instructor) onsite, assigned to provide technical assistance to UTTC and coordinate advanced training programs held on the campus. The BIA has promoted the UTTC partnership to other Indian Country public safety programs and other federal agencies as an advanced training site for the BIA's IPA. Prior to the effects of the sequestration, the IPA averaged between eight to ten (8-10) advanced training programs annually. The advanced training programs included; criminal investigation, management/supervision, corrections, and police training courses.

The BIA will continue to promote its support of UTTC. The current training programs conducted at the UTTC help to accomplish continual in-service training requirements that are required to maintain law enforcement certification.

Question 50. One result of the Bakken oil boom in North Dakota is the huge influx of people in areas that are not prepared for such an immediate change and it has put a great stress on law enforcement officials, notably for the Three Affiliated Tribes public safety program.

Answer. The BIA provides a direct service special agent to support the Three Affiliated Tribes law enforcement program. In May, an additional criminal investigator position was advertised.

The BIA district office provides technical assistance to the Three Affiliated Tribes law enforcement department regarding the influx of drugs and violent crime. BIA has met on several occasions with the Tribal Chairman and Chief of Police to assist them with their desire to establish a drug task force. The first meeting occurred on February 1, 2013, in which the tribe requested assistance to interview candidates to lead the tribal drug task force. The last meeting held by the tribe was March 1, 2013, on initiating the drug task force.

Spirit Lake Child Welfare

I continue to be very concerned about child welfare issues at the Spirit Lake Nation in North Dakota. There is a considerable need for continuity and for permanent staffing of the program to ensure children on the reservation are protected. Additionally, it is imperative the claims of abuse that have been made to date are thoroughly investigated.

Question 51. Please provide an outline of the steps taken by the Department to ensure proper placement of children in foster homes since the BIA assumed operation of the social service program at Spirit Lake.

Answer. Since October 1, 2012, BIA, Fort Totten Agency has had the responsibility of operating the social services programs including foster care, for the Spirit Lake Tribe, North Dakota.

If a relative placement cannot be located for a child, BIA will then proceed with a foster care placement. All foster care homes are licensed, which includes fingerprinting, background checks, and home inspections for those homes. The homes are licensed by the respective state county using the state criteria or through the Tribe, also using the state criteria. The Tribe is still actively engaged in the licensing process because it is continuing to operate a part of their social service program through a Title IV-E of the Social Security Act (IV-E) agreement with the state of North Dakota. This program pays for their staff to continue to place children in foster care.

The Tribe has 33 children in IV-E state agreement foster care placements. Those children are not subject to BIA supervision, and the Tribe is responsible to the state of North Dakota for oversight on those placements. If a child meets the state requirements for IV-E eligibility, the BIA foster care program transfers children to services under the Tribe's IV-E agreement with the state.

Question 52. What is the timeline for having the social services office fully staffed? Does the Department have the resources necessary to fully address the issues with the social services program? How long do you anticipate the BIA will continue operations of the program?

Answer. The BIA has been pursuing the hiring of six permanent positions for the social services program at the Fort Totten Agency. However, the BIA has encountered many obstacles in hiring permanent staff for the program. These obstacles include:

- Lack of available government housing;

- Negative publicity regarding child protective services despite significant program improvements;
- A shortage of qualified social worker applicants applying for the positions;
- Hiring certifications that come back with either no applicants or only one to two unsuitable applicants;
- Suitable candidates who are selected; then the individual withdraws their application or is unable to meet specific background requirements and/or job requirement elements

The Supervisory Social Worker, prior to the Department of the Interior hiring freeze, had been advertised twice. On both occasions selections were made but ultimately the selected candidates withdrew citing personal reasons (once again for the first two reasons listed above). Since the last applicant declination, a hiring freeze was initiated by the Department, thus requiring a waiver. A waiver was requested on May 6, 2013 and after approved, the position was advertised immediately thereafter. The position closed on August 29, 2013 with the anticipation of a prompt selection.

The Child Welfare Specialist positions that will be responsible for investigations and case management have been advertised 5 times with selections being made however, there have been multiple declinations. Recently, one person accepted an offer and the other position was offered to the first and second choice candidates and both declined. The one person who accepted is scheduled to report on September 9, 2013. The other twice-declined position will be re-advertised; this re-advertisement will be the final re-advertisement for the positions needed to fully staff the program.

Finally, the Social Service Representative was previously advertised twice without any applicants qualifying for the position. This position was finally advertised with several applicants responding and a selection has been made. The one person who accepted is scheduled to report on September 23, 2013. Given all the factors noted above, it may yet be another 3–6 months before this program is fully staffed.

As a result of the issues with filling the vacancies at the Agency, the BIA Great Plains Regional Office (which oversees the Agency) has been coordinating the assignment of other BIA Regional and Agency social services workers every week to the Fort Totten Agency. The Regional Office details up to four individuals from other BIA agencies within the Region to the Fort Totten Agency to help cover the four vacant positions and ensure the delivery of services. Currently, there are six BIA agency social services staff available region-wide, who can be detailed to the Fort Totten Agency to assist.

The program is in the middle of a 12-week set of detail assignments, which establishes coverage through mid-October. With the new hires noted above starting in September, we hope to reduce this schedule to two positions before it is completed. We will continue to aggressively pursue the hiring process until all positions are filled and expect that the next 12-week set of details will be a contingency plan and the need for the two remaining detail positions will be eliminated before 2014.

Question 53. What procedures within the social services office has the Department adopted since BIA's assumption of the program to ensure the safety and protection of children?

Answer. The BIA has adopted a number of significant procedures and has also re-engaged in community prevention activities designed to reduce instances of abuse. In addition, the efforts at the Spirit Lake Tribe have also allowed program and Agency staff to filter through some of the unsubstantiated cases through improving mandatory reporting methodologies in coordination with other key partners such as the medical facilities and school systems. The mandatory reporter methodologies alone have resulted in a 40 percent drop in child abuse and neglect reports and also in receiving reports with information which facilitates a more rapid and thorough investigation strategy. For the past few months, the number of referrals has maintained even levels of approximately 80 per month.

Protocols have been established for all key social services processes which are greatly assisted by the knowledgeable and experienced staff assisting from other BIA locations on the proper protocols for investigations, case management, foster care, and all other key social services processes. This standardization has led to more consistent processing across the board. Most importantly, abuse and neglect reports are documented and tracked through much more concise systems. Training has been coordinated and completed internally and through other state and Federal Agency partners to improve services at Spirit Lake.

Other efforts include:

- The Social Services program collaborates with the Federal Bureau of Investigation, Red River Advocacy Center and BIA law enforcement to complete forensic interviews for children who report instances of mental, physical, or sexual abuse.
- The staff has worked on encoding data and uploading documentation for cases into the Financial Assistance and Case Management System (FASS-CMS) that is utilized by all BIA Social Services programs to assist with more thorough tracking.
- The staff is performing 24 hour on-call Child Protective Services as of October 1, 2012. They have partnered with BIA law enforcement to assist with investigations of referrals of allegations of child abuse and/or neglect.
- The program has issued child assistance payments on a monthly basis to providers for children that are placed in foster care and residential care.
- The files were re-located on October 1, 2012 to the Fort Totten Agency. Staff has created and maintained case files.
- On November 30, 2012 the BIA Great Plains Regional Office, Division of Human Services, BIA Fort Totten Agency Social Services, Spirit Lake Tribal Social Services, and the University of North Dakota's Children and Family Services Training Center co-presented mandatory abuse reporter training for the Spirit Lake community. The goal was to increase awareness about identifying abuse and neglect, responsibilities of mandated abuse reporters, what to include on a referral, and the BIA referral process. Over 40 mandated abuse reporters attended the session.
- On January 8, 2013, the Bureau of Indian Affairs, Great Plains Region and the Office Justice Services provided fingerprint training to Tribal and BIA Social Services staff at the Agency. The Agency has received three mobile fingerprinting units that its social services staff utilizes for in-home fingerprinting of adults in foster homes where children in protected care may be placed.
- On March 12, 2013, a Child and Family Wellness Fair was conducted in Fort Totten, North Dakota. Resource providers were present to share information with community members and training topics presented, including domestic violence prevention and services.
- Since November 1, 2012, the Social Services program has assumed the responsibility of leading bi-weekly Child Protection Team meetings, which allow multiple local Agencies to staff particular cases to best coordinate physical and mental health services for children in the BIA's care and custody. The members of this team are: BIA Social Services, Spirit Lake Tribal Social Services, Ramsey and Benson County Social Services staff, school district staff, IHS staff, and local counseling and family services providers. The meetings are usually held the 1st and 3rd Thursday of every month, with the next meeting on September 5, 2013. All members of this team sign confidentiality statements.
- Since November 1, 2012, the Social Services staff has and continues to participate in the Multi-Disciplinary Team meetings coordinated through the Department of Justice's U.S. Attorney's office to address those cases which are the subject of criminal investigation and prosecution in either federal or tribal court. The most recent MDT meeting was just held on Tuesday, August 20, 2013. Members of this team consist of: BIA Social Services, FBI, U.S. Attorney, Spirit Lake Tribal Social Services, the Tribal prosecutor, BIA-OJS Law Enforcement, Spirit Lake Tribal Victim's Assistance program, and Red River Advocacy (organization conducting forensic interviews of children). The next meeting is not yet scheduled, but will likely be within the next 4-6 weeks depending on volume of forensic interviews. All members of this team sign confidentiality agreements.
- Since June, 2012, the establishment of the Social Services Coalition which meets approximately once a month to communicate and collaborate on providing effective delivery of Social Service related programs. Members of this coalition includes all local state, county, federal and tribal social service entities, representatives from state district, tribal and federal court, Law Enforcement, Victim's Assistance program, tribal council, and area leaders. The group works together on interagency services coordination and communication, inter-agency community events like Child and Family Wellness Fairs, and other community issues related to social services as they arise. The next coalition meeting is scheduled for September 11, 2013.
- In case management, 66 cases have been closed in the past month. As of this date, there are 74 active cases with an additional 51 service only cases.

Question 54. I understand that children who are being assessed for potential child abuse are currently being transported to Grand Forks and Fargo, which are both hours away from the reservation, compounding the fear of many of these children. Would the Department consider having Native American female officials available to interview suspected victims on the reservation as opposed to having the children transported great distances?

Answer. Forensic interviews are tools to not only protect children from abuse, but to document their potential testimony for future criminal proceedings, if necessary. Accordingly, this highly specialized process requires certain staff, environments, and even sensitivity to the child's willingness to visit with trained staff. The Spirit Lake BIA Social Services Program currently utilizes two locations—Grand Forks, which is about 100 miles away, and Fargo, which is about 185 miles away. The Program has need of about three to four such interviews a month, on average. The possibility of local interviews has been discussed to address the specific concerns about the travel distances, however, the discussion revealed two challenges. First, the interview settings have been developed to both make children comfortable, and to document potential testimony. Accordingly, interview sites are equipped with recording equipment, and two-way mirrors in addition to special toys and creative materials designed to help children express themselves about potential abuse. Resources would need to be secured to replicate these settings on the reservation. It is unlikely such facilities would be considered cost effective at Spirit Lake, much less all 16 reservation locations in the Great Plains Region.

Finally, when the possibility of reservation-based interviews were being discussed, those staff conducting such interviews indicated that the new location actually facilitated greater success at eliciting credible information because children temporarily away from their usual community environment felt safer revealing incidents of abuse and trauma. The combination of these factors led staff and those conducting forensic investigations to conclude that the integrity of the information obtained outweighed the travel distance concerns in these scenarios.

Oil and Gas Development

Energy development on Indian reservations provides significant benefits, including economic development, jobs, and infrastructure development. In the Great Plains, where many conventional energy resources are available for development on Indian reservations, the average unemployment rate is 77 percent. Facilitating Indian energy and economic development is exactly what is needed to lift many tribes out of poverty. However, I continue to be concerned the Department is not providing the same level of coordination for requests from tribes to improve federal permitting coordination as it is doing on other federal lands. While efforts are being made to expand BLM's pilot program to improve federal permit coordination, tribes are being left behind. A number of years ago the Department committed to creating a "virtual" one stop shop at the Fort Berthold Reservation, but the office has never received the necessary support to make it work as intended. It is vital that permanent staff be on the ground to help the tribes oversee and manage the energy development occurring on Indian lands.

Question 55. What steps will the Department take to improve the one stop shop at Fort Berthold to ensure the tribe is a full and equal partner in the overall efforts of the Department to improve the coordination of federal permitting?

Answer. The Department is working diligently to ensure oil and gas projects on Indian lands continue to provide valuable contributions as a full and equal partner in securing America's energy future. As part of the effort to increase the efficiency of Federal permitting and review of oil and gas activities, the Department, BLM, and BIA are currently engaged in several initiatives, including the interagency Bakken Federal Executive Group. The Federal Executive Group recently met on June 5, 2013, in Billings, MT to discuss methods for improving tribal coordination and consultation on the Fort Berthold Reservation.

The Bakken Federal Executive Group recognizes the Fort Berthold Partners, a local interagency working group focused on coordination of oil and gas activities on the Reservation, as an important forum for the facilitation of permitting Indian Trust minerals. This working group grew out of the spirit of the Fort Berthold one-stop shop, and consultation with the Three Affiliated Tribes is a core element of the work group's agenda. The Federal Executive Group plans to strengthen the foundation for the Fort Berthold Partners by articulating expectations and providing support for resources intended to help revitalize the working group. The Department will also aim to provide greater continuity to ensure this group's long-term effectiveness in facilitating prompt permitting and thorough environmental review.

The office has been able to provide essential coordination, technical assistance, and communication services between the federal partners and for the benefit of the

Tribe and allottees. The Pilot Office program expansion supported by the Department will help ensure permit applications on both Indian trust and public lands are processed efficiently and in a safe and responsible manner. In addition to the benefits of an expanded Pilot Office program operating on Indian lands, the Department, through the Office of Indian Energy and Economic Development's Division of Energy and Mineral Development (DEMD), has continued to provide GIS and data management support in the implementation of the National Indian Oil and Gas Management System (NIOGEMS). The NIOGEMS system is utilized by Tribal offices, the BIA, BLM field offices, and the Office of Natural Resources Revenue (ONRR) to ensure proper communication and coordination between the various Departmental agencies, Three Affiliated Tribes, and individual Indian mineral owners.

In 2011, DEMD hired two environmental surface compliance specialists, one GIS specialist, and three administrative support positions to meet increased oil and gas development activity in the area. Furthermore, the BIA Great Plains Region and the Three Affiliated Tribes of Fort Berthold negotiated a P.L. 93-638 contract agreement to go into effect August 1, 2013. This agreement allows for the tribe to hire three additional staff to be co-located with the BIA Fort Berthold Agency staff in a capacity building effort to better serve oil and gas operations on tribal lands, and to assist willing land owners with individual leasing matters.

To further encourage efficient permitting of oil and gas projects on Indian lands, the Department will implement a new automated tracking system across the BLM and BIA that could reduce the review period for drilling permits by two-thirds. The new system will track permit applications through the entire review process, quickly flagging missing or incomplete information, thereby greatly reducing the back-and-forth between the BLM and industry applicants that is currently needed to ensure applications are complete.

Question 56. What steps are being taken by the Department of the Interior to improve consultation with tribes on oil and gas development issues on tribal lands?

Answer. The Department of the Interior remains committed to continuing a robust dialogue in consultation with tribes on oil and gas development issues on tribal lands. As part of this commitment, the same level of support that is being undertaken at Fort Berthold is now required for the Uintah and Ouray Reservation, Navajo, Blackfeet, and other oil and gas producing Tribes as well.

To improve our consultation with tribes on oil and gas development issues on tribal lands, the Director of the BIA and the Director of IEED both recently participated in a Four Corners Tribal Energy Summit that included the five tribes of the four corners region. The summit provided an opportunity for both tribes and federal agencies to discuss ways that permitting issues could be addressed. Action items from the meeting included follow up on meetings to develop strategies to address tribal and federal concerns regarding coordination and communication.

Attachment

Attachment 1 to Jewell Responses
List of Schools Identified in Poor Condition

BIA Region	School	State
Great Plains	Standing Rock Community School	ND
Great Plains	Crazy Horse	SD
Great Plains	Loneman Day School	SD
Great Plains	Wounded Knee District School	SD
Midwest	Bug-O-Nay-Ge-Shig School	MN
Navajo	Black Mesa Community School	AZ
Navajo	Chinle Boarding School	AZ
Navajo	Dennehotso Boarding School	AZ
Navajo	Greyhills High School	AZ
Navajo	Hunters Point Boarding School	AZ
Navajo	Lukachukai Boarding School	AZ
Navajo	Many Farms High School	AZ
Navajo	Naa tsiis' aan (Navajo Mountain Boarding School)	AZ
Navajo	Pine Springs Day School	AZ
Navajo	Rock Point Community School	AZ
Navajo	Rocky Ridge Boarding School	AZ
Navajo	Shonto Boarding School	AZ
Navajo	Tonalea/Redlake Day School	AZ
Navajo	Wide Ruins Community School	AZ
Navajo	Winslow Residential Hall	AZ
Navajo	Chi-Ch'il-Tah/Jones Ranch	NM
Navajo	Ch'ooshgai (Chuska) Community School	NM

Navajo	Crystal Boarding School	NM
Navajo	Dibe Yazhi Habitin Oita Inc. (Borrogo Pass)	NM
Navajo	Dzilth-na-o-dith-hle Community School	NM
Navajo	Mariano Lake Community School	NM
Navajo	Na'Neelzhin Ji'Oita' (Torreon)	NM
Navajo	To'haall' (Toadlena) Community School	NM
Navajo	Aneth Community School	UT
Navajo	Richfield Residential Hall	UT
Northwest	Chemawa Indian School	OR
Southern Plains	Klickapoo National School	KS
Southern Plains	Riverside Indian School	OK
Southwest	Laguna Elementary School	NM
Southwest	Te Tsu Geh Oweenge (Tesuque) Day School	NM
Western	Blackwater Community School	AZ
Western	Cibecue Community School	AZ
Western	Hopi Day School	AZ
Western	Hotevilla Bacavi Community School	AZ
Western	Keams Canyon Boarding School	AZ
Western	Moencopi Day School	AZ
Western	Santa Rosa Ranch School	AZ
Western	Duckwater Shoshone Elementary School	NV