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COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

NONDEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Commerce, Justice, Science, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2008 budget request for programs within the subcommittee's jurisdiction.]

PREPARED STATEMENT OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION

EXECUTIVE SUMMARY

In March of this year, the National Employment Lawyers Association[1] (NELA) prepared and distributed to its membership a brief on-line survey to gain a better and more current understanding of (1) the frequency with which charging parties and/or their attorneys encounter refusals by the U.S. Equal Employment Opportunity Commission (EEOC) to accept charges; and (2) the extent to which charging parties and/or their attorneys experience other problems with charge filing at the EEOC (see Appendix A attached to the full report). NELA spearheaded the survey in response to comments it regularly receives from NELA members and local NELA affiliate members about the EEOC's charge filing process as well as by our discussions with the leadership of the EEOC. Both the EEOC and the Congress also have recently expressed concerns about the need for charging parties to have effective access to the Commission's compliance procedures.

The survey sought to elicit information about what happens when a charge is presented to the Commission—whether charging parties encounter problems, the types of problems they experience, and the frequency and timing of such problems. The survey covers the period from January 1, 2005 to April 2, 2007; questions were cat-

[1] The National Employment Lawyers Association (NELA) advocates for employee rights and workplace fairness while promoting the highest standards of professionalism, ethics and judicial integrity. NELA was founded in 1985 to provide assistance and support to lawyers in protecting the rights of employees against the greater resources of their employers and the defense bar. NELA is the country's largest professional organization that is comprised exclusively of lawyers who represent individual employees in cases involving employment discrimination, wrongful termination, employee benefits, and other employment-related matters. NELA and its 67 state and local affiliates have more than 3,000 members nationwide.

As a group, NELA members have represented thousands of individuals seeking equal employment opportunities. NELA is one of a limited number of organizations dedicated to protecting the rights of all employees who rely on the U.S. Equal Employment Opportunity Commission (EEOC) and the courts for protection against illegal workplace discrimination. NELA's members serve the same constituency as the Commission, namely, employees who have been and are being subjected to invidious race, color, national origin, gender, religious, age, and disability discrimination prohibited by Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. NELA's members interface with the EEOC on a daily basis. They are involved with the Commission's compliance procedures, its investigation practices, and its disposition of cases. That involvement is nationwide and reaches to all of EEOC's regional and district offices.

egorized by calendar year. The survey was conducted from March 16, 2007 through April 2, 2007. NELA received 343 unique responses to the survey, for a total response rate of 14 percent. The responses represent the experiences of plaintiff employment lawyers (and their clients) from 30 states, the District of Columbia and Puerto Rico who practice before EEOC offices in every region, including 15 district, 9 field, 12 area and 11 local offices. (A list of the EEOC offices referenced by survey respondents is contained in Appendix B of the full report.)

The cumulative responses reveal an agency that is resistant to the filing of employment discrimination charges. Of the survey respondents, nearly one-quarter (23 percent) indicated that they had drafted charges for clients that had not been accepted for filing by the EEOC during the twenty-seven month period covered by the survey.[2] In response to the broader question, "[H]ave you had other problems with the EEOC in the processing of charges or intake questionnaires (e.g., resistance by EEOC office identified above to accepting filing as prepared by you, substantial modification by EEOC of what you prepared, etc.)?"—the "yes" response rate was even higher.[3] Thirty-six percent (36 percent) of respondents reported that they had encountered such problems at some time since January 1, 2005. Moreover, more than a quarter of the respondents who had experienced such problems did so more than once in calendar years 2005 (26 percent) and 2006 (28 percent).[4] In 2005, 12 percent, and in 2006, 13 percent, of them had encountered such problems three or more times in the year.[5]

The comments of survey respondents illuminate the pervasiveness of the problems that charging parties and plaintiff's attorneys have with the EEOC's intake, charge filing and investigation processes. The respondents cite several recurrent problems with EEOC charge intake as well as with EEOC investigations after charges are filed (see pages 6–13 of the full report).

These findings, as alarming as they are, do not come as a surprise to anyone who is familiar with the EEOC. They are, in substantial part, symptomatic and the consequence of an inadequate budget which has resulted in an understaffed agency burdened with a massive flow of charges and an ever growing backlog. Indeed, the Commission has struggled to meet the mounting pressures of this burden and has tried to adjust to the realities of its budget through a major reorganization and reallocation of staff.

When the chaff is separated from the wheat, however, the key fact that emerges is that the EEOC has for many years only been able to budget a small amount of its funding to enforcement and virtually nothing to training personnel. This renders the Commission ill-equipped to achieve its mission, produces never-ending delays, prevents even minimal training of staff, and breeds inordinate pressures not to add to a burgeoning backlog by junking potential and actual cases at every step of the administrative process. More specifically, it produces an inherent resistance to the filing of charges by compliance staff, shortchanges investigations (if and when they take place), and increases an administrative "washing of hands" of cases through the convenience of boilerplate Notices of Right to Sue that include nothing but a mere check-off box for "insubstantial evidence to determine" discrimination.

In enacting various anti-discrimination laws, Congress has signaled that addressing and eliminating invidious discriminatory employment practices is one of the nation's highest priorities. Thus, it is incumbent upon Congress to ensure that the Commission—the federal agency that it has mandated to enforce these laws—receives the necessary funding to rectify the untenable morass described in the report. If the EEOC is to overcome the dire consequences of past budget reductions, then funding well beyond the current levels must be made available.

At the same time, the EEOC also must be held accountable to Congress and the public it serves. Thus, oversight and assessment mechanisms must be put into place to assure that additional resources are directed toward viable and meaningful enforcement of the EEOC's mandates (see page 15 of the full report). The findings cited in NELA's survey lend credence to the problems faced by the EEOC and those Americans the agency is mandated to protect from unlawful employment discrimination. For the EEOC to fulfill its mission as the federal agency most responsible for the enforcement of the nation's equal employment opportunity laws, these problems must, at a minimum, be addressed with more resources targeted at improving basic enforcement functions.

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[2] See Question 3, Appendix A.
[3] See Question 11, Appendix A.
[4] See Questions 12 and 13, Appendix A.
[5] Supra.

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WORKERS' RIGHTS IN JEOPARDY: EEOC'S ENFORCEMENT OF EQUAL EMPLOYMENT OPPORTUNITY LAWS IMPEDED BY INADEQUATE FUNDING

A REPORT BY THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION—APRIL 27, 2007

Introduction

The National Employment Lawyers Association (NELA) advocates for employee rights and workplace fairness while promoting the highest standards of professionalism, ethics and judicial integrity. NELA was founded in 1985 to provide assistance and support to lawyers in protecting the rights of employees against the greater resources of their employers and the defense bar. NELA is the country's largest professional organization that is comprised exclusively of lawyers who represent individual employees in cases involving employment discrimination, wrongful termination, employee benefits, and other employment-related matters. NELA and its 67 state and local affiliates have more than 3,000 members nationwide.

As a group, NELA members have represented thousands of individuals seeking equal employment opportunities. NELA is one of a limited number of organizations dedicated to protecting the rights of all employees who rely on the U.S. Equal Employment Opportunity Commission (EEOC) and the courts for protection against illegal workplace discrimination. NELA's members serve the same constituency as the Commission, namely, employees who have been and are being subjected to invidious race, color, national origin, gender, religious, age, and disability discrimination prohibited by Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. NELA's members interface with the EEOC on a daily basis. They are involved with the Commission's compliance procedures, its investigation practices, and its disposition of cases. That involvement is nationwide and reaches to all of EEOC's regional and district offices.

NELA members and the staff of the EEOC share the common goal of ensuring that the nation's equal employment opportunity laws are enforced as mandated by Congress. Indeed, several current and past EEOC staff are or have been members of NELA, including former Commissioners as well as senior attorneys in the Office of General Counsel and Regional Offices. These EEOC alumnae are passionate about their years at EEOC. They remain committed to helping the EEOC to advance its mission, to establish and develop a vibrant body of employment law, to address discrimination where it has operated and is continuing to be practiced, and to secure remedies for unlawful employment practices. In short, NELA and its members are uniquely positioned to comment upon EEOC's compliance efforts and the extent to which the Commission meets its mission, exercises its responsibilities, and provides relief to individuals who are discriminated against in the workplace.

Effective, attentive and responsive enforcement procedures hold out the hope for resolution and relief for victims of workplace discrimination. By the same token, ineffective, inattentive and irresponsible administrative processing by EEOC precludes and/or directly impacts the nature and scope of the relief charging parties—even those represented by attorneys—can obtain during the administrative process. Furthermore, because utilization of the Commission's administrative procedures is a mandatory gateway to private enforcement of Title VII and defines the scope of any ensuing litigation, NELA's members and their clients have a vital stake in ensuring charging party accessibility to the EEOC and effective compliance efforts.

It is essential to underscore that EEOC leaders, especially its current Chair, have recognized this commonality between EEOC's responsibilities and the interests and experiences of NELA's members. They are acutely aware that working in partnership with NELA, as well as other stakeholders, is key to fulfilling the EEOC's mission of enforcing the nation's equal employment opportunity laws. The Chair and the Commissioners have taken affirmative steps in seeking NELA's input and feedback regarding EEOC operations. Indeed, open dialogue with and encouragement from Chair Earp, Vice Chair Silverman, and Commissioners Griffin and Ishimaru were a catalyst for NELA conducting the survey which is the subject of this report. The same is true with respect to a planned project that NELA hopes to implement in the near future regarding EEOC's National Contact Center.

The Survey and Methodology

In March of this year, NELA prepared and distributed to its membership a brief on-line survey, a copy of which is attached as Appendix A. The purpose of the survey was to gain a better and more current understanding of: (1) the frequency with which charging parties and/or their attorneys encounter refusals by the EEOC to

accept charges; and (2) the extent to which charging parties and/or their attorneys experience other problems with charge filing at the EEOC. NELA spearheaded the survey in response to comments it regularly receives from NELA members and local affiliate members about the EEOC's charge filing process as well as by our discussions with EEOC leadership. In addition, both the EEOC and the Congress have recently expressed concerns about the need for charging parties to have effective access to the Commission's compliance procedures.

The survey sought to elicit information about what happens when a charge is presented to the Commission—whether charging parties encounter problems, the types of problems they experience, and the frequency and timing of such problems. The survey covers the period from January 1, 2005 to April 2, 2007; questions were categorized by calendar year.

Instructions and a link to the on-line survey were sent by electronic mail to NELA members. In addition, NELA's sixty-seven state and local affiliate leaders were encouraged to forward the survey link to their membership (which include members who are not members of the national organization). The survey was conducted from March 16, 2007 (the date it was first distributed) through April 2, 2007 (the date the survey was closed). NELA received 343 unique responses to the survey, for a total response rate of 14 percent.

The responses represent the experiences of plaintiff employment lawyers (and their clients) from 30 states, the District of Columbia and Puerto Rico. The respondents practice before EEOC offices in every region, including 15 district, 9 field, 12 area and 11 local offices. (A list of the EEOC offices referenced by respondents is contained in Appendix B.)

The Findings

The responses reveal an agency that is resistant to the filing of employment discrimination charges. Of the survey respondents, nearly one-quarter (23 percent) indicated that they had drafted charges for clients that had not been accepted for filing by the EEOC during the twenty-seven month period covered by the survey.[6] In response to the broader question, "[H]ave you had other problems with the EEOC in the processing of charges or intake questionnaires (e.g., resistance by EEOC office identified above to accepting filing as prepared by you, substantial modification by EEOC of what you prepared, etc.)?"—the "yes" response rate was even higher.[7] Thirty-six percent (36 percent) of respondents reported that they had encountered some such problems at some time since January 1, 2005. Moreover, more than a quarter of the respondents who had experienced such problems did so more than once in calendar years 2005 (26 percent) and 2006 (28 percent).[8] In 2005, 12 percent, and in 2006, 13 percent, of them had encountered such problems three or more times in the year.[9]

These experiences were not specific to just one or two of EEOC's local offices, but involved, as mentioned above, 47 offices nationwide. These 47 EEOC offices are not, however, necessarily any worse than EEOC offices not reflected in the survey. On the other hand, the offices not on the list (Appendix B) are not necessarily any better than those that are on the list. Indeed, NELA has no reason to believe that these 47 EEOC offices are either better or worse than the EEOC offices that were not mentioned by survey respondents.

The comments of those responding to the survey, which are compiled in Appendix C, illuminate the pervasiveness of the problems that charging parties and plaintiff's attorneys have with the EEOC's intake, charge filing and investigation processes. As reflected below, the comments indicate several recurrent problems with EEOC charge intake as well as with EEOC investigations after charges are filed. This is not to suggest, however, that all is bad at the EEOC; in fact, some respondents recognized and complimented particular offices or personnel.

Problems with Charge Intake

While NELA attorneys, more often than not, succeed in filing charges for their clients, they report that these same clients in many instances were previously turned away by EEOC's intake personnel based on the same alleged incidents of discrimination. For example:

—Our clients who come to [us] after going to the EEOC have numerous horror stories about being told they couldn't file because they still had their job, didn't have a case, etc.——Comment 16 (Atlanta)

[6] See Question 3, Appendix A.
[7] See Question 11, Appendix A.
[8] See Questions 12 and 13, Appendix A.
[9] Supra.

—While I have not had problems with the EEOC accepting my charges or questionnaires, I have had many potential clients report that the EEOC would not accept their charges—at least 4 in the past two months. I cannot say how many have reported this since January 2005, but the numbers seem to be increasing of late. In addition, the EEOC does not want any information before the 180 day filing period, whether or not this information is relevant to the discrimination claims in the charge.——Comment 118 (Atlanta)

—Because of previous problems with the EEOC I always draft the charges and have them hand delivered and stamped. I stopped sending my clients in to file on their own behalf because the EEOC . . . tell[s] clients they don't have a case even though I have already determined that they do.——Comment 45 (Chicago)

—[T]he problem seems to be mainly with people who attempt to file charges without an attorney. I get many, many calls from people who say that the EEOC told them that they do not have a case when in fact they do have one, or would have if they had filed the charge when they contacted EEOC. EEOC gave them bad legal advice which caused them not to file when they should have, and their rights were compromised.——Comment 86 (Dallas)

—I don't have problems . . . It is the unrepresented people who have problems. For instance, I have had people come to see me who have been told by the intake folks that they don't have a case and don't know they can insist on filing a charge. I draft and file the charge and there is no problem. I really worry about the folks who don't have a lawyer, not the ones who do!!——Comment 175 (St. Louis)

—[A]ggrieved individuals go [to the EEOC and] are often told that they have no case and no charges are accepted. How many people with legitimate claims then exit the process, demoralized? If they come to us, we have to fight to get the charges filed, including writing them ourselves (which I have not had rejected but never results in much of an investigation).——Comment 99 (Detroit)

Often, before accepting a charge (even one prepared by an attorney), EEOC intake personnel have required that the charge be narrowed (for example, to one incident or to one form of discrimination, such as gender or race discrimination but not both). For example:

—Refusal to allow charging party to check more than one box; refusal to allow charging party to name employment agency or joint employer; not allowing charging party to mention events outside 180 days on the face of the charge; telling charging party she doesn't have a charge and not letting her file.——Comment 173 (Atlanta); see also Comment 84 (Dallas)

—[T]he EEOC often will not include all claims (even when client has been instructed by me as to what claims).——Comment 45 (Chicago)

The EEOC resists accepting charges, primarily due to untrained intake personnel. For example:

—Some investigators are more notorious than others. The intake investigators are not attorneys but are making legal decisions. Of course, this could be critical if the individual does not first see an attorney or delays seeing an attorney until after the charging party's deadline has passed.——Comment 23 (Raleigh)

—Unqualified people tell me what does and does not fall under Title VII.——Comment 170 (San Antonio)

—The EEOC told one client that they had too many cases to really read his case or deal with it since his did not involve a termination.——Comment 30 (Boston)

—Intake investigators do not seem to understand the elementary principles of discrimination cases, do not seem to understand the significance of certain facts when those facts are presented to them during the intake interview, and can hardly write an intelligent sentence in either the charge or the affidavit.——Comment 132 (San Antonio)

—I have been told by investigators that the charge cannot be accepted without more detailed information, particularly comparative information. The detail required appears to exceed the notice pleading standard in federal court.——Comment 24 (El Paso)

—I have seen cases of non-represented complainants in which the intake person at the EEOC drafts a charge and immediately issues a notice of right to sue, telling the complainant he/she "doesn't have a case" based on the intake person's inaccurate understanding of the law (e.g., "If you were the only person it happened to it can't be discrimination. . . ."). I wonder how many persons with legitimate complaints rely on that "advice" and decide not to pursue their claim."——Comment 148 (St. Louis)

Timely claims are jeopardized due to delays in the EEOC's procedures. For example:

—[R]ecently I was contacted by a charging party who had submitted his questionnaire in October, but as of mid-February had heard nothing from EEOC. His 180 days to file was within a month of running. I contacted EEOC on his behalf and was told that they were "just getting to" the October questionnaires and that the fact that his time was close to running did not give it any priority over other charges. I ended up filing a charge on his behalf instead of waiting for the EEOC.——Comment 92 (Atlanta)

—I have a case now where the EEOC told my client that he did not have a case, and that they wouldn't accept his charge. He insisted, so they accepted the charge (that they drafted). Months later (after 300 days post-incident) he got a call from the EEOC telling him that he needed to sign another (identical) charge. He did, sent it back, and it was stamped "filed" for that new date. Then, the EEOC dismissed him for filing too late. Luckily, he had a copy of the original stamped charge, and we survived a motion to dismiss on this.——Comment 2 (Chicago); see also, Comment 37 (Dallas)

—The EEOC routinely attempts to re-write the charge, invariably leaves [information] out, and then sends the revised charge to the client for signature. It then tries to substitute the date of the "new" charge for the original filing date. I then have to write to the EEOC and demand that they use the original charge and original filing date. The EEOC has backed down after receiving my correspondence, but my intervention should not be necessary. In [another] case in 2006 the EEOC told [my client] that it could not accept his charge unless he came into the EEOC personally and complete[d] an intake with an EEOC employee. The EEOC then sent a letter to the client informing him that his charge was not valid and would not be accepted until he followed through on the personal interview. I wrote to the EEOC, explained the statutory requirements for filing, and it ultimately accepted the charge with the original date. Again, this should not have been necessary, particularly since I had entered my appearance.——Comment 104 (Philadelphia)

Arbitrary and capricious actions by EEOC personnel jeopardize employees' rights. For example:

—They required a whole new charge to be filed for one typo.——Comment 70 (Indianapolis)

—In the past 30 days . . . a charge [was] returned to me telling me that normally they have staff to make corrections on charges, but because they do not have enough staff currently, they were sending back my charge and giving me 33 days to correct the charge. They said that the charge was deficient because I stated the type of disability on the charge form, I described damages and my charge narrative was too lengthy (it fit on the front of the charge form).——Comment 168 (Philadelphia)

—[O]n several occasions from 2005 to the present, [the Miami office] tried to reject charges [I'd filed] (the most recent occasion being this month). When I challenged them and asked them to cite the provision of the EEOC regulations that authorized them to reject the charge, they backed off. The most egregious of these instances was a disability discrimination charge in which "disability" and "retaliation" were checked off and the charge alleged that my client was an individual with a disability who was being denied urgently needed accommodations and whose medical information was not being kept confidential. (My client was literally dying because of the employer's change in his work schedule, which interrupted his regime for taking HIV medication.) Someone from the Miami EEOC office called and said the charge was being rejected because it didn't expressly mention the Americans with Disabilities Act. I hit the roof and told them that the description of the discrimination and checking off of "disability" made it patently obvious that this was an ADA charge.——Comment 101 (Miami)

Inability to contact EEOC personnel. For example:

—Complete inability to talk to any EEOC personnel about status of charge, investigation, etc.; complete failure of EEOC to conduct any investigation of charges that clearly are meritorious.——Comment 185 (Baltimore)

—I have had . . . numerous occasions where I have attempted to get in touch with investigators to convey information or inquire into case status and my calls have not been returned.——Comment 128 (Cincinnati)

Other Intake Problems Confronted by Survey Respondents and Their Clients:

—Lack of Spanish-speaking personnel.——Comment 80 (Birmingham)

—The EEOC charge form is not readily available.——Comment 82 (Dallas); see also Comment 32 (Cincinnati)

—Lack of coordination among EEOC personnel (e.g., different investigators assigned to charges against the same employer involving the same discriminatory practice).——Comment 86 (Dallas)
—Lost charges and files.——Comments 114 (Philadelphia); Comment 65 (St. Louis); Comment 128 (Cincinnati); Comment 62 (Baltimore)
—Failure to provide right-to-sue letter.——Comment 116 (Charlotte)

Problems with Investigations and Post-charge Processing

The narrative comments that accompanied the survey responses also enumerate repeated concerns about what takes place after charges are accepted by the EEOC. These concerns include the following:

—Cursory investigations by untrained investigators. For example:
  —The problems I have encountered have occurred after the charge is filed. We have had several cases where the EEOC simply decided not to investigate or even [to] require a response from the Respondent because the EEOC decided the charging party could not be discriminated against on the basis of race if the decision maker was the same race. That is not the law, but it is making it hard to prosecute these cases.——Comment 13 (Chicago) [emphasis supplied]
  —My problems have been with the EEOC's lack of investigation and routine acceptance of the respondent's position.——Comment 116 (Charlotte)
  —Zero knowledge of pretext. EEOC requires direct evidence or they dismiss the claim. Also, zero knowledge of the single enterprise theory. If the employer says they don't employ 15 people or 50 people, etc., EEOC makes no further inquiry.——Comment 52 (New Orleans)
  —The EEOC routinely contacts clients who are represented by counsel and gives them advice which is often incorrect, and causes the clients unnecessary confusion.——Comment 104 (Philadelphia)
  —Pregnancy discrimination charge dismissed because client was replaced by a female. Investigator didn't understand that the female that replaced my client was not pregnant. Recently, same investigator would not allow my client to amend charge to include retaliation which occurred after the filing of the first charge. New charge had to be filed after discussion with investigator's supervisor.——Comment 113 (Denver)
  —[T]he investigators are overwhelmingly unqualified (can't even identify the prima facie elements to claims, and have no clue how to investigate). There is very little access and transparency, since the District Director . . . is more interested in closing files and denying access to position statements than he is in having his investigators do their job.——Comment 73 (El Paso)
  —Another EEOC problem: they are not investigating a lot of charges. I've had a few potential clients come in with charges that received no substantial evidence findings within 7 days of filing.——Comment 2 (Chicago)

—Perfunctory acceptance of the employer's written response to the charge, and little or no assessment of the merits or follow-up to test the representations contained in the employer's response (such as contacting witnesses or obtaining relevant comparative data). For example:
  —[The] most frequent and significant problem I have encountered is resistance by some investigators to conduct a meaningful investigation if they have determined that the case has no merit. Investigators will often receive the employer's position statement and reach a premature conclusion that the charge has no merit. The investigators are then resistant to conduct[ing] an investigation (e.g., contact witnesses or obtain documents) that might indicate that the employer's position statement is inaccurate or is not meritorious. In my opinion, this resistance occurs from a need to move and close files at a certain rate.——Comment 77 (St. Louis)
  —We get almost no feedback on the [investigation] process. Conciliation ends up undervaluing the claims dramatically. There are a few good investigators, but for the most part there seems to be no will to question, let alone rebut, the proffered explanation of the employers. When we FOIA the records afterward there is almost no discovery conducted. There is almost never a "for cause" finding. I think I have seen at most three or four throughout a fifteen year career. Needless to say I have settled many a case in which the EEOC found no cause. The administration at our [EEOC] office seems completely oblivious to the problems. When the issues are raised, the reaction is, "Well, that is not our policy, so, it must not be happening the way you describe it." I was on the verge of FOIAing the Detroit district office annual reports to use to request some sort of Congressional oversight from our senators.——Comment 99 (Detroit)

—The problems I have with the EEOC occur during the supposed "investigation" of the charge. The investigators typically receive the employer's position statement, treat it like the gospel, do nothing more, and then issue a terrible letter telling my clients that they were horrible employees and that there was no discrimination. I have repeatedly complained about this to the [EEOC] Cleveland counsel, to no avail.——Comment 98 (Cleveland)

—They simply notify us of their intent to dismiss based on the employer's position statement without giving the charging party an opportunity to refute what the employer has said.——Comment 29 (Detroit)

—Perfunctory issuance of boilerplate right-to-sue letters at intake or after a pro forma investigation. For example:

—I have seen several instances of clients who file charges and receive their notice of right to sue at the same time, with no investigation.——Comment 83 (Dallas)

—My problems arise after filing and the EEOC does nothing. I draft questions and investigators do not investigate or are just too busy to do anything. I file at least a half dozen charges each year. Inevitably we get back the punt, unable to determine if discrimination took place."——Comment 57 (Philadelphia)

Inadequate Funding: The Source of the Problems

These findings, as alarming as they are, do not come as a surprise. They clearly are, in substantial part, symptomatic and the consequence of an inadequate budget which has resulted in an understaffed agency burdened with a massive flow of charges and an ever growing backlog. The Commission has struggled to meet the mounting pressures of this burden and has tried to adjust to the realities of its budget through a major reorganization and reallocation of staff. Members of Congress, NELA, and other stakeholder organizations were critical of and voiced their skepticism about the reorganization, fearing it would, if anything, further deplete enforcement and would not result in staffing that would achieve the results forecast by EEOC. Whether those criticisms were well founded or whether the Commission's blueprints for reorganization make sense are appropriate subjects of debate and scrutiny. That controversy, however, ignores an overwhelming reality.

When the chaff is separated from the wheat, the key fact that emerges is that the EEOC has for many years only been able to budget a small amount of its funding to enforcement and virtually nothing to training personnel. This renders the Commission ill-equipped to achieve its mission, produces never-ending delays, prevents even minimal training of staff, and breeds inordinate pressures not to add to a burgeoning backlog by junking potential and actual cases at every step of the administrative process. More specifically, it produces an inherent resistance to the filing of charges by compliance staff, shortchanges investigations (if and when they take place), and increases an administrative "washing of hands" of cases through the convenience of boilerplate Notices of Right to Sue that include nothing but a mere check-off box for "insubstantial evidence to determine" discrimination.

The inescapable conclusion is that the reductions in the EEOC's budget over the past several years have wreaked havoc upon the Commission's enforcement efforts. For all intents and purposes, these budget levels have imposed upon the EEOC a paralysis that frustrates Congressional intent in enacting equal employment opportunity laws, the Commission's efforts in achieving its mission and, moreover, the rights of American workers to be free from unlawful employment discrimination. For those who do succeed in obtaining relief from illegal employer conduct, that relief is likely to be only after years of delay.

In enacting various anti-discrimination laws, Congress has signaled that addressing and eliminating invidious discriminatory employment practices is one of the nation's highest priorities. Thus, it is incumbent upon Congress to ensure that the Commission—the federal agency that it has mandated to enforce these laws—receives the necessary funding to rectify the untenable morass described in this report. If the EEOC is to overcome the dire consequences of past budget reductions, then funding well beyond the current levels must be made available.

At the same time, the EEOC also must be held accountable to Congress and the public it serves. Thus, oversight and assessment mechanisms must be put into place to assure that additional resources are directed toward viable and meaningful enforcement of the EEOC's mandates. In particular:

—Immediate attention should be given to how many investigators and attorneys are assigned to each of EEOC's offices as well as to the past and anticipated case flow at each of these offices.

—A critical examination is needed to determine what, if any, training is provided to EEOC's compliance staff.

—If EEOC intends to make good on its commitment to revitalize systemic cases, then the agency needs to assess whether it has sufficient staff attorneys and support personnel to fulfill this promise.
—Mechanisms are required to ensure that individual cases are not short-changed while the Commission pursues systemic cases.
—Factors relating to employee performance incentives and awards should be based on enforcement of the laws, vindication of civil rights and changing business practices as opposed to speeches and community outreach.

Conclusion

The findings of NELA's survey lend credence to the problems faced by the EEOC and those Americans the agency is mandated to protect from unlawful employment discrimination. For the EEOC to fulfill its mission as the federal agency most responsible for the enforcement of the nation's equal employment opportunity laws, these problems must, at a minimum, be addressed with more resources targeted at improving basic enforcement functions.

APPENDIX A.—NELA EEOC CHARGE PROCESSING SURVEY—NUMERICAL DATA

Total Responses: 343
1. Name:
2. EEOC Office you primarily practice before:
3. Since January 1, 2005, have you drafted a discrimination charge (or charges) for a client (or clients) that was (were) not accepted for filing by the EEOC office identified above?

	Number	Percent
Yes	77	22.60
No	264	77.40
Total Respondents	341	.....

4. If yes, how many times did it occur in calendar year 2005:

	Number	Percent
0	155	74.20
1	18	8.60
2	19	9.10
3–5	13	6.20
6–10	1	0.50
11 or more	3	1.40
Total Respondents	209	.....

5. How many times did it occur in calendar year 2006:

	Number	Percent
0	153	70.50
1	37	17.10
2	15	6.90
3–5	10	4.60
6–10	.....	.....
11 or more	2	0.90
Total Respondents	217	.....

6. How many times did it occur from January 1, 2007 to present:

	Number	Percent
0	198	92.50
1	13	6.10
2	1	0.50
3–5	2	0.90
6–10	.....	.....

	Number	Percent
11 or more	.....	.....
Total Respondents	214	.....

7. Since January 1, 2005, have you prepared an EEOC intake questionnaire (or questionnaires) that was (were) not accepted by the EEOC office identified above:

	Number	Percent
Yes	19	5.70
No	316	94.30
Total Respondents	335	.....

8. If yes, how many times did it occur in calendar year 2005:

	Number	Percent
0	156	94.00
1	2	1.20
2	5	3.00
3–5	1	0.60
6–10	2	1.20
11 or more	.....	.....
Total Respondents	166	.....

9. How many times did it occur in calendar year 2006:

	Number	Percent
0	155	90.60
1	10	5.80
2	3	1.80
3–5	2	1.20
6–10	1	0.60
11 or more	.....	.....
Total Respondents	171	.....

10. How many times did it occur from January 1, 2007 to present:

	Number	Percent
0	166	96.50
1	5	2.90
2	.....	.....
3–5	1	0.60
6–10	.....	.....
11 or more	.....	.....
Total Respondents	172	.....

11. Since January 1, 2005, have you had other problems with the EEOC in the processing of charges or intake questionnaires (e.g., resistance by EEOC office identified above to accepting filing as prepared by you, substantial modification by EEOC of what you prepared, etc.):

	Number	Percent
Yes	117	35.70
No	211	64.30
Total Respondents	328	.....

12. If yes, how many times did it occur in calendar year 2005:

	Number	Percent
0	130	62.20
1	24	11.50
2	30	14.40
3–5	21	10.00
6–10	4	1.90
11 or more	.....	.....
Total Respondents	209	.....

13. How many times did it occur in calendar year 2006:

	Number	Percent
0	117	55.70
1	34	16.20
2	32	15.20
3–5	23	11.00
6–10	3	1.40
11 or more	1	0.50
Total Respondents	210	.....

14. How many times did it occur from January 1, 2007 to present:

	Number	Percent
0	164	79.20
1	28	13.50
2	8	3.90
3–5	5	2.40
6–10	2	1.00
11 or more	.....	.....
Total Respondents	207	.....

APPENDIX B.—NELA EEOC CHARGE PROCESSING SURVEY LIST OF EEOC OFFICES REFERENCED BY RESPONDENTS

Atlanta District Office
Birmingham District Office
Charlotte District Office
Chicago District Office
Dallas District Office
Houston District Office
Indianapolis District Office
Los Angeles District Office
Memphis District Office
Miami District Office
New York District Office
Philadelphia District Office
Phoenix District Office
San Francisco District Office
St. Louis District Office
Baltimore Field Office
Cleveland Field Office
Denver Field Office
Detroit Field Office
New Orleans Field Office
San Antonio Field Office
Tampa Field Office
Seattle Field Office
Washington Field Office
Albuquerque Area Office
Boston Area Office
Cincinnati Area Office
El Paso Area Office
Kansas City Area Office
Louisville Area Office
Milwaukee Area Office
Minneapolis Area Office
Nashville Area Office
Newark Area Office
Pittsburgh Area Office
Raleigh Area Office
Buffalo Local Office
Greenville Local Office
Honolulu Local Office
Las Vegas Local Office
Norfolk Local Office
Oakland Local Office
Richmond Local Office
San Diego Local Office
San Jose Local Office
San Juan Local Office
Savannah Local Office

APPENDIX C.—NELA EEOC CHARGE PROCESSING SURVEY COMMENTS ORGANIZED BY OFFICE

Atlanta District Office

16. [No problems] in the charges we file except that when we have more than one employer the EEOC now insists upon having separate charges and they have ended up going to different investigators. Our clients who come to us after going to the EEOC, on the other hand, have numerous horror stories about being told they couldn't file because they still had their job, didn't have a case, etc.

34. I receive many calls from potential clients that describe being turned away from EEOC and not allowed to file a charge of discrimination.

41. The problems with the EEOC usually arise when the charging party is NOT represented by an attorney. That's usually when I hear about instances of the EEOC refusing charges, or advising charging parties that they don't have any claims, etc. When the charge comes from a lawyer, it's been my experience that they usually accept the charge.

49. Requests to interview my clients directly without informing me of the nature or specific purpose of the interview, other than saying that the charge as drafted was insufficient.

59. One of my clients just had his case, a strong religious discrimination case, dismissed due primarily to the EEOC's incompetence. The client went to the EEOC, pro se, complaining about religious discrimination in the workplace. The investigator said that much of the supporting evidence my client had was more than 6 months old, and discouraged my client from filing a religious [discrimination] claim. The investigator asked my client the race of client's boss, who is white. The client is black. The investigator said he'll check off the race box. My client said no, it's not a race claim, it's a religious discrimination claim. The investigator said that he can only check off one box, and since a lot of client's evidence is more than 6 months old on the religious [discrimination] claim (but his termination was within 6 months), he will go with race only. My client was pro se, at the EEOC for the first time, and wrongly trusted the investigator to get it right. My client subsequently put on the questionnaire that it is a religious discrimination as well as race matter. The Court denied Defendant's motion to dismiss for failure of notice in the early stages of the litigation. We then went through full discovery, costing the client over $7,000. Then, a new judge took over the case. He tossed the case on summary judgment due primarily to the EEOC mishandling of the charge. He also briefly went over the facts of the case and determined the underlying facts were not strong enough. That was argued very poorly and we would have had a good shot on appeal on that argument. Unfortunately though, his primary argument—the EEOC matter—has enough case law on both sides. We decided not to appeal.

92. The primary problems of which I am aware are related to unrepresented charging parties who try to file charges. For example, recently I was contacted by a charging party who had submitted his questionnaire in October, but as of mid-February had heard nothing from EEOC. His 180 days to file was within a month of running. I contacted EEOC on his behalf and was told that they were "just getting to" the October questionnaires and that the fact that his time was close to running did not give it any priority over other charges. I ended up filing a charge on his behalf instead of waiting for the EEOC.

93. NELA–GA is in communication with the Atlanta EEOC office about joint employers. The EEOC wants separate charges filled out for each employer (meaning the charges are assigned to different mediators, different investigators . . .); NELA–GA wants all employers to be listed on the same charge.

110. EEOC often pigeon holes a complaint into "race" or "gender" rather than check multiple boxes to cover discrimination based on more than one factor. EEOC also often gives clients incompetent and wrong legal advice.

118. While I have not had problems with the EEOC accepting my charges or questionnaires, I have had many potential clients report that the EEOC would not accept their charges—at least 4 in the past two months. I cannot say how many have reported this since January 2005, but the numbers seem to be increasing of late. In addition, the EEOC does not want any information before the 180 day filing period, whether or not this information is relevant to the discrimination claims in the charge.

119. Individuals going to the EEOC alone and having the intake office refuse to take their charge or telling them they have no case.

142. Telling people who come in, even if they have a witness with them that they have no case. In one instance it involved touching sexual harassment and an eye witness and they were turned away. They tell the potential charging party they have no case and never inform them that there are other laws that the EEOC does

not enforce that may apply to their situation. Also have had preemptory dismissals without any defect on the face of the charge.

173. Refusal to allow charging party to check more than one box; refusal to allow charging party to name employment agency or joint employer; not allowing charging party to mention events outside 180 days on the face of the charge; telling charging party she doesn't have a charge and not letting her file.

175. One investigator threatened not to accept an amended charge. I filed it anyway.

Birmingham District Office

80. Lack of Spanish-speaking EEOC personnel in the South.

95. Years ago, in the 1990s, the Birmingham office would not take a charge by fax. I haven't tried since then. I think charges should be accepted by fax, email, etc.

151. Most investigators are lazy and rude; one black male hated all complaints from females, asking "Who do you think you are?" to a sexual harassment victim. He was equally threatening to me. Had to go to the national director to get him removed. Turned out he was having a gay affair with an executive of the employer. With no state employment discrimination laws, we must go through EEOC.

Charlotte District Office

7. I have not really had any problems in connection with the filing of a charge. My problems have been with the EEOC's lack of investigation and routine acceptance of the respondent's position. Also, I have had some incidents where the EEOC has not provided the right to sue letter to the complainant.

116. My clients who go in person to file charges have been turned away and told they do not have a charge. They have also encountered some rude intake people. I have had to tell clients to go back and insist they have a right to file a charge. I have also had EEOC people discourage people from retaining an attorney.

141. I have two problems with the EEOC. One, they will not issue a right to sue letter 180 days after the charge is filed. Two, they will not keep me informed of the status of the charge.

Chicago District Office

1. Particular EEOC investigator [deleted] is pre-disposed to employer stances/defenses. [Deleted] has completely unreasonable demands of clients for specific dates and times of discussions from over a year prior. [Deleted.] demands both shorter CODs and more details and facts. [Deleted] even accused attorney of coaching witness to change testimony and of witness of changing testimony.

2. The EEOC-Chicago now has a rule that they any charges that come in notarized automatically get sent to the Illinois Department of Human Rights. The EEOC will take only un-notarized charges. I learned of this rule from an investigator. Another EEOC problem: they are not investigating a lot of charges. I've had a few potential clients come in with charges that received no substantial evidence findings within 7 days of filing. I have a case now where the EEOC told my client that he did not have a case, and that they wouldn't accept his charge. He insisted, so they accepted the charge (that they drafted). Months later (after 300 days post-incident) he got a call from the EEOC telling him that he needed to sign another (identical) charge. He did, sent it back, and it was stamped "filed" for that new date. Then, the EEOC dismissed him for filing too late. Luckily, he had a copy of the original stamped charge, and we survived a motion to dismiss on this. But the EEOC file had notes saying that he chose not to file the first charge—total cover-your-#$@ language. I'm guessing they lost the first charge. Another client of mine had his Chicago charge ignored for 8 months, when he called on it, the Chicago office hadn't heard of him. He got a call a few days later from the Cleveland office; they were investigating it. He talked to the investigator and she said she'd get back to him in 30–45 days. Four hours later she called back, said never mind the previous call, she was issuing a right to sue now because she determined from reading the charge that he was not a qualified person with a disability. (!!!!!) In other words, she was not investigating it, period. I have another case at the EEOC that has been there for a couple of years. It has class action potential against a major retailer, so the legal department is thinking about it. I check in periodically, get told they are still thinking about it. I don't want to rock the boat because it would be GREAT for the clients if the EEOC took this on, but it's been way too long.

3. EEOC refused to accept charge of my client last September 2006. Two weeks before the 300th day, senior investigator sent a letter in mid-December saying she would not accept the charge. After I finally made a scene on the 300th day, EEOC accepted the charge and pulled the investigator off the file. Then when new investigator called to interview my client, she refused to give me the name of the attorney representing the company so I could discuss settlement with the attorney. I was told

the EEOC never gives out names of lawyers and if we wanted to discuss settlement, we could only do so through EEOC (translate: so they can get credit for any settlement amounts). On other fronts, we have seen a great deal of foot dragging on issuing right to sue letters.

10. Twice my office was told by an EEOC representative that they changed a policy and now any charge that was notarized would not be accepted for filing. We had to have the client re-sign the cover sheet and filed it unnotarized. However, since mid-2006 when this occurred, we have filed several other charges where the charge was accepted notarized without incident.

13. The problems I have encountered have occurred after the charge is filed. We have had several cases where the EEOC simply decided not to investigate or even require a response from the Respondent because the EEOC decided charging party could not be discriminated against on the basis of race if the decision maker was the same race. That is not the law, but it is making it hard to prosecute these cases.

14. Re: filing charges—they don't investigate, they won't litigate good cases and choose to litigate horrid cases—they've got it all backwards here.

31. Apart from my personal experience, potential clients report EEOC turning them away when they attempt to file a charge. EEOC will opine they don't have a case. On at least two occasions they misplaced written appearance notice and contacted client directly.

40. I have never had the EEOC reject for filing a charge I have drafted, although there was a lot of confusion last year when the EEOC suddenly began to refuse to accept charges that had been notarized. In my experience, however, problems with charge filing at the EEOC's Chicago office are more likely to occur when an individual is not represented by an attorney. I have had clients first come to me after they filed a charge that they had EEOC drafted for them, and the charge often omits important allegations that the client told the EEOC about. In addition, charge intake personnel sometimes give individuals misinformation about the strengths or weaknesses of their claims.

45. Because of previous problems with the EEOC I always draft the charges and have them hand delivered and stamped. I stopped sending my clients in to file on their own behalf because the EEOC often will not include all claims (even when client has been instructed by me as to what claims, or they tell clients they don't have a case even though I have already determined that they do.

60. EEOC refused to file various charges, but I eventually talked them into it. EEOC eventually accepted all charges.

72. Chicago office refuses to release the respondent's position statement "to the claimant's counsel or to the claimant."

75. The triage system for handling charges is not well implemented. Some investigations done are haphazard. The office does not timely respond to FOIA requests for documents in investigative files, even after the right-to-sue is issued.

143. Although I primarily work with the EEOC in Chicago, the office our firm had "problems" with was either Tampa or Miami (I'm fairly certain Miami). We were forced to significantly reduce the length of a charge, which required leaving out certain factual allegations we wanted to include. I'm fairly certain this was 2006, but it could have been late 2005. It could have been very problematic, given varying judicial interpretations of the "scope of the charge" doctrine, but the matter resolved.

155. I have not encountered significant problems filing charges; however, I have been encountering increasing resistance during the investigative phase and even in mediation. Specifically, I have found an increasing desire by investigators and mediators to close their files at the expense of the charging party. Many times in recent years, the investigators have conducted themselves more like an opposing counsel would when taking my client's deposition (e.g., very adversarial and confrontational). I certainly don't believe that is the proper role of the EEOC.

156. Investigator who rolled her eyes during the intake (my client was not represented then) was assigned to the investigation during which she "no caused" the case in record breaking time based on her impressions during intake.

181. Problem I had was with Miami, Florida office. The EEOC would not accept the charge we drafted and instead re-wrote a shorter and less complete charge.

186. The time for a charge to be processed from start until we get right to sue is wildly inconsistent. We get right to sues within a few months finding no evidence or get a right to sue over 1 year later. There is no consistency that I have recognized either in terms of the type of charge, merit of the charge, or any other possible pattern.

Dallas District Office

9. I file many charges with the EEOC. I prepare my clients' charges. I have never had a problem with the EEOC in accepting the charges.

26. Failure to investigate, failure to interview witnesses, failure to request documents, difficulty in getting in touch with EEOC investigators.

37. I had one disturbing situation with a client who met with me after first going to the Dallas EEOC. What he told me about his treatment there concerned me, as it may signal a more widespread problem in terms of acceptance of charges. In his situation, he was told that he did not have a case and that if he insisted on filing a charge they would give him a right to sue notice that day and he would have only 90 days to file suit. Since he didn't have an attorney at the time, he did not file the charge that day. Luckily, he met with me in sufficient time to still file a charge, which we did without trouble, and the case later resolved during litigation. The fact that he was turned away initially, however, bothers me a great deal. How many others are told they don't have a case and are turned away?

58. Telling me what the law is even if they are wrong and therefore wanting to dictate dates of discrimination and whether I can mark continuing action. Not wanting to accept more explanation, such as a letter detailing the charge, as opposed to just limiting the information to the small space on the form. I got my way in the end each time, but was a hassle. For clients—not processing the intake questionnaire in a timely manner, such that questionnaire pre-dates by weeks actual charge while deadlines tick.

82. The EEOC Charge form is not readily available.

83. I have seen several instances of clients who file charges and receive their notice of right to sue at the same time, with no investigation. I have also had clients tell me that they were told that they did not have a case and were not allowed to file a charge.

84. A client who filed her charge with the San Antonio, TX office in 2005 (prior to my representation of her) was forced to substantially modify her claims and description of events supporting her charge. The EEOC staff member said that the EEOC would not accept her charge unless she made the changes. These changes substantially and negatively impacted the client's case.

85. Client filed initial race discrimination charge. After reporting some possible retaliation to me, I instructed her to write a letter to EEOC to amend charge to add retaliation. EEOC did not amend charge, and her charge received no attention for several months.

86. Multiple clients filing charges against a single employer for the same reason. Charges are assigned out to different investigators. If one investigator were to take the charge, then they would have a more complete picture of what is going on at the employer. Also, the problem seems to be mainly with people who attempt to file charges without an attorney. I get many, many calls from people who say that the EEOC told them that they do not have a case when in fact they do have one, or would have if they had filed the charge when they contacted EEOC. EEOC gave them bad legal advice which caused them not to file when they should have, and their rights were compromised.

96. I have had potential clients who tell me the EEOC told them there is "no discrimination" and refuse to take a charge.

134. Other than the fact that for at least the last 25 years, the EEOC intake staff has demonstrated hostility to working people in general and a great capacity for leisure, nothing out of the ordinary—but then I have come to expect nothing from the EEOC of a positive nature, either.

136. Local offices have been resistant to providing a qualified sign language interpreter for interviews so that a person who is deaf can fully understand the questions they are being asked. At times, I have had to bring my own sign language interpreters to the EEOC office in order to ensure that my clients can understand what is going on in the interview.

187. Sometimes I have to submit a legal brief to support the charge, but the EEOC office has always accepted the briefing.

192. I have had clients go to the EEOC to try to file a charge before they have retained counsel. They were told by the EEOC that they did not have a case and were not allowed to file a charge. Once I was hired, I would send the client back to the EEOC, but there were times when the claim would be time barred if the EEOC did not use the initial date of the client visit. I have run into problems where the EEOC would not go back and use that initial first visit date as the date for filing the charge even though the EEOC told the client he/she could not file a charge because he/she did not have a case.

Houston District Office

47. EEOC officials routinely tell individuals they cannot file charges or their grounds do not constitute violations. They are NOT in a position to know and have done no investigation. Usually they are wrong anyway for a plethora of reasons, in-

cluding philosophic reasons. All charges should be allowed to be filed. Also, charges filed are incomplete and strictly boiler plate and missing essential facts and claims, usually discrimination and national origin claims as it relates to race and color claims. Also, the EEOC officials fail to identify 42 USC 1981 claims which have no punitive damages limits as well and advise.

87. I am now having trouble with multiple employers in two areas: (1) where we are not sure if the underlying employer is a separate company of the parent so we name both and both need to be noticed . . . am not sure they are; and, (2) where there are co-employers, I heard by the grapevine that they should be two separate charges on the same facts, but have not had anything rejected yet.

103. They do not always confirm they have received a charge and return it with a charge number. Also, they often do not send a copy of the right to sue or other correspondence to the attorney.

149. Not precisely relevant, but a couple years ago I represented a woman who went to the EEOC and met with an intake person. She was scared to death to file a charge and wasn't committed to doing so. She went just to get information and discuss her options. The intake person prepared a charge and mailed it to her. She wasn't prepared to file a charge. The next thing she knew, she received a notice of right to sue, copied to the employer, dismissing the charge she never filed on the grounds that she'd failed to cooperate. No investigation was done of course, and nor had she ever actually filed a charge. This was during the time that Houston was headed by [deleted], an incompetent management tool who remains in charge of the Dallas and San Antonio offices. I contacted him to seek some redress of the situation. He agreed to withdraw the notice of right to sue only if my client agreed to immediately file a charge with the understanding that it would be promptly dismissed without an investigation, thereby giving her an untainted right to sue. It was truly an appalling abuse of the Commission's authority, all around.

158. People who file (or try to file) before obtaining our assistance have problems—they are refused, or the wrong claims are asserted, or joint employers are not named.

183. Numerous clients over the years, including 2005–2007 have reported to me that the Houston District Office of the EEOC refused their attempt to file a charge. I also have had some reports of intake personnel at the office strongly discouraging individuals from contacting an attorney regarding their claims.

Indianapolis District Office

70. They required a whole new charge to be filed for one typo.

109. The Indianapolis EEOC office asked plaintiff's attorneys to cooperate with them by NOT preparing written filings to them for our clients. They want the intake questionnaires and charges to be drafted by their trained personnel. Given this request, we have provided our clients with contact information and sent them to file directly with the EEOC. Many, many of them have called me to complain that the EEOC intake officer told them they do not have a case and refuse to file a charge for them. Only after my client has become belligerent—because I warn them this may happen and they need to insist—then a charge is finally prepared and it is usually pretty sloppy. I then rewrite the charge for the client to sign and file. At the investigation stage, there is no such thing as an investigation anymore. I have not had the EEOC actually do an on-site investigation and take witness interviews in a case since they started the A,B,C classification system. Instead, I get a letter summarizing the respondent's legitimate non-discriminatory action and a demand that I submit proof to rebut it—which is ignored if I submit it—followed by issuance of a dismissal and notice of rights. I treat the EEOC process as just a time waster that allows my client to save up the filing fee so we can file a complaint as soon as the right to sue notice is issued. It is a real waste of taxpayer dollars.

Los Angeles District Office

6. Inability of intake officers to distinguish important from unimportant information provided by claimant.

8. The EEOC process is a complete mystery to me. I rarely file with the EEOC, so the numbers above represent 100 percent of my filings with the EEOC. In one case, there was such a substantial delay in communicating with me, I sent a letter asking for a right to sue letter. Despite follow-up calls and letters, to date, my client has never received a right to sue letter. Over six months has elapsed. I really do not understand the procedures.

23. Most of our charges are initiated by the Nevada Equal Rights Commission (NERC) as the deferral agency to the EEOC. The NERC frequently to my understanding refuses to take charges from individuals acting in proper person.

78. I personally have not had any situations where the EEOC has refused to accept a charge drafted by me. However, it should be noted that many years ago I worked at the EEOC as an attorney (and prior thereto as a Paralegal and Investigator) and still know some of the individuals at the agency. I do know that the Los Angeles office is VERY short staffed. The number of investigators is dismal in comparison to the number of investigators that were at the agency when I was there in the 1980s.

Memphis District Office

42. Intake person did not want to accept charge which I prepared and filed on behalf of a client. After that resistance, I began to file the charges by mail and did not meet with any further resistance.

137. They have tried to rewrite the charge to be very vague and non-specific, which leads to all kinds of trouble later. When I protested, the EEOC intake worker said that they had been instructed to take out specifics and leave vague, bare-bones allegations.

Miami District Office

4. The EEOC office in Florida is overwhelmed and conducts little or no investigation. They do not forward any documents to us and actually read the position over the phone as opposed to sending it to the firm. Often the investigator is uninformed on the law and has an out-dated definition of the law. Honestly, I see little benefit to the process and wonder if the budget could not be used in other ways.

15. We are concerned that the EEOC rarely, if ever, contacts the witnesses that we provide before it makes a final determination/decision. Needless to say, clients are upset if the EEOC does not contact the witnesses provided when making decisions. In fact, may clients feel that it is the firm's fault that the EEOC doesn't contact witnesses.

17. My charges are frequently rewritten.

21. Most recent problem was charging party worked at home and employer had no Florida address. I file charges with EEOC and FCHR, requesting EEOC mediate and investigate. Eliminates problems.

44. None, but I am utilizing a local OEO office, which acts as an intake office for the Miami EEOC.

53. The biggest issue is getting the investigator to actually do an investigation beyond reading the charge, position statement and reply. I have rarely seen that they contact witnesses, for example, or demand documents relevant to the charge.

69. I have never experienced a problem with the Tampa office in nearly nine years of dealing with them. [Deleted] and [deleted] are especially helpful.

101. The Miami office has accepted all the charges that I've drafted but on several occasions from 2005 to the present, they tried to reject charges (the most recent occasion being this month). When I challenged them and asked them to cite the provision of the EEOC regulations that authorized them to reject the charge, they backed off. The most egregious of these instances was a disability discrimination charge in which "disability" and "retaliation" were checked off and the charge alleged that my client was an individual with a disability who was being denied urgently needed accommodations and whose medical information was not being kept confidential. (My client was literally dying because of the employer's change in his work schedule, which interrupted his regime for taking HIV medication.) Someone from the Miami EEOC office called and said the charge was being rejected because it didn't expressly mention the Americans with Disabilities Act. I hit the roof and told them that the description of the discrimination and checking off of "disability" made it patently obvious that this was an ADA charge. The most recent instance concerned a sexual harassment and retaliation charge that generally alleged that my client had been subjected to sexual and retaliatory harassment by managers. I received a phone call from an investigator at the Miami office in which he indicated that the charge would not be accepted for filing unless we provided specific facts on the face of the charge. In a not-very-friendly tone, he asked how could I expect the employer to respond to the charge without putting it on notice of the instances of harassment.

111. Would not let me file a single charge against two respondents that I was alleging constituted a joint employer.

145. What I find is that unrepresented individuals are still being told "you don't have a case" and are turned away. Sometimes their time has passed before they decide to hire counsel. Otherwise, I have to say that I've had better luck the past couple of years with the EEOC process. More "cause" findings, although they are still unusual (I tell people they are more likely to be struck by lightning). And I had the first conciliation that actually resulted in a settlement in 20 years of practice. Most still result in nothing but additional delay. I would definitely like to see more pres-

sure put on parties to resolve in conciliation, such as mandatory participation in mediation.

New York District Office

5. Often inadequate investigation, extremely slow but sometimes the investigator is very good.

18. Investigations seem half hearted, with the outcome pre-determined. I especially object to the New York office transferring matters to Boston, where the investigators seem to almost object to having to handle the file.

36. Filing is usually no problem. It's the lack of meaningful action after that's the problem.

39. I have never had a problem filing a charge with the NYDO. I have never had an intake officer refuse a charge or otherwise practice law without a license. I don't know if this happens to pro se charging parties but I have never had a client make such a complaint to me. I do make sure to file the charge in quintuplicate by certified mail return receipt requested.

105. Investigation stage is very slow.

122. The Boston Area Office waits 180 days and then dismisses the charge. The investigators are often deceived by a lengthy and organized position statement, regardless of substance.

131. I sent a charge to the NYDO for filing in November 2006 and it was not processed until January 2007. Fortunately the statute of limitations had not run, but it caused significant anxiety for my client.

178. Several years ago, maybe before 2005, I had to write letters to senior attorneys in Washington, D.C., to get someone to pay attention to the fact that I had to make an urgent filing. In general, I have found that the phone numbers listed on the EEOC website prior to the phone center were simply not answered at all in some cities. Most of my practice is outside of NY.

Philadelphia District Office

11. The Philadelphia office sent one of my cases to the Baltimore office. The Baltimore office excluded my involvement even though I, the attorney for the charging party, filed the charges and had my name on record. The Baltimore office then made a determination solely on the employer's position statement that was filled with misrepresentations. The charging party was denied opportunity for a rebuttal because I never was notified after the case went to Baltimore for investigation. I learned of the Baltimore office's involvement only after a right to sue was issued. I was not sent a copy of the right to sue. Now the case is pending in USDC, Eastern District PA.

22. Mailed charge. Intake called me and said the EEOC does not handle "Black on Black" discrimination. Claim was that an African American supervisor subjected employees to disparate treatment. A call to the office intake supervisor ([deleted]) took care of it.

28. The only problem I have had is filing a charge and then receiving a stack of questionnaires in the mail which I have to fill out with my client before EEOC will docket the charge. All of the information in the questionnaires had been included in the charge and affidavit. Since then, I attended their intake training and even though I think the intake questionnaires are burdensome, I followed their instructions to the letter and have had no further problems with intake. My charges have tended to settle early so I have no further info re: handling subsequent to intake.

46. Charges never get processed at all. I filed a charge two months ago and have not received any correspondence from any investigator on it.

56. The only problem I have is that it takes weeks for the intake personnel to time stamp the charges making them appear to be filed later than they actually are. I have never had a problem with filing.

57. I have never had a problem with filing charges. My problems arise after filing that the EEOC does nothing. I draft questions and investigators do not investigate or are just too busy to do anything. I file at least a half dozen charges each year. Inevitably we get back the punt, unable to determine if or if not discrimination took place.

74. This was before 2005, but I had a client who was told by an investigator that he didn't have a claim because he lied on his employment application. The lie was that he said that he resigned from his prior job when he actually was fired and had a prior lawsuit claiming discrimination there. I had to go to Philadelphia with a letter that was a mini-brief before they overturned Newark and reopened the case. The Newark investigator never heard of the after-acquired evidence rule.

88. More recently our problems with the EEOC have included misplacement of files and failure to notify our office of dismissals of charges and the issuances of

notices of right sue letters. This has occurred twice thus far in 2007 from Philadelphia and once from Newark in 2006.

104. I ordinarily file my own EEOC charges for my clients with an entry of appearance. The EEOC routinely attempts to re-write the charge, invariably leaves out, and then sends the revised charge to the client for signature. It then tries to substitute the date of the "new" charge for the original filing date. I then have to write to the EEOC and demand that they use the original charge and original filing date. The EEOC has backed down after receiving my correspondence, but my intervention should not be necessary. For unrepresented clients or people represented by attorneys unfamiliar with the statute this could present some really difficult problems. In one case in 2006 the EEOC called my client, on whose behalf I had entered an appearance, and told him that it could not accept his charge unless he came into the EEOC personally and complete an intake with an EEOC employee. The EEOC then sent a letter to the client informing him that his charge was not valid and would not be accepted until he followed through on the personal interview. I wrote to the EEOC, explained the statutory requirements for filing, and it ultimately accepted the charge with the original date. Again, this should not have been necessary, particularly since I had entered my appearance. The EEOC routinely contacts clients who are represented by counsel and gives them advice which is often incorrect, and causes the clients unnecessary confusion.

114. Charges have been lost. I believe charges from counsel should be accepted before questionnaires or other confirming information is provided.

121. Intake workers and investigators who do not understand the law and, more importantly, decline to let you educate them about it.

138. EEOC normally will not accept a charge unless it is accompanied by numerous other forms (which could be provided during the course of the investigation). These include: Allegations of discrimination; Witness Questionnaire; Remedy form; Discharge (or other) form; etc.

139. I have filed a charge of discrimination on behalf of a client over 2 months ago and have yet to receive any correspondence even saying it has been received.

140. The EEOC is consistently resistant to accepting charges drafted by my office as drafted and does not accept charges that require investigation on a systemic basis. After the charge is filed, it is often difficult to secure the cooperation of the investigators in seeking appropriate information and documents.

146. Unfortunately most of the charges I file are with the Delaware Department of Labor that has a reciprocal working relationship with the EEOC. The EEOC can then do a substantial weight review, which means in most cases they adopt the DDOL findings.

152. I handle many federal employee cases, so the procedure is different. When I have private sector cases I refer and file them at the PHRC because I do not like the EEOC procedures. Since I also take many small cases that have potential settlement value, I find that the "triage" procedure at the EEOC is not conducive to getting such a case settled.

157. Delays in docketing, not returning time-stamped copies.

168. In the past 30 days I received a charge returned to me telling me that normally they have staff to make corrections on charges, but because they do not have enough staff currently, they were sending back my charge and giving me 33 days to correct the charge. They said that the charge was deficient because I stated the type of disability on the charge form, I described damages and my charge narrative was too lengthy (it fit on the front of the charge form).

174. They are quite hostile to any charge that's actually carefully drafted by counsel. In Philadelphia anyway, they like to have one big, fat, run-on paragraph that throws in (supposedly) everything. It's the kind of drafting that any advocate would be ashamed of, has no persuasive value, and has no utility later in the case. They really resent a lawyer's effort to represent the client.

177. My partner had a problem in the past year with an investigator trying to rewrite a Charge of Discrimination in an ADA case claiming that they were not allowed to accept charges that describe the disability in detail.

188. Supposedly required information was missing from our charge. The charge was initially rejected but through discussions with the Buffalo office, those problems were resolved and the charge was accepted.

Phoenix District Office

162. The time to get a Notice of Right to Sue once a request for dismissal of the case has been submitted.

163. The EEOC doesn't seem to follow-up or even investigate some of the worst charges.

San Francisco District Office

19. I generally discourage clients from filing with the EEOC because California's FEHA gives greater protection. But, I intervened in an EEOC case in 2005. I was appalled at how the EEOC investigator allowed the employer to limit the scope of his investigation to an interview with the general manager only. The EEOC investigator interviewed some of the witnesses and reviewed a few of the documents that my client had identified only after I complained. However, I found working with EEOC Deputy Attorney [deleted] both a privilege and a pleasure.

33. Offices in our area follow different procedures and constantly demand more information or different formats to accept charges. We have not experienced refusals because we do not accept refusals and are persistent about filing charges. I would not send a client to file a charge himself/herself.

43. None with the EEOC but lots with the California Department of Fair Employment and Housing.

94. Sent a non-African-American client to EEOC to complain that he had been fired because employer thought he was African-American. EEOC told him he could not file a complaint.

129. Several years ago I participated in a mediation conducted by a very biased mediator. It was obvious the mediator had a strong bias in favor of the University of Nevada (the defendant). I walked out of the mediation (I settled the case the next day (no thanks to the mediator)). I wrote to the EEOC and described the inappropriate and biased conduct of the mediator. This mediation occurred approximately in 2001. I have also experienced a couple of incidents whereby the EEOC basically attempted to hijack cases. I resisted these efforts successfully. The EEOC targeted my best cases, i.e., cases involving multiple sexual harassment victims, egregious conduct, blatant failure by management to redress the conduct, and strong corroborating evidence. I resisted the attempt to wrest control of the cases because I have had experience with the EEOC at mediation, i.e., I've witnessed an attempt by the EEOC to effect a nominal damage settlement in an extremely strong case involving seven plaintiffs. I effected a settlement for approximately 700 percent of what the EEOC mediator proposed the case be resolved for. It was obvious the EEOC mediator was intent on improving the EEOC's statistics—as opposed to achieving an acceptable resolution for the plaintiffs. Therefore, when the EEOC attempted to cherry pick my best cases, I resisted this effort. In my opinion, the EEOC tends to devalue good cases, i.e., they explain to plaintiffs (with extremely strong cases) the average settlement is something like $17,000 (I can't recall the exact figure used, but it is in this range). This is an appropriate settlement for a relatively weak case. The EEOC attempted to foist off this figure in one of my cases which involved seven women, who had been subjected to protracted, crystalline abuse (fucking c---, etc.). The response of management consisted of, "if you don't like it, there's the door." I easily obtained six, devastating corroborating affidavits. The defendant employed approximately 20,000 persons.

167. None. My problems in the last six years have been with the Oakland DFEH.

191. Many, many problems pre-2005 with various offices, including San Jose and Miami. Much better experience recently.

St. Louis District Office

77. Most frequent and significant problem I have encountered is resistance by some investigators to conduct a meaningful investigation if they have determined that the case has no merit. Investigators will often receive the employer's position statement and reach a premature conclusion that the charge has no merit. The investigators are then resistant to conduct an investigation (i.e. contact witnesses or obtain documents) that might indicate that the employer's position statement is inaccurate or is not meritorious. In my opinion, this resistance occurs from a need to move and close files at a certain rate.

108. I haven't experienced any charge filing problems with the St. Louis District Office since 1/31/2006 when I started private practice. It is difficult to get a blank charge, so once you get one, the best thing to do is keep it on your computer for future use.

135. I've had them "lose" an entire charge in 2005 that I had hand-delivered to the office. The internal "mediators," [deleted] and [deleted], are wholly worthless and investigator [deleted] REFUSED to find a Title VII violation where active KKK recruitment was ongoing at the jobsite! He classed that as a Title VIII (and, yes HUD is involved and a Title VIII retaliation charge has been filed and is being litigated in KS USDC) case—but was overruled by the Regional Director and a Cause Finding issued leading to Conciliation (which failed).

148. I have seen cases of non-represented complainants in which the intake person at the EEOC drafts a charge and immediately issues a notice of right to sue,

telling the complainant he/she "doesn't have a case" based on the intake person's inaccurate understanding of the law; e.g. "if you were the only person it happened to it can't be discrimination . . ." I wonder how many persons with legitimate complaints rely on that "advice" and decide not to pursue their claim.

176. I don't have problems—we have schooled over the years so that now they just take the charges we draft, give them a number and docket them. However, we hand deliver them and get them stamped received just to be safe. It is the unrepresented people who have problems. For instance, I have had people come to see me who have been told by the intake folks that they don't have a case and don't know they can insist on filing a charge. I draft and file the charge and there is no problem. I really worry about the folks who don't have a lawyer, not the ones who do!!

Baltimore Field Office

55. The personnel don't seem to be very well trained and don't provide the follow-up or keep their commitments. The Baltimore office seems to be a low performer.

62. Lost charges; when clients go to the EEOC on their own, EEOC representatives inadequately write up the complaint on the charging form or fail to allege all types of discrimination, thereby limiting the client's recovery.

64. I have not filed any charges in the specified time frames, so have not had any problems.

65. Charge not assigned to investigator for months, charge then transferred without reason to Baltimore.

79. The Baltimore, MD EEOC initially would not accept a charge alleging discrimination against an employment agency. At first they didn't realize they had jurisdiction over employment agencies. Then they erroneously stated that in the 4th Circuit, the employment agency had to meet the definition of employer (i.e. at least 15 employees). The representative I spoke with finally agreed they should investigate, and then referred it to an investigator who didn't understand the notes that were supposedly in the file and dismissed it for lack of jurisdiction.

127. Long periods of time without communication; erratic investigations—some investigators send the Respondents' position paper for us to rebut and others just dismiss the charge; mediation coordinator supervisor in Baltimore is terrible. (Keep this anonymous please.)

165. I have not experienced any problems regarding the filing of charges. The main problem that I have experienced is being able to speak with an actual person when I call an office.

185. Complete inability to talk to any EEOC personnel about status of charge, investigation, etc.; complete failure of EEOC to conduct any investigation of charges that clearly are meritorious.

Cleveland Field Office

91. They make the clients wait to talk.

98. The problems I have with the EEOC occur during the supposed "investigation" of the charge. The investigators typically receive the employer's position statement, treat it like the gospel, do nothing more, and then issue a terrible letter telling my clients that they were horrible employees and that there was no discrimination. I have repeatedly complained about this to the Cleveland counsel, to no avail.

133. EEOC is resistant to lawyers being involved in the process. And they require too much bureaucratic involvement at the front end, causing cases to be untimely. For this reason, I almost always refer clients to the state agency, where you can file a charge on-line, without the micromanaging that EEOC uses. They are useless, as far as investigation and providing any information regarding the employer's position, and I only recommend them when the charge is an age discrimination charge, based on our state's idiosyncratic way of dealing with them.

144. No problems with filing (although I know that charging parties have contacted me after they've filed because of problems they've had). Always a problem getting EEOC to investigate!

150. Investigators contacting the charging party directly despite my request to be involved with the intake and circumventing my attempts to set up a conference call.

Denver Field Office

90. 1. Refusing to provide a copy of Position Statement or even a Summary of a Position Statement makes preparing a meaningful rebuttal nearly impossible. 2. Asking that rebuttals—even in complicated cases—be prepared within 5 days although the EEOC has had the Position Statement for more than a year. 3. Being asked by investigators to draft charges in a rigid manner when the facts are more wide-ranging and some context is necessary. As lawyers, we have to anticipate ways our charges may be attacked—which might require something other than what the investigator wants. 4. Disputes as to what is an amended charge or a new charge.

113. Pregnancy discrimination charge dismissed because client was replaced by a female. Investigator didn't understand that the female that replaced my client was not pregnant. Recently same investigator would not allow my client to amend charge to include retaliation which occurred after the filing of the first charge. New charge had to be filed after discussion with investigator's supervisor.

169. The EEOC makes it very difficult to file class charges or to file multi-charges for a number of class members who need a joint investigation. Our problems are not so much with the EEOC process in accepting charges, but in their failure to investigate cases and their biases against charging parties and their attorneys.

180. The Denver office has turned individuals away who were NOT represented. In one case during 2006, they advised the client to get an attorney, but they still turned the client away. Thanks!

Detroit Field Office

29. They simply notify us of intent to dismiss based on the employer's position statement without giving the charging party an opportunity to refute what the employer has said.

76. My client went to file an EEOC charge against Cintas, a company that the EEOC has had multiple claims against. I wrote out the charge for the client and she went down. She called me in tears because the EEOC refused to take the claim. Told her she did not have a claim. Our office wrote a letter to the EEOC and I then accompanied her back to the EEOC. After the charge was taken, nothing was done in terms of investigation. After several inquiries I was told the case was being sent to Washington to be handled along with other claims against Cintas. A few months later the case was dismissed, citing the defendant's claims verbatim. I do not believe any real investigation was done into my client's case.

99. We have many problems. In the Detroit area the EEOC office acts as a palliative: aggrieved individuals go there, uncounseled as a first step in the process. They are often told that they have no case and no charges are accepted. How many people with legitimate claims then exit the process, demoralized? If they come to us, we have to fight to get the charges filed, including writing them ourselves (which I have not had rejected but never results in much of an investigation). We get almost no feedback on the process. Conciliation ends up undervaluing the claims dramatically. There are a few good investigators, but for the most part there seems to be no will to question, let alone rebut, the proffered explanation of the employers. When we FOIA the records afterward there is almost no discovery conducted. There is almost never a "for cause" finding. I think I have seen at most three or four throughout a fifteen year career. Needless to say I have settled many a case in which the EEOC found no cause. The administration at our office seems completely oblivious to the problems. When the issues are raised, the reaction is, "Well, that is not our policy, so, it must not be happening the way you describe it." I was on the verge of FOIAing the Detroit district office annual reports to use to request some sort of Congressional oversight from our senators. My understanding is their entire litigation office only brought three cases to litigation in 2006. This is outrageous.

120. People who we speak to and send to EEOC on their own have reported that they are turned away from the EEOC and their charge is rejected.

New Orleans Field Office

20. Very negative in general. Usually don't understand retaliation claims.

52. Zero knowledge of pretext. EEOC requires direct evidence or they dismiss the claim. Also, zero knowledge of the single enterprise theory. If the employer says they don't employ 15 people or 50 people, etc., EEOC makes no further enquiry. Finally, EEOC requires the complainant to sign the questionnaire and charge under penalty of perjury, but the employer can respond via unsworn letter or even from the company attorney, without being bound by the response.

124. The whole process is just very slow. It usually takes anywhere from 30–60 days to get a response back from the EEOC.

San Antonio Field Office

50. I've had numerous situations where the client has been told it's your word against theirs and it would be a waste of time. Employees of the EEOC would try to dissuade the client from filing.

51. The times that the EEOC has rejected a charge or redrafted it were for purely stylistic reasons that in my opinion were unwarranted, such as rejecting a 1½ page charge that supposedly included "too much information." This has not happened frequently but it is annoying and seems non-sensical when it does happen.

67. I have a problem with the new process at the San Antonio branch. They will not give me a copy of the employer's response but will only read it to me over the telephone. Also, I am not notified if and when the employer files a response, so I

usually just get a letter from the investigator regurgitating the employer's position and ignoring the witness affidavits that I submitted.

71. Primary problem is EEOC turning away those who wish to file charges when NOT accompanied by a lawyer. They often do not make it to a private lawyer until many months later and sometimes miss the state 180-day deadline or even the federal 300-day deadline because they were discouraged from filing what was, in my opinion, a perfectly viable claim.

106. Back in perhaps 2002, the local office refused to accept a charge I had prepared. But, it was during the lunch hour, when a back-up person was working the front desk. When I went later that week myself, they accepted my charge with no problems.

112. I frequently counsel my clients that they WILL meet resistance to filing their complaints at the EEOC and they must INSIST that they be filed.

132. Intake investigators do not seem to understand the elementary principles of discrimination cases, do not seem to understand the significance of certain facts when those facts are presented to them during the intake interview, and can hardly write an intelligent sentence in either the charge or the affidavit.

147. Timeliness—even though charge was faxed in timely, but received by mail after deadline. Summary conclusion—the charge does not apply to any laws we enforce.

164. Rejecting the charge we prepared, rewriting it and leaving things out, refusing to accept a Form 5 from a private attorney.

170. Unqualified people telling me what does and does not fall under Title VII.

Tampa Field Office

25. Transferring a charge from Tampa to Miami and then not keeping me informed of the progress, including after dismissing the charge for alleged lack of jurisdiction. Tampa had me on their referral list, but I recently found out they had my wrong area code.

172. I filed a charge where the 300th day was a Sunday. The charge was sent by Fed Ex on Friday and delivered on Monday. It was returned as untimely. I call the Director and left messages about this but he never returned my call. Additionally, within the last year or so I have had extreme difficulty getting through to a live person when I call the EEOC—I get put into the "circular voice mail" thing and end up hanging up in frustration.

Seattle Field Office

35. No meaningful investigation—witnesses not contacted, no employer records requested, etc.

48. I had them "lose track" of my client's charge for 9 months.

171. I think the Seattle EEOC office does a great job and they have always been responsive to my clients' need. I live in Anchorage, Alaska, and practice statewide in Alaska. We do not have our own EEOC office, but the Seattle office makes a big effort to outreach to Alaska.

182. EEOC is now so overworked that I am hesitant to use them for anything but getting a NRTS.

Washington Field Office

63. We have a strong local law and need not exhaust administrative remedies first before going to court. Therefore the EEOC is not usually involved in most of our cases as we spend most of our time in the private sector.

66. Charges are not promptly prepared after questionnaire is completed and submitted. There are long delays in getting the final, typed up charge. Often, the language in the final charge is not accurate and needs to be corrected; this results in more delay. Telephone calls to make appointments, ask questions, inquire about status, etc. are not returned. Waiting periods in the lobby are long, even if no one else is sitting there.

97. I practice federal-sector law before the EEOC, and that process is slightly different than the private-sector cases. The biggest problem in the federal-sector is the inordinate delays in the assignment of an EEOC Administrative Judge.

154. We tend to file charges we prepare ourselves with supporting declarations of 5 to 15 pages. In several cases, EEOC has substantially delayed processing the charges while they rewrite our charges. As far as I can tell, the rewrites are pointless because they don't change the substance of the charge.

Boston Area Office

30. The EEOC told one client that they had too many cases to really read his case or deal with it with his since his did not involve a termination.

68. Connecticut is a deferral state, so we have little contact with EEOC, other than filing the initial charge. I have had only one case that was processed solely by EEOC, since it was filed more than 180 days after the discriminatory act. EEOC sent the case to mediation which was successful. They used a great mediator and I was very happy with the outcome.

89. Basically, I have a problem in their lack of investigation. I almost never file directly with the EEOC, but with our State agency. I do that even if it is going to get bumped to the EEOC.

115. In Maine, we file with the Maine Human Rights Commission and they forward our charges to the EEOC. I have not known of any charges returned to the MHRC during that process but am not sure that I would be told about it. I dislike dealing with the EEOC so much that I virtually never file directly with them.

Cincinnati Area Office

32. Two problems: (1) no charge form available online (which is ridiculous); and (2) inconsistency between local practice and general charge form (which our office had to create from a hard copy "EEOC form."

128. I have had several times where the office has been overly technical with the content of the charges. I have had charges get lost there and have had numerous occasions where I have attempted to get in touch with investigators to convey information or inquire into case status and my calls have not been returned.

El Paso Area Office

24. I have been told by investigators that the charge cannot be accepted without more detailed information, particularly comparative information. The detail required appears to exceed the notice pleading standard in federal court.

73. This survey is not very useful. The multitude of problems which charging parties face occur almost exclusively when they are proceeding pro se, not when they are represented by counsel. In El Paso, the investigators are overwhelmingly unqualified (can't even identify the prima facie elements to claims, and have no clue how to investigate). There is very little access and transparency, since the District Director (out of Dallas), is more interested in closing files and denying access to position statements, than he is in having his investigators do their job.

190. Southern New Mexico is now assigned to El Paso, which has caused many problems. We used to file in Albuquerque and they did a great job. El Paso is slow and also frequently applies 5th Circuit law it its analysis—but we're in the 10th. Also they have no discernable relationship with New Mexico's state administrative agency. I hear many complaints and wish they would change it back!

Kansas City Area Office

179. I file 90 percent of my client complaints with my state agency. The Kansas Human Rights Commission investigative staff makes a more thorough and timely investigation of complaints. I receive a letter determination for each case with a case investigation report. Then we seek review and/or a notice of suit rights from EEOC. I only file with EEOC when my client is outside the 180 day period for filing a state complaint.

Milwaukee Area Office

100. EEOC here very much resists letting attorneys draft their own charges. They insist on intake interviews and will draft their own charges or redraft a charge to suit themselves. We have seen some turning away of attempts to file charges but whenever our state affiliate hears of it, we get active. It comes in spurts.

159. Very, very slow investigation of a charge filed in October 2005. Lack of communication from investigator.

161. Iowa is a deferral state—so all processing is through the Iowa State Civil Rights Commission. My problems with the EEOC all stem at the end of the process—getting rights to sue.

Minneapolis Area Office

27. The only real problem we have with the EEOC is time. We have had charges sit for over two years. Most of the time we will pull it out and sue, but on class cases where the EEOC hinted we would get PC we did not want to do that. Otherwise it has been mostly okay. We have more problems with the state human rights department.

38. I have never had a charge not accepted. A few times in the past two years I have had charges merely dismissed because the employer denied the charges—a reason I find pretty outlandish to support a dismissal of charge.

107. I have not had any problems with filing—I had a problem with a no probable cause finding based on my client's refusal to accept an unconditional offer of reinstatement—which goes to damages, not liability.

160. I have received numerous reports from clients who came to me after first visiting the EEOC where those clients were told they did not have a claim or the intake person at the EEOC refused to prepare and file a charge. Consequently, we have begun preparing the entire charge, including the text, and filing that—which the EEOC has always accepted without change. It's just when a charging party is unrepresented and visits the EEOC first that resistance by the EEOC occurs. Some investigators are more notorious than others. The intake investigators are not attorneys but are making legal decisions. Of course, this could be critical if the individual does not first see an attorney or delays seeing an attorney until after the charging party's deadline has passed.

Nashville Area Office

153. It takes about 9 months to a year for the EEOC to complete its investigation. I don't know how that compares to other offices.

166. I have never had a problem but individuals have expressed to me about 6 to 10 times over last 2 or 3 years that the EEOC intake person said that they did not have claim and did not take a charge. I do not know if it is true but I believe they must be discouraging employees from filing charges.

Newark Area Office

54. Very slow follow-up on the part of the investigators. Lack of good training or knowledge of the law by investigators, who routinely reject cases that are then won in court or settled.

Pittsburgh Area Office

102. In my experience, the Pittsburgh office does an excellent job processing charges no matter what is alleged. It will take the charge, evaluate it as required and then make a decision. While I don't agree with the decisions made, my experience is that they do not dismiss a charge out of hand.

117. When charges are transferred from Pittsburgh to Cleveland, I am not notified and at times when there is more than one Respondent, not all the charges are transferred together.

Raleigh Area Office

12. I have not personally had any problems with the EEOC. However, I am aware of several clients who have experienced problems with having the EEOC accept their charges of discrimination and/or omit claims from the charge that the EEOC prepared (which were clearly covered in the intake questionnaire).

Buffalo Local Office

61. EEOC investigator objected to describing specific health condition in ADA charge.

123. My comment is neither profound nor new. The EEOC has very limited resources. The quality of a decent percentage of the investigators is not terribly high. They do not require a college degree and are being asked to evaluate issues that many lawyers outside the employment field would not immediately get. If private counsel is involved, my view is that they should either partner with them if the agency is interested in the case or willing to help, or otherwise simply stay out of the case so as not to mess stuff up. They should concentrate their resources on good cases brought by those without an attorney.

189. Office failed to respond to status inquiries for an extended period of time and then refused to perform investigation.

Norfolk Local Office

126. The Norfolk EEOC office is WOEFULLY understaffed. Just over a year ago the office had 12 investigators—it now has 5. EEOC personnel are working valiantly, but there are simply not enough of them. My clients are best protected from "frivolous" lawsuit claims by a cause finding. Obtaining one, however, can take over a year.

Richmond Local Office

81. EEOC has done almost no meaningful investigation: no follow-up after receipt of employer's position paper; no interest in contacting witnesses, etc.

125. Once charges are filed, it is often months or even years before anything is done or the charge is even assigned to an investigator.

San Juan Local Office

184. Very high rate of "no cause" rulings without any investigation.

Savannah Local Office

130. During reorganization last year, we were reassigned from the Greenville, South Carolina office to the Savannah, Georgia office, and have encountered some problems with filing, and some problems with one particular investigator who did not conduct much of an investigation, and sent the right to sue letter after several months directly to our client's mother, despite the fact that I left a number of messages over the course of 3 months, to which he never responded. It was clear on our paperwork that we were her attorneys from the start. The Savannah office does not seem to have been able to hire additional personnel, despite having a significant portion of South Carolina added to their region.

PREPARED STATEMENT OF THE INVESTMENT COMPANY INSTITUTE

The Investment Company Institute appreciates this opportunity to submit testimony to the Subcommittee in support of the Administration's fiscal year 2008 Appropriations request for the Securities and Exchange Commission (SEC). We commend the Subcommittee for its consistent past efforts to assure adequate resources for the SEC.

Mutual funds are an integral part of the U.S. economy and continue to be one of America's primary savings and investment vehicles for middle-income Americans. Since 1990, the percentage of U.S. retirement assets held in mutual funds has more than quadrupled. Today, more than 96 million investors in nearly 55 million U.S. households own mutual fund shares; the median household income of fund shareholders is $68,700. These millions of ordinary Americans continue to recognize that mutual funds are the best means of achieving their long-term financial goals. They deserve and benefit from continued vigilant regulatory oversight of mutual funds.

In addition to their role as the investment vehicle of choice for millions of Americans, mutual funds are major investors in securities and participants in the marketplace. As such, they have a strong interest in assuring the SEC's continued ability to soundly and effectively regulate securities offerings, other market participants, and the markets themselves.

For all of these reasons, sufficient funding of the SEC is critically important to the Institute and its members.

The Administration's fiscal year 2008 budget proposes SEC funding at a level of $905.3 million, which is a very slight increase from the $904 million appropriated in fiscal year 2007. The SEC has determined that this level provides it with adequate funding to fulfill its regulatory mandate and to continue protecting the nation's investors. Accordingly, the Institute urges Congress to provide appropriations at this funding level.

We believe it is significant that the SEC has specifically requested funding to allow it to continue to invest resources in technology. We are particularly pleased that the top strategic priorities for the SEC's Division of Investment Management include revamping the mutual fund disclosure regime by making disclosures more useful to investors through better use of new technologies, such as interactive data tagging (XBRL) and the Internet. Division Director Andrew Donohue recently outlined plans to develop a short-form disclosure document for fund investors, which would be coupled with giving investors the ability to obtain additional information via the Internet or in paper form.[1] As Director Donohue said, mutual fund shareholders "deserve a streamlined disclosure system that better meets their needs and is consistent with the manner in which most Americans retrieve and process information in the 21st century." We agree, and we strongly support funding for these important initiatives.

While providing adequate funding is vitally important, it is equally important that the SEC deploy available resources in ways designed to assure the effectiveness of its regulatory and law enforcement efforts. We therefore strongly support the continued focus on internal reforms that will improve the performance of the SEC. This includes, for example, providing regulatory guidance that better anticipates issues, developing closer integration of the activities of different SEC divisions and branch offices, implementing new inspection strategies, and conducting empirical research that informs major rulemakings. Indeed, the importance of these kinds of reforms

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[1] Speech by SEC Director of the Division of Investment Management Andrew J. Donohue, Keynote Address at the 2007 ICI Mutual Funds and Investment Management Conference, March 26, 2007.

has been underscored in a series of recent reports.[2] We support appropriate funding of the SEC to facilitate these and other initiatives to enhance the effectiveness of the SEC.

In conclusion, the SEC and the fund industry share a common objective of assuring that mutual funds remain a vibrant, competitive and cost effective way for average Americans to access the securities markets and realize their long-term financial goals. Future regulatory and oversight actions by the SEC will play a key part in this process. It is therefore critically important that the SEC have sufficient resources to enable it to be an effective and efficient regulator and fulfill its mission of protecting the nation's investors, including the more than 91 million Americans who own mutual funds. Accordingly, we support providing the SEC with the requested level of funding.

We appreciate your consideration of our views.

The Investment Company Institute is the national association of American investment companies. ICI members include 8,821 open-end investment companies (mutual funds), 664 closed-end investment companies, 385 exchange-traded funds, and 4 sponsors of unit investment trusts. Mutual fund members of the ICI have total assets of approximately $10.481 trillion (representing 98 percent of all assets of U.S. funds); these funds serve approximately 93.9 million shareholders in more than 53.8 million households.

PREPARED STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

Chairman Durbin, ranking member Brownback, and distinguished members of the subcommittee, I would like to thank you for allowing me to provide comments on the administration's fiscal year 2008 budget request for the Internal Revenue Service (IRS). As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 Federal workers in 30 agencies including the men and women at the IRS.

IRS FISCAL YEAR 2008 BUDGET REQUEST

Mr. Chairman, as you know, the IRS budget forms the foundation for what the IRS can provide to taxpayers in terms of customer service and how the agency can best fulfill its tax enforcement mission. Without an adequate budget, the IRS cannot expect continued improvement in customer service performance ratings and will be hampered in its effort to enhance taxpayer compliance. I would like to applaud the administration for acknowledging in its fiscal year 2008 Budget in Brief (page 65) that "assisting the public to understand their tax reporting and payment obligations is the cornerstone of taxpayer compliance and is vital for maintaining public confidence in the tax system." However, I was disappointed in the administration for failing to request a budget for fiscal year 2008 that meets the needs of the Agency to meet its customer service and enforcement challenges. In fact, the President's budget anticipates a "savings" equal to nearly 1,200 full-time equivalent positions, including 1,147 in enforcement and taxpayer service programs.

Although it's widely recognized that additional funding for enforcement provides a great return on the investment, the administration seems reluctant to request an adequate budget for the IRS. In addition, despite citing a lack of resources as the primary rationale for contracting out a number of inherently governmental activities, such as the collection of taxes, the Commissioner of the IRS has told Congress that the IRS does not need any additional funding above the President's budget request.

NTEU believes that Congress must provide the IRS with a budget that will allow the Service to replenish the depleted workforce, particularly with respect to enforcement personnel.

History has shown that the IRS has the expertise to improve taxpayer compliance but lacks the necessary personnel and resources. The President's own fiscal 2008 budget proposal trumpets the increased tax collections produced by IRS's own employees and cites the increased collections of delinquent tax debt from $34 billion in 2002 to $49 billion in 2006, an increase of 44 percent. Unfortunately, instead of providing additional resources to hire more enforcement staff, IRS personnel resources have been slashed in recent years resulting in a 36 percent decline in combined collection and examination function enforcement staff between 1996 and 2003.

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[2] See Interim Report of the Committee on Capital Markets Regulation (November 30, 2006, as revised on December 5, 2006); Report of the U.S. Chamber of Commerce, Commission on the Regulation of U.S. Capital Markets in the 21st Century (March 2007); and Sustaining New York's and the U.S.' Global Financial Services Leadership (January 2007).

In addition, these staffing cuts have come at a time when the IRS workload has dramatically increased.

According to IRS's own annual reports and data, taxpayers filed 114.6 million returns in 1995. After a steady annual climb, 11 years later, the Service saw more than 132 million returns filed. Yet, between 1995 and 2005, total numbers of IRS employees shrunk from 114,000 to 94,000. Even more alarming is that during that period, revenue officers and revenue agents—two groups critical to IRS enforcement and compliance efforts—shrunk by 32 and 23 percent respectively. Revenue officers who collect large delinquent accounts went from 8,139 to 5,462 and revenue agents who do audits fell from 16,078 to 12,355. Unfortunately, instead of reversing this trend, the IRS has continued efforts to reduce its workforce and has moved forward with downsizing in several different areas which have targeted some of the Service's most productive employees.

These include last year's re-organization of the Estate and Gift Tax Program which sought the elimination of 157 of the agency's 345 estate and gift tax attorneys—almost half of the agency's estate tax lawyers—who audit some of the wealthiest Americans. The Service pursued this drastic course of action despite internal data showing that estate and gift attorneys are among the most productive enforcement personnel at the IRS, collecting $2,200 in taxes for each hour of work.

The IRS decision to drastically reduce the number of attorneys in the estate and gift tax area flies in the face of several reports made to Congress by Treasury and IRS officials over the past few years, indicating that tax evasion and cheating among the highest-income Americans is a serious and growing problem. In fact, an IRS study found that in 1999, more than 80 percent of the 1,651 tax returns reporting gifts of $1 million or more that were audited that year understated the value of the gift. The study found that the average understatement was about $303,000, on which about $167,000 in additional gift taxes was due. This alone cost the government about $275 million. Consequently, it is difficult to understand why the IRS sought the elimination of key workforce positions in an area that could produce significant revenue to the general treasury.

In addition, the Service continues to move forward with its plan to close five of its ten paper tax return submission facilities by 2011. The IRS originally sought the closings of the five paper return submission centers due to the rise in the use of electronic filing (e-filing) and in order to comply with the IRS Restructuring and Reform Act of 1998 (RRA 98) which established a goal for the IRS to have 80 percent of Federal tax and information returns filed electronically by 2007. But in their recent report to Congress on e-filing, the IRS Oversight Board noted that the IRS will fall well short of the 80 percent goal and urged Congress to extend the deadline to 2012. The report noted that in 2006 just 54 percent of individuals e-filed their returns, well short of the 80 percent goal. Furthermore, the report cited a decline in 2006 in the number of e-file returns received from individual taxpayers who self-prepared their taxes. And finally a recent GAO report on the 2006 filing season noted the year over year percentage growth in individual e-filing slowed to a level lower than any of the previous 3 years.

While overall use of e-filing may be on the rise, the number of taxpayers opting to use this type of return is not increasing as rapidly as the IRS had originally projected. Combined with the fact that almost a third of American taxpayers do not even have internet access and changes to the IRS Free File Program that are expected to increase the number of paper filing returns, it is clear that paper submission processing facilities are still necessary and that serious thought and consideration must be given before any additional closings are undertaken.

Mr. Chairman, it is clear that drastic reductions in some of the agency's most productive tax law enforcement employees directly contradict the Service's stated enforcement priority to discourage and deter non-compliance, particularly among high-income individuals. In addition, we believe these staffing cuts have greatly undermined agency efforts to close the tax gap which the IRS recently estimated at $345 billion. As Nina Olson, the National Taxpayer Advocate noted, this amounts to a per-taxpayer "surtax" of some $2,600 per year to subsidize noncompliance. And while the agency has made small inroads and the overall compliance rate through the voluntary compliance system remains high, much more can and should be done. NTEU believes that in order to close the tax gap, the IRS needs additional employees on the frontlines of tax compliance and customer service. In addition, we believe Congress should establish a dedicated funding stream to provide adequate resources for those employees.

NTEU STAFFING PROPOSAL

In order to address the staffing shortage at the IRS, NTEU supports a 2 percent annual net increase in staffing (roughly 1,885 positions per year) over a 5-year period to gradually rebuild the depleted IRS workforce to pre-1998 levels. A similar idea was proposed by former IRS Commissioner Charles Rossotti in a 2002 report to the IRS Oversight Board. In the report, Rossotti quantified the workload gap in non-compliance, that is, the number of cases that should have been, but could not be acted upon because of resource limitations. Rossotti pointed out that in the area of known tax debts, assigning additional employees to collection work could bring in roughly $30 for every $1 spent. The Rossotti report recognized the importance of increased IRS staffing noting that due to the continued growth in IRS' workload (averaging about 1.5 to 2.0 percent per year) and the large accumulated increase in work that should be done but could not be, even aggressive productivity growth could not possibly close the compliance gap. Rossotti also recognized that for this approach to work, the budget must provide for a net increase in staffing on a sustained yearly basis and not take a "one time approach."

Although this would require a substantial financial commitment, the potential for increasing revenues, enhancing compliance and shrinking the tax gap makes it very sound budget policy. One option for funding a new staffing initiative would be to allow the IRS to hire personnel off-budget, or outside of the ordinary budget process. This is not unprecedented. In fact, Congress took exactly the same approach to funding in 1994 when Congress provided funding for the administration's IRS Tax Compliance Initiative which sought the addition of 5,000 compliance positions for the IRS. The initiative was expected to generate in excess of $9 billion in new revenue over 5 years while spending only about $2 billion during the same period. Because of the initiative's potential to dramatically increase Federal revenue, spending for the positions was not considered in calculating appropriations that must come within annual caps.

A second option for providing funding to hire additional IRS personnel outside the ordinary budget process could be to allow IRS to retain a small portion of the revenue it collects. The statute that gives the IRS the authority to use private collection companies to collect taxes allows 25 percent of collected revenue to be returned to the companies as payment, thereby circumventing the appropriations process altogether. Clearly, there is nothing magical about revenues collected by private collection companies. If those revenues can be dedicated directly to contract payments, there is no reason some small portion of other revenues collected by the IRS could not be dedicated to funding additional staff positions to strengthen enforcement.

While NTEU agrees with IRS' stated goal of enhancing tax compliance and enforcement, we don't agree with the approach of sacrificing taxpayer service in order to pay for additional compliance efforts. That is why we were disappointed to see that the President's proposed budget calls for the elimination of 527 taxpayer services positions. NTEU believes providing quality services to taxpayers is an important part of any overall strategy to improve compliance and that reducing the number of employees dedicated to assisting taxpayers meet their obligations will only those efforts. The administration's own budget proposal for 2008 notes that in fiscal year 2006, IRS' customer assistance centers answered almost 33 million assistor telephone calls and met the 82 percent level of service goal, with an accuracy rate of 91 percent for tax law questions. In addition, a recent study commissioned by the Oversight Board found that more than 80 percent of taxpayers contacted said that IRS service was better than or equal to service from other government agencies. And while these numbers show that IRS taxpayer services are being effective, more can and should be done.

Mr. Chairman, in order to continue to make improvements in taxpayer services while simultaneously processing a growing number of tax returns and stabilizing collections and examinations of cases, it is imperative to reverse the severe cuts in IRS staffing levels and begin providing adequate resources to meet these challenges. With the future workload expected to continue to rise, the IRS will be under a great deal of pressure to improve customer service standards while simultaneously enforcing the Nation's tax laws. NTEU strongly believes that providing additional staffing resources would permit IRS to meet the rising workload level, stabilize and strengthen tax compliance and customer service programs and allow the Service to address the tax gap in a serious and meaningful way.

SPAN OF CONTROL

And while it is imperative that Congress provide the IRS with sufficient staffing resources, we also believe that the IRS should look at the management to bargaining unit employee ratio to find additional resources for increased frontline tax

compliance efforts. As noted previously, while the number of employees at the IRS has decreased by almost 20,000 since 1995, the number of managers who supervise these employees has increased over this same period. If we just look at the period between 2000 and 2005, we see that the number of bargaining unit employees, the frontline employees who do the work, decreased by 4,756, a decrease of 5.1 percent. During that same time, the number of managers and management officials increased by 170, an increase of 1 percent. If the IRS decreased the number of managers and management officials at the same rate as it decreased its rank and file employees during that period, there would be 5.1 percent fewer managers and management officials or a savings of 808 full time equivalents (FTE's) that could be saved and redirected to the frontlines. While the IRS has previously cited concerns about the number of employees that would have to be taken offline to train additional frontline employees, we believe this training could be done with minimal disruption to current operations. One possibility would be to use the increasing number of managers and management officials to do the training. This would ensure that these employees are afforded the best possible training while allowing current operations to continue to run efficiently.

PRIVATE TAX COLLECTION

Mr. Chairman, as stated previously, if provided the necessary resources, IRS employees have the expertise and knowledge to ensure taxpayers are complying with their tax obligations. That is why NTEU continues to strongly oppose the administration's private tax collection program, which began in September of last year. Under the program, the IRS is permitted to hire private sector tax collectors to collect delinquent tax debt from taxpayers and pay them a bounty of up to 25 percent of the money they collect. NTEU believes this misguided proposal is a waste of taxpayer's dollars, invites overly aggressive collection techniques, jeopardizes the financial privacy of American taxpayers and may ultimately serve to undermine efforts to close the tax gap.

NTEU strongly believes the collection of taxes is an inherently governmental function that should be restricted to properly trained and proficient IRS personnel. When supported with the tools and resources they need to do their jobs, there is no one who is more reliable and who can do the work of the IRS better than IRS employees.

As you may know, under current contracts, private collection firms are eligible to retain 21 percent to 24 percent of what they collect, depending on the size of the case. In testimony before Congress, former IRS Commissioner Mark Everson repeatedly acknowledged that using private collection companies to collect Federal taxes will be more expensive than having the IRS do the work itself. The Commissioner's admission directly contradicts one the administration's central justifications for using private collection agencies—that the use of private collectors is cost efficient and effective.

In addition to being fiscally unsound, the idea of allowing private collection agencies to collect tax debt on a commission basis also flies in the face of the tenets of the IRS Restructuring and Reform Act of 1998. Section 1204 of the law specifically prevents employees or supervisors at the IRS from being evaluated on the amount of collections they bring in. But now, the IRS has agreed to pay private collection agencies out of their tax collection proceeds, which will clearly encourage overly aggressive tax collection techniques, the exact dynamic the 1998 law sought to avoid. Furthermore, the IRS is turning over tax collection responsibilities to an industry that has a long record of abuse. For example, in 2006, consumer complaints about third-party debt collectors increased both in absolute terms and as a percentage of all complaints that consumers filed with the Federal Trade Commission (FTC). Last year the FTC received 69,204 consumer complaints about debt collection agencies—giving debt collectors the impressive title of the FTC's most complained-about industry.

NTEU believes that a better option would be to provide the IRS with the resources and staffing it needs. There is no doubt that IRS employees are—by far—the most reliable, cost-effective means for collecting Federal income taxes. As noted previously, the former IRS Commissioner himself has admitted that using IRS employees to collect unpaid tax debts is more efficient than using private collectors. In addition, the 2002 budget report submitted to the IRS Oversight Board, former Commissioner Charles Rossotti made clear that with more resources to increase IRS staffing, the IRS would be able to close the compliance gap.

This is not the first time the IRS has tried this flawed program. Two pilot projects were authorized by Congress to test private collection of tax debt for 1996 and 1997. The 1996 pilot was so unsuccessful it was cancelled after 12 months, despite the

fact it was authorized and scheduled to operate for 2 years. A subsequent review by the IRS Office of Inspector General found that contractors participating in the pilot programs regularly violated the Fair Debt Collection Practices Act, did not adequately protect the security of personal taxpayer information, and even failed to bring in a net increase in revenue. In fact, a 1997 GAO report found that private companies did not bring in anywhere near the dollars projected, and the pilot caused a $17 million net loss.

Despite IRS assurances that it has learned from its past mistakes, two recent reports indicate otherwise. A March 2004 report by the Treasury Inspector General for Tax Administration raised a number of questions about IRS' contract administration and oversight of contractors. The report found that "a contractor's employees committed numerous security violations that placed IRS equipment and taxpayer data at risk" and in some cases, "contractors blatantly circumvented IRS policies and procedures even when security personnel identified inappropriate practices." (TIGTA Audit #200320010). The proliferation of security breaches at a number of government agencies that put personal information at risk further argue against this proposal. These security breaches illustrate not only the risks associated with collecting and disseminating large amounts of electronic personal information, but the risk of harm or injury to consumers from identity theft crimes.

In addition, a September 2006 examination of the IRS private collection program by the Government Accountability Office (GAO) reveals that like the 1996 pilot, the program may actually lose money by the scheduled conclusion of the program's initial phase in December 2007. The report cited preliminary IRS data showing that the agency expects to collect as little as $56 million through the end of 2007, while initial program costs are expected to surpass $61 million. What's more, the projected costs do not even include the 21–24 percent commission fees paid to the collection agencies directly from the taxes they collect.

In addition to the direct costs of the program, I am greatly concerned about the potential negative effect that the private tax collection program will have on our tax administration system. In her recent report to Congress, the National Taxpayer Advocate voiced similar concern about the unintended consequences of privatizing tax collection. Olson cited a number of "hidden costs" that private tax collection has on the tax system including reduced transparency of IRS tax collection operations, inconsistent treatment for similarly situated taxpayers, and reduced tax compliance. Clearly the negative effects of contracting out tax collection to private collectors hampers the agency's ability to improve taxpayer compliance and will only serve to undermine future efforts to close the tax gap.

NTEU is not alone in its opposition to the IRS' plan. Similar proposals allowing private collection agencies to collect taxes on a commission basis have been around for a long time and have consistently been opposed by both parties. In fact, the Reagan Administration strongly opposed the concept of privatizing tax collections warning of a considerable adverse public reaction to such a plan, and emphasizing the importance of not compromising the integrity of the tax system. (Treasury Dept. Statement to House Judiciary Comm. 8/8/86). More recently, opposition to the private tax collection program has been voiced by a growing number of members of Congress, major public interest groups, tax experts, as well as the Taxpayer Advocacy Panel, a volunteer Federal advisory group—whose members are appointed by the IRS and the Treasury Department. In addition, the National Taxpayer Advocate, an independent official within the IRS recently identified the IRS private tax collection initiative as one of the most serious problems facing taxpayers and called on Congress to immediately repeal the IRS' authority to outsource tax collection work to private debt collectors (National Taxpayer Advocate 2006 Report to Congress).

Instead of rushing to privatize tax collection functions which jeopardizes taxpayer information, reduces potential revenue for the Federal Government and undermine efforts to close the tax gap, the IRS should increase compliance staffing levels at the IRS to ensure that the collection of taxes is restricted to properly trained and proficient IRS personnel.

IRS AUDITS OF HIGH-INCOME INDIVIDUALS AND LARGE BUSINESSES AND CORPORATIONS

Mr. Chairman, the final issue that I would like to discuss is IRS enforcement efforts with regard to high-income individuals and large businesses and corporations. I previously noted the drastic staff reductions in the estate and gift tax division that occurred last year and will obviously hamper the Service's ability to achieve greater compliance from the wealthiest Americans. In addition, recent IRS data shows that IRS audits of high-income individuals have dropped dramatically over the past decade. The audit rate for face-to-face audits fell from 2.9 percent of high-income tax

filers in fiscal year 1992 to 0.38 percent in fiscal year 2001 and then drifted down to 0.35 percent in fiscal year 2004. While the audit rate has rebounded somewhat in the last 2 years, it is still far below the level of the mid-1990's. These facts seem to directly contradict claims by the IRS that the Service's first enforcement priority is to discourage and deter non-compliance, with an emphasis on high-income individuals.

We are seeing similar troubling trends with respect to large corporations. While this issue has just started receiving public attention in recent weeks, it has long been of concern to IRS employees that believe recent IRS currency and cycle time initiatives are resulting in the premature closing of audits of large companies, possibly leaving hundreds of millions of dollars of taxes owed on the table. IRS data shows the thoroughness of IRS enforcement efforts for the Nation's largest corporations—measured by the number of hours devoted to each audit—has substantially declined since fiscal year 2002. IRS data also show that the annual audit rates for these corporations, all with assets of $250 million or more, while increasing in fiscal year 2004 and 2005, receded in 2006 to about the level it was in 2002 and is much lower than levels that prevailed a decade or more ago.

Although the number of the largest corporations is small, they are a very significant presence in the American economy. In fiscal year 2002, the largest corporations were responsible for almost 75 percent of all additional taxes the IRS auditors said were owed the government. By comparison, low and middle income taxpayers in the same year were responsible for less than 10 percent of the total.

Agency data shows that audit attention given those corporations with $250 million or more in assets has substantially declined in the last 5 years. In 2002, an average of 1,210 hours were devoted to each of the audits of the corporations in this category. The time devoted to each audit dropped sharply in 2004 and by 2006 the number of hours per audit remained 20 percent below what it was in 2002.

But what may be most disturbing is that according to IRS' own data, while the coverage rate of large corporation returns (identified as those with assets of $10 million and higher) increased in fiscal year 2004 and 2005, the number of audits for these corporations actually decreased in 2006. Clearly, the rationale the IRS is using to justify a reduction in time and scope of large corporation audits, that is, to allow for expanding the total number of companies audited is not working.

IRS officials have continued to point to a rise in additional tax recommended for each hour of audit as a sign that the policy is working, but most auditors know that this rise can be primarily attributed to the proliferation of illegal tax shelters which makes it easier to find additional taxes due.

Warnings about the potential negative consequences of such policy decisions were made by a number of IRS employees in a recent New York Times article and are not new. In fact, when the IRS first began limiting the time and scope of business audits through implementation of the Limited Issue Focused Examination (LIFE) process in 2002, the former chief counsel of the IRS said that the IRS' proposed reductions in cycle time of corporate audits would "virtually guarantee that IRS auditors would miss tax dodges, fail to explore suspicious transactions, or even walk away from audits that are on the verge of finding wrongdoing."

In addition, IRS employees have raised concerns about this shift in approach to the auditing of business tax returns since its implementation several years ago. Their concerns are multi-fold. Primarily, employees' feel that their experience and professional judgment is being ignored when the scope of audits is limited and cycle times are reduced. Revenue agents need flexibility to determine the scope of an audit and need the ability to expand the examination time when necessary. The men and women of the IRS that perform these audits are highly experienced employees who know which issues to examine and when more time is necessary on a case. But under current IRS policies, this is just not the case.

Mr. Chairman, we have heard directly from a number of our members about the detrimental effect this policy has had not just on efforts to ensure corporations are in full compliance, but also how this misguided policy is damaging employee morale. In one instance, an IRS agent with 29 years of experience, including 19 as an international specialist examining tax returns of large, multinational corporations was given an unreasonably short period of time to examine 3 tax years of a very large company. The agent reported being constantly harassed for refusing to further limit the scope of the examination beyond that which was set at the beginning of the audit, even though he had successfully completed two prior examinations of the same taxpayer in a timely manner. The employee knew the issues and how to examine them but also knew they would need more than the allotted time to complete his part of the examination. But, despite past successes, management refused to provide the employee with additional time to complete his portion of the audit and labeled the employee as uncooperative and not a "team player." Although the em-

ployee refused to compromise, he believed that other members of the examination team had been pressured into dropping issues which likely would have resulted in additional tax.

Mr. Chairman, in the face of a rising tax gap and exploding Federal deficits, it is imperative that the agency is provided with the necessary resources to allow IRS professionals to pursue each and every dollar of the taxes owed by large businesses and corporations. Allowing these corporations to pay just a fraction of what they owe in taxes greatly hinders efforts to close the tax gap and is fundamentally unfair to the millions of ordinary taxpayers that dutifully pay their taxes. Only by increasing the overall number of IRS employees that do this work can the Service ensure that businesses and large corporations are complying with their tax obligations and that the tax gap is being closed.

CONCLUSION

It is an indisputable fact that the IRS workforce is getting mixed signals regarding its value to the mission of the Service and the level of workforce investment the Service is willing to make. NTEU believes that the drastic reductions of some of the IRS's most productive employees, reliance on outside contractors to handle inherently governmental activities such as the collection of taxes, and a shift in philosophy which focuses enforcement efforts too much on wage earners and not enough on high-income individuals and large businesses and corporations, only serve to undermine the agency's ability to fulfill its tax enforcement mission and hamper efforts to close the tax gap.

PREPARED STATEMENT OF THE PACIFIC SALMON COMMISSION

Mr. Chairman, my name is Roland Rousseau and I serve as an alternate commissioner on the Pacific Salmon Commission (PSC) and the chair of the Budget Committee for the U.S. section of the Commission. The Pacific Salmon Treaty (Treaty) between the United States and Canada was established in 1985. An subsequent agreement was concluded in June of 1999 (1999 agreement) that established new abundance-based fishing regimes under the treaty and made other improvements in the treaty's structure. During fiscal year 2008, the PSC will conduct very important negotiations to renew provisions of treaty fishing regimes that are scheduled to expire at the end of 2008. The U.S. section recommends that Congress:

For Department of Commerce:

—Fund the Pacific Salmon Treaty line item of the National Marine Fisheries Service at $8,000,000 for fiscal year 2008, restoring $1,000,000 previously provided by Congress. This funding provides the technical support for the States of Alaska, Washington, Oregon and Idaho and the National Marine Fisheries Service to conduct the salmon stock assessment and fishery management programs required to implement the treaty fishing regimes. Included within the total amount of $8,000,000 is $400,000 to continue a joint Transboundary River Enhancement Program required by the treaty.

—Fund the Pacific Salmon Treaty Chinook Salmon Agreement line item of the National Marine Fisheries Service for fiscal year 2008 at $1,844,000, level funding from what was provided by Congress for fiscal year 2006. This funding continues to be necessary to acquire the technical information to implement abundance-based Chinook salmon management provided for under the 1999 agreement.

For Department of State fund the PSC at $3,049,000, under International Fisheries Commission, Department of State. This is approximate level funding from that provided in fiscal year 2006 to fund the bilateral PSC office and staff, and to support U.S. section activities required to implement provisions of the treaty. Funding for the total International Fisheries Commission line item should be $24,000,000, the funding level for fiscal year 2006, to provide full funding for the operations of all the fishery commissions, including the PSC.

The base treaty implementation projects include a wide range of stock assessment, fishery monitoring, and technical support activities for all five species of Pacific salmon in the fisheries and rivers from Southeast Alaska to those of Washington, Oregon, and Idaho. The States of Alaska, Washington, Oregon, and Idaho, and the National Marine Fisheries Service (NMFS), are charged with carrying out major portions of the salmon fishery stock assessment and harvest management actions required under the treaty. Federal funding for these activities is provided through NMFS on an annual basis. The agency projects carried out under PSC funding are directed toward acquiring, analyzing, and sharing the information required to implement the salmon conservation and sharing principles of the treaty.

A wide range of programs for salmon stock size assessments, escapement enumeration, stock distribution, and catch and effort information from fisheries, are represented. The information from many of these programs is used directly to establish fishing seasons and harvest levels. Congress increased this funding by $2,000,000 in fiscal year 2005 to a total of $8,000,000 to provide for programs needed to implement the new abundance-based fishing regimes established under the 1999 agreement, but the level was reduced to $7,000,000 in fiscal year 2006. The U.S. section recommends that $8,000,000 be restored in fiscal year 2008 to allow full implementation of treaty provisions. The 1999 agreement updated provisions of the Pacific Salmon Treaty including fishing arrangements and abundance-based management approaches for Chinook, southern coho, Northern Boundary and Transboundary River fisheries. The $400,000 that has been provided since 1988 for a joint Transboundary River enhancement program with Canada is included in this amount.

In 1996, the United States adopted an abundance-based approach to managing Chinook salmon fisheries in Southeast Alaska. Under this approach, Chinook harvest levels are based on annual estimates of Chinook abundance. This system replaced fixed harvest ceilings agreed to in 1985, which did not respond to annual fluctuations in Chinook salmon populations. The revised 1999 agreement adopted this abundance-based management approach for all Chinook fisheries subject to the treaty. In recognition of this new management approach, since 1998, Congress has provided $1,844,000 annually to allow for the collection of stock assessment and fishery management information necessary for implementation. Through a rigorous competitive technical review process, the States of Alaska, Washington, Oregon, and Idaho, and the 24 treaty tribes are using the funding to implement abundance-based Chinook salmon management coast-wide under the new agreement. The U.S. section recommends level funding of $1,844,000 for fiscal year 2008 to support the implementation of abundance-based Chinook salmon management.

The United States and Canada agreed in 1988 to a joint salmon enhancement program on the Transboundary Rivers, which rise in Canada and flow to the sea through Southeast Alaska. Since 1989, Congress has provided $400,000 annually for this effort through the National Marine Fisheries Service International Fisheries Commission line item under the Conservation and Management Operations activity. Canada provides an equal amount of funding and support for this bilateral program. This funding is included in the $8,000,000 the U.S. section is recommending for the fiscal year 2008 Pacific Salmon Treaty line item.

The U.S. section of the PSC recommends that $3,049,000 for implementation of the treaty be provided in the Department of State's International Fisheries Commissions line item in fiscal year 2008. This is $20,000 more than the amount provided by Congress for fiscal year 2006 and is vitally needed to support U.S. commitments made in the 1999 agreement and support costs for U.S. section participation. This funding provides for the United States contribution to the bilateral PSC staff and offices based in Vancouver, British Columbia. It also provides for travel for U.S. commissioners, panel members, and technical committee members and stipends for authorized commissioners and panel members. Increasing travel costs, less favorable currency exchange rates with Canada and increased costs associated with the renegotiation of fishing regimes that will be in progress during fiscal year 2008, make it very important that this funding is available to support PSC operations.

This concludes the statement of the U.S. section of the PSC submitted for consideration by your committee. We wish to thank the committee for the support that it has given us in the past.

SUMMARY OF PROGRAM FUNDING FOR THE UNITED STATES-CANADA PACIFIC SALMON TREATY

	Fiscal Year 2006 Appropriation	Fiscal Year 2008 Recommendation	Section Shortfall
Department of Commerce:			
Pacific Salmon Treaty Line Item	$7,000,000	[1] $8,000,000	$1,000,000
Pacific Salmon Treaty—Chinook Salmon Agreement Line Item	1,844,000	1,844,000	.....
Department of State: International Fisheries Commissions: Pacific Salmon Commission	3,029,000	3,049,000	20,000

[1] The recommended fiscal year 2008 amount includes $400,000 provided for the Joint Transboundary River Enhancement Program previously funded under the NMFS International Fisheries Commission account.

PREPARED STATEMENT OF THE AMERICAN ASTRONOMICAL SOCIETY

I appreciate the opportunity to comment on NASA's 2008 science budget from my perspective as president of the American Astronomical Society (AAS).

The AAS believes that NASA's Science Mission Directorate (SMD) should be part of the American innovation agenda, which seeks to bolster funding for the National Science Foundation (NSF), the Department of Energy's (DOE) Office of Science, and the National Institute for Standards and Technology (NIST). These agencies have been identified as vital to America's leadership in innovation, by training a highly-skilled workforce and fostering the discovery and development of new ideas. NASA science is a partner in these endeavors. Specifically, we advocate for increasing NASA SMD's fiscal year 2008 budget to $5.566 billion, which is 6 percent over the final fiscal year 2007 amount and a modest increase over the President's fiscal year 2008 request.

The AAS is the major organization of professional astronomers in the United States. The basic objective of the AAS is to promote the advancement of astronomy and closely related branches of science. The membership, numbering approximately 7,000, includes physicists, mathematicians, geologists, and engineers whose interests lie within the broad spectrum of modern astronomy. AAS members advise NASA on scientific priorities, participate in NASA missions, and use the data from NASA's outstanding scientific discoveries to build a coherent picture for the origin and evolution of the Earth, the solar system, our galaxy, and the universe as a whole.

In the recent past, the astronomical community, working together with NASA, has produced a remarkable string of successes that have changed our basic picture of the universe. Observations with the Hubble Space Telescope (HST) of exploding stars whose light has been traveling for half the age of the universe, combined with the exquisite map of the glow from the big bang itself from the Wilkinson Microwave Anisotropy Probe and information from other observatories, shows that the universe we live in is not the universe we see. Mysterious dark matter makes the ordinary particles clump together to form stars and galaxies. Even more mysterious dark energy makes the expansion of the universe speed up. Both of these concepts challenge our understanding of the nature of matter and energy in the universe and open up broad new vistas for future work. An ambitious set of great observatories, now including Spitzer in the infrared and Chandra at X-ray wavelengths, is hard at work, enriching our understanding of how the universe works.

Similarly, exploration of the solar system has been a resounding success for NASA, with exciting missions to Mars and to Saturn revealing a beautiful and intricate history that is interwoven with the history of our planet Earth. The discovery of planets around other stars has been a great triumph of the past decade, raising hopes for seeing planets like our own Earth, and placing our own solar system, and life itself, in a new context.

NASA's key role in these discoveries makes its science program of deep interest to AAS members. In the past, NASA has worked with the astronomical community to find the most promising paths forward. The James Webb Space Telescope (JWST) is a large program that was endorsed by the National Academy of Sciences (NAS) Decadal Survey in astronomy. When completed in the next decade, it will help expand the frontier of knowledge to the deepest reaches of space and time and into the hidden places where stars and planets are formed. The astronomical community also recommended, and NASA plans to execute, a wide range of other programs—some of moderate scope and others that nourish the infrastructure for a healthy and vibrant community. This balanced approach has proved best—with a range of opportunities carefully crafted to get the best science from NASA's science budget.

Recognizing the current challenging budget climate, in which federal non-security, discretionary spending is declining by about 1 percent, the current NASA budget for science is nonetheless cause for concern. The continuing resolution (CR), now Public Law 110–005, provided funding for many federal agencies including NASA for fiscal year 2007. NASA science has suffered a $78.8 million shortfall from the President's fiscal year 2007 request. The President's fiscal year 2008 budget request represents a 0.9 percent increase in NASA science spending over the fiscal year 2007 request; however, with inflation currently around 2 percent, the fiscal year 2008 request still represents a decline in real dollars available for research in science compared to the President's fiscal year 2007 request. A key question is what will become the new baseline for NASA science funding, the fiscal year 2007 request or the CR. If the CR is adopted as the new baseline, this could represent a loss to NASA science in the out-years of $1 billion or more.

The AAS therefore recommends that Congress increase the fiscal year 2008 budget for NASA science by 6 percent over the CR level. This modest increase over the

President's fiscal year 2008 request will help maintain balance within the science portfolio, which is critical to our community. It is important to support small missions and research grants to individual investigators. Otherwise, many exciting programs to explore the solar system, to detect planets around other stars, to measure gravitational waves from astronomical events, to explore black holes in all their manifestations, and to seek the nature of the dark energy may be threatened. In particular, we advocate for restoring funding to the Explorer program and protecting the Beyond Einstein mission.

We further advocate that NASA science should be part of the American innovation agenda. Maintaining and strengthening American innovation in science and technology has broad bipartisan support, both in Congress and the administration. Our recommended increase of 6 percent in NASA science is smaller than the increases proposed for the science component of other agencies identified as strategically important for innovation. These include an 8.7 percent increase for NSF, a 16 percent increase for Department of Energy's Office of science, and nearly 21 percent for NIST (all increases over the CR levels). For AAS members, the cuts in NASA's support for science threaten to offset or overwhelm the increases that have been aimed at improving America's innovation through the NSF, DOE, and NIST. A real effort to improve science and engineering in the United States should treat NASA's science program as part of the solution. NASA's science missions inspire new generations of young people to pursue careers in science, engineering, and mathematics and train these students and young scientists to become the innovators of the future.

Finally, the AAS applauds the administration and Congress for upholding the priorities of the NAS Decadal Survey in astronomy. We are pleased that the development of JWST and HST servicing mission are priorities in the new budget, but we stress that balance is critical in the science portfolio.

NASA science has been and continues to be a beacon of innovation and discovery by inspiring generations of young people, capturing the imagination of the public, developing new technologies, and discovering profound insights into the nature of our universe.

The AAS and its members are prepared to work with Congress and with NASA to help find the best way forward. We will give you our best advice and we will work diligently to make the most of NASA's investment in science.

PREPARED STATEMENT OF THE NATIONAL FISH AND WILDLIFE FOUNDATION

Madam Chairman and members of the subcommittee: I appreciate the opportunity to submit testimony regarding the fiscal year 2008 funding request for the National Fish and Wildlife Foundation (Foundation). The Foundation respectfully requests that the committee fund these efforts at the following levels: $4 million through the National Oceanic and Atmospheric Administration appropriation.

This request lies well within the authorized levels and will allow the Foundation to better meet the demand for new or expanded strategic conservation programs. The appropriations provided by the committee are also used by the Foundation to attract additional funding for conservation projects through mitigation, settlements, and direct gifts.

These dollars will be focused on mutually agreed upon projects across the country. Furthermore, the appropriated $4 million will be turned into a minimum of $8 million, according to the Foundation's Congressional Charter which requires a minimum of a 1-to-1 match. We have been operating on a 3-to-1 match historically, which means that the $4 million has the potential to become $16 million or more for on-the-ground and in-the-water conservation. One other note of special interest is that according to the Foundation's charter, all directly appropriated funds have to be obligated to grants as they are not available to the Foundation for any direct or indirect expenses.

Since our inception in 1984 through fiscal year 2006, the Foundation has supported over 8,865 grants and leveraged over $374 million in Federal funds for more than $1.2 billion in on-the-ground conservation. This has resulted in more than 18.35 million acres of restored and managed wildlife habitat; new hope for countless species under stress; new models of private land stewardship; and stronger education programs in schools and local communities. We recognize that without the seed money this committee provides, many of these conservation benefits would not be realized.

The federal dollars appropriated by this committee allow the Foundation to assist NOAA in accomplishing its mission. Whether it involves coastal-habitat conservation, species management, or conservation education, the Foundation strategically

invests the federal funds entrusted to us in sound projects. This request would allow the Foundation to expand its highly successful grant programs to better assist NOAA in maximizing protection and restoration of marine and coastal resources. Over the 14 years of the NOAA-Foundation partnership, more than $47 million in NOAA funds have been leveraged to produce over $142 million for on-the-ground and in-the-water conservation. From 2002–2006, 788 projects have been awarded, focusing on the conservation needs of at-risk species, habitat enhancement, coastal restoration, marine debris clean-up, environmental education, and community-based stewardship. With our fiscal year 2006 NOAA appropriations, we were able to fund 39 projects, representing over $1.4 million in Foundation federal funds, leveraging it with $8.4 million in other federal and non-federal funds to commit $9.8 million for coastal and marine conservation.

The National Fish and Wildlife Foundation continues to be one of, if not the most, cost-effective conservation program funded in part by the Federal Government. Congress established the Foundation 23 years ago, and since that time the Foundation's vision for more healthy and abundant populations of fish, wildlife, and plants has flourished through the creation of numerous valuable partnerships. The breadth of our partnerships is highlighted through our active agreements with 14 federal agencies, as well as numerous corporations, foundations, and individual grantees. Through these unique arrangements, we are able to leverage federal funds, bring agencies and industry together, as well as produce tangible, measurable results. Our history of collaboration has given way to programs and initiatives such as the Chesapeake Bay Small Watershed Grants Program, Chesapeake Bay Targeted Watershed Grants, North American Waterfowl Management Plan, the Neotropical Migratory Bird Conservation Program, and the National Fish Habitat Initiative. With the support of the committee in fiscal year 2008, we can continue to uphold our mission of enriching fish, wildlife, and the habitat on which they depend.

Working Marine and Coastal Habitats.—The Foundation and NOAA work together to identify the highest priority coastal and marine conservation projects to sustain, restore, and enhance marine and coastal habitats, as well as increase populations of imperiled marine species. Funds available through the NOAA/Foundation partnership seek to achieve three specific objectives, through our Marine and Coastal Life and Habitats Keystone Initiative. These three objectives include: increase and sustain productivity of key spawning grounds and unique marine habitats by reducing unintended human impacts; increase populations of imperiled marine species; and improve and sustain the health of the Nation's major estuaries and the Great Lakes by restoring and protecting critical coastal habitat, improving water quality in tributaries, and enhancing populations of keystone species.

Conserving Fish, Wildlife, and Plants.—The Foundation also administers several programs which are directed to specific species or habitats and which are administered to rally private donations and contributions from other agencies around these strategic focus areas. Examples of such programs include: the Marine Debris Prevention and Removal Program, the Coral Reef Conservation Fund, the National Whale Conservation Fund, the Chesapeake Bay Small Watershed Grants Program, the Pacific Grassroots Salmon Initiative, the Delaware Estuary Grants Program, and the Pinellas County Environmental Fund.

—*Coral Reef Conservation Fund.*—Responding to an alarming decline in both the quantity and productive quality of the world's coral reef ecosystems, the Foundation partnered with NOAA to establish the Coral Reef Conservation Fund. Through this fund, the Foundation supports local to ecosystem level projects that restore damaged reef systems and prevent further negative impacts through both on-the-water and up-the-watershed projects. By focusing on specific areas of human impact such as anchor damage and sedimentation, we maximize the outcome of our programs. The Foundation has provided funding for over 166 projects with $5.7 million in federal and non-federal funds, leveraged with $9.5 million in non-federal matching funds, for a total of $15.2 million for coral conservation in 35 countries, including 4 U.S. States and 8 U.S. territories and freely associated States, giving the program a truly global reach

—*Marine Debris Prevention and Removal Program.*—In 2006, the Foundation formed a partnership with the NOAA Marine Debris Program to establish a competitive grants program aimed to foster public and private relationships and support research, prevention, and reduction activities related to the issue of marine debris. Through this program, our goals are to build a well informed public that acts as a steward of coastal and marine ecosystems, thereby sustaining the health and productivity of this ecosystem for the benefit of society as a whole. In 2006, the Foundation awarded 18 projects with over $782,000 in federal funds, which was leveraged with over $1 million in non-federal matching funds for projects in 9 States and 2 U.S. territories.

With our NOAA appropriations, the Foundation also leveraged resources to fund projects that directly benefit endangered and threatened fish and marine species, including such species as North Atlantic right whales, Loggerhead turtles, Hawskbill turtles, Pacific coho salmon, and Atlantic salmon. We also measure our success in part by preventing the listing of species under the Endangered Species Act, as well as by stabilizing and hopefully moving others off the list. We invested in common sense and innovative cooperative approaches to endangered species, building bridges between the government and the private sector.

New Strategic Plan.—During 2006, the Foundation underwent a detailed self-evaluation, which resulted in the development of a new strategic plan for the organization. The strategic planning process revealed that the Foundation maximizes conservation benefits when it targets a series of grants towards a specific geographic region, habitat type, or conservation challenge. To ensure that future grants achieve a sustainable and measurable conservation impact, the Foundation is establishing targeted Keystone Initiatives around the core conservation investment areas in which the Foundation has historically specialized. The Keystone Initiatives represent the new core portfolio of the Foundation's grant making with clearly defined long-term goals, well-articulated strategies, and defined budgets to reach desired outcomes.

The four initial Keystone Initiatives, launched by the Foundation in 2007, include birds; wildlife and landscape scale habitats; freshwater fish and habitats; and marine and coastal life and habitats. Additional Keystone Initiatives being developed include wildlife and agriculture, wildlife and energy development, invasive species, and future conservation Leaders. Each grant approved under a Keystone Initiative will be designed to provide a measurable outcome that brings us one step closer to the final long-term conservation goal of the initiative. Where appropriate, the strategies and outcomes of the Foundation's Special Grant programs, such as the Great Lakes Restoration Fund, Bring Back the Natives, and the Coral Reef Conservation Fund, will be designed to directly contribute to the long-term Keystone Initiative goal. Through our targeted grants, the Foundation seeks to achieve measurable success in "moving the needle" on these critical conservation objectives over the next 5 to 10 year period.

Accountability and Grantsmanship.—During the strategic planning process, Foundation staff spent time listening to feedback from our agency partners and grantees. Choke points in our grant making process were identified, and the Foundation is in the process of revising portions of our grant review and contracting process to ensure we maximize efficiency while maintaining strict financial and evaluation-based requirements. The Foundation has also launched a new website that is more user-friendly and content rich than the previous version. This new interactive tool will allow the Foundation to improve communication with our stakeholders and will help streamline our grant making process.

To ensure that only those grants with the greatest likelihood of obtaining conservation outcomes directly related to a Keystone Initiative are funded, the Foundation has implemented a thorough review process. Applicants are required to submit a pre-proposal which allows staff to proactively work with applicants to refine and improve their application before submitting a full proposal. All full proposals are then submitted to a peer review process which involves five external reviews representing State agencies, federal agencies, affected industry, environmental nonprofits, and academics. Grants are also reviewed by the Foundation's Keystone Initiative staff, as well as evaluation staff, before being recommended to the board of directors for approval. In addition, the Foundation provides a 30-day notification to the members of Congress for the congressional district and State in which a grant will be funded, prior to making a funding decision, according to our congressional charter.

Basic Facts About the Foundation.—The Foundation is governed by a 25-member board of directors, appointed by the Secretary of Interior and in consultation with the Secretary of Commerce. At the direction of Congress, the board operates on a nonpartisan basis. Directors do not receive any financial compensation for service on the board; in fact, most all of our directors make financial contributions to the Foundation. It is a diverse board, and includes the director of the U.S. Fish and Wildlife Service, the administrator of the National Oceanic and Atmospheric Administration, as well as corporate and philanthropic leaders with a tenacious commitment to fish and wildlife conservation.

None of our federally appropriated funds are used for lobbying, litigation, or the Foundation's administrative expenses. By implementing strategic real-world solutions with the private sector, while avoiding regulatory or advocacy activities, we serve as a model for developing cooperative solutions to environmental issues. We

are confident that the money you appropriate to the Foundation is making a positive difference.

NATIONAL FISH AND WILDLIFE FOUNDATION'S FEDERAL APPROPRIATIONS FOR FISCAL YEAR 2006 [1]
[In millions of dollars]

Agency Funding Source	Funding Amount
Natural Resources Conservation Service	2.970
Fish and Wildlife Service	7.656
Washington Salmon	1.971
Atlantic Salmon	0.985
Bureau of Land Management	2.955
Forest Service	2.637
National Oceanic and Atmospheric Administration	1.400
Pinellas County Environmental Fund	0.937

[1] We are providing the Foundation's appropriations for the last full fiscal year, as we are continuing to work with our agencies to finalize our fiscal year 2007 funding allocations.

PREPARED STATEMENT OF THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS

Thank you for the opportunity to submit testimony to this Subcommittee requesting a $30 million appropriation for the Commerce Department's Public Telecommunications Facilities Program (PTFP) in fiscal year 2007. As the President and CEO of the National Federation of Community Broadcasters, I speak on behalf of 250 community radio stations and related organizations across the country including many of the new Low Power FM stations. NFCB is the sole national organization representing this group of stations, which provide independent local service in both the smallest communities and largest metropolitan areas of this country. Nearly half of NFCB's members are rural stations, and half are controlled by people of color.

In summary, the points we wish to make to this Subcommittee are that NFCB:

—Supports funding for PTFP that will cover the on-going needs of public radio and television stations.
—Supports funding for conversion of public radio and television to digital broadcasting.
—Supports funding to help public and community radio stations prepare to provide emergency information during natural or manmade disasters.
—Supports restoration of administrative funding for the program which was cut in fiscal year 2005.

Community Radio supports $30 million in funding for the Public Telecommunications Facilities Program in fiscal year 2008. Federal support distributed through the PTFP is essential to continuing and expanding the public broadcasting service throughout the United States. It is particularly critical for rural stations and for those stations serving low income communities. PTFP funds new stations, expanding the reach of public broadcasting to rural areas and to audiences that are not served by existing stations. In addition, it replaces obsolete and worn out equipment so that the existing public stations can continue to broadcast high quality programming. PTFP funding is critical to ensuring public radios' readiness to provide lifesaving information in case of local disasters, as we have seen during the weather emergencies the last few years. Finally, with the advent of digital broadcasting, PTFP funding is helping with the conversion to this new technology.

We support $30 million in funding to ensure that both the on-going program—currently funded in fiscal year 2007 at $21.8 million—will be continued, and that the increase to $30 million will be available to help cover the cost of improving the emergency infrastructure of public broadcasting stations. This increase in funding is an urgent need in order for stations to withstand and broadcast through extreme weather or other emergency situations. In addition, increased funding is needed to assist the conversion of public radio and television to digital. This is particularly important because the FCC has endorsed a standard for digital radio broadcasting, the television conversion deadline is imminent, and commercial radio stations are converting to digital transmission and public radio should not be left behind.

PTFP funding is unique. It is the only source of funding available to help get new stations on the air and to ensure that public broadcasting is available everywhere in the United States. At a time when local service is being abandoned by commercial radio, PTFP aids communities to develop their own local stations which provide local information and emergency notifications.

Funding from PTFP has been essential to keep public radio stations on the air by funding replacement of equipment, often after 20 or more years of use. The program is administered carefully to be sure that stations are acquiring the most appropriate type of equipment. They also determine that equipment is being properly maintained and will not fund the replacement of equipment before an appropriate length of time. PTFP has also helped bring public radio service to rural areas where it is not available. Often they fund translators to expand the coverage of an existing station and they help with the planning and equipment needs of a new station. Recently, many of these new projects have been for Native American controlled stations on Indian Reservations or new local Low Power FM installations.

Federal funding is particularly critical to stations serving rural and underserved audiences which have limited potential for fundraising because of sparse populations, limited number of local businesses, and low income levels. Even so, PTFP funding is a matching program so federal money is leveraged with a local commitment of funds. This program is a strong motivating factor in raising the significant money necessary to replace, upgrade and purchase expensive broadcast equipment.

Community Radio stations need to be prepared to provide continuing service during emergency situations. As we saw during the hurricanes and severe weather the last couple of years, radio is the most effective medium of communication about evacuations, weather forecasts, traffic, services available, etc. Since everyone has radios and they are portable and battery operated, a radio is the first source of this critical information. But stations must have emergency power at both the studios and the transmitter in order to provide this service.

Community Radio supports funding for conversion to digital broadcasting for public radio and television. While public television's digital conversion is mandated by the Federal Communications Commission, public radio is converting to digital to provide more public service and to keep up with the market. The digital standard for radio has been approved and over 300 public radio transmitters have been converted. Most exciting to public radio is that stations can broadcast two or more high quality signals, even while they continue to provide the analog signal. The development of additional digital audio channels will potentially more than double the public service that public radio can provide, particularly to unserved and underserved communities.

Community Radio supports additional administrative funding for the PTFP. While we thank the Senate for continuing funding of PTFP, financial support for the skilled dedicated staff who administer these funds was cut nearly in half in fiscal year 2005. Restoration of administrative funds to the earlier level will assure that the program will be carefully and thoroughly administered.

Over the last few years, the number of administrative staff for the Public Telecommunications Facilities Program has been decreased. With fewer Program Officers there is less support for applicants or outreach about the program and reduced administrative funding hurts the review process. NFCB supports the restoration of these funds.

Thank you for your consideration of our testimony.

PREPARED STATEMENT OF THE AMERICAN PUBLIC POWER ASSOCIATION

The American Public Power Association (APPA) is the national service organization representing the interests of over 2,000 municipal and other state and locally owned utilities in 49 of the 50 States (all but Hawaii). Collectively, public power utilities deliver electricity to one of every seven electric consumers (approximately 44 million people), serving some of the nation's largest cities. However, the vast majority of APPA's members serve communities with populations of 10,000 people or less.

The Department of Justice's (DOJ) Antitrust Division and the Federal Trade Commission (FTC) play critical roles in monitoring and enforcing antitrust laws affecting the electric utility industry. With the repeal of the Public Utility Holding Company Act (PUHCA) included in the Energy Policy Act of 2005, the electric utility industry is likely to experience an increase in mergers that could result in increased market power in certain regions. This development coupled with the volatility and uncertainty continuing to occur in wholesale electricity markets makes the oversight provided by DOJ and the FTC more critical than ever.

APPA supports adequate funding for staffing antitrust enforcement and oversight at the FTC and DOJ. Specifically, we support the Administration's request of $241 million for fiscal year 2008 for the FTC. We are heartened that the downward trend in funding for the DOJ's Antitrust Division over several years has been reversed,

and are pleased with the Administration's request of $155 million for fiscal year 2008.

We appreciate the opportunity to submit this statement outlining our fiscal year 2008 funding priorities within the Commerce, Justice and Science Subcommittee's jurisdiction.

PREPARED STATEMENT OF THE GAVIOTA COAST CONSERVANCY

Madame Chairwoman and Honorable members of the Subcommittee, I appreciate the opportunity to present this testimony in support of an appropriation of $1.5 million from NOAA's Coastal and Estuarine Land Conservation Program to acquire a 42-acre property at Gaviota Cove in California.

The Gaviota Coast Conservancy is the primary land conservation, advocacy group for the Gaviota Coast. Since our incorporation in 1996 as a non-profit, public benefit organization, we have been working to secure permanent protection of the Gaviota Coast's significant resources.

Located in western Santa Barbara County between Coal Oil Point and Point Sal, the Gaviota Coast is approximately 100 miles north of Los Angeles and lies between the Channel Islands National Marine Sanctuary and the Los Padres National Forest. Offering a wide variety of natural, recreational and agricultural resources, it is a high priority area for conservation and is Southern California's largest remaining stretch of pristine coastline. This remarkable 76-mile landscape includes 15 percent of the Southern California coast, representing about 50 percent of its remaining undeveloped coastline. More than 40 sensitive species inhabit this area, including the California red-legged frog, western snowy plover, southern steelhead trout, southern sea otter, peregrine falcon and tidewater goby. More than 525 plant species, representing approximately one-half of the plant families found in California, live in the Gaviota Coast area. This relatively undisturbed area spans more than 30 coastal watersheds, allowing it to serve as a migration corridor between inland, mountainous and coastal habitat areas, and makes the Gaviota Coast the best opportunity to provide a safe-harbor for the threatened biodiversity of Southern California's coastal Mediterranean biome. This biome is unique in America.

The Gaviota Coast also contains some of the most significant archaeological sites in California, preserving at least 9,000 years of prehistory. The Chumash tribe resided in the area, and sites of several Chumash towns, as well as numerous tribal rock art sites, are located along the coast. Large cattle ranches and adobes still exist and are testimony to the early settlements and agricultural history of the region. The Gaviota Coast is a much-loved area for outdoor recreation due to its proximity to major metropolitan areas, its scenic vistas, rugged beaches, excellent wildlife viewing, and panoramic coastal hillsides and mesas. It is home to several state and county parks that are popular venues for activities such as hiking, camping, swimming, picnicking, hang-gliding, and surfing. A study by the National Park Service in 2004 determined that the natural and cultural resources of the Gaviota Coast are nationally significant and encouraged efforts to conserve them.

Situated within the Santa Barbara Coast State Seashore, and abutting Gaviota State Park on two sides, the 42-acre Gaviota Cove property has outstanding natural resource, recreation and scenic values. As an in-holding within state park lands, and historically used for coastal-dependent industry, this project is an excellent opportunity to achieve coastal resource enhancements and public recreational access. The property also has several known Chumash cultural sites. Gaviota Cove is comprised of a variety of habitat types, including grasslands, riparian habitat, willow scrub and coastal sage scrub, freshwater aquatic, coastal strand, and marine habitats. These habitat types are home to many plant and wildlife species, including California thrashers, coyotes, white-crowned sparrows, rainbow trout, western fence lizards, snowy egrets, and California ground squirrels. Some of the sensitive species that may be found on the project site are Gaviota tarplant, southern steelhead, globose dune beetle, California red-legged frog, yellow-billed cuckoo, two-striped garter snake, San Diego horned lizards, and cactus wren. The western portion of the northern parcel and the entirety of the southern parcel are designated as environmentally sensitive habitat (ESH) areas under state law.

There are two creeks which run through the property: Alcatraz Creek, and Cementerio Creek. Both creeks reach the Pacific Ocean at a confluence on the southern part of the property. Documented occurrence of southwestern pond turtle, a California species of special concern, has occurred on both Alcatraz and Cementerio Creeks. Habitat sustained by these blue-line creeks includes riparian woodlands, such as arroyo willow and black cottonwoods, eucalyptus stands, oak woodlands, chaparral, coastal bluff/sage scrub and native perennial and introduced

annual grassland communities. The property's southern boundary abuts the shoreline's sandy beach. The drainages provide critical corridors for wildlife movement and the other habitats provide living space for both terrestrial and aquatic species.

As an addition to Gaviota State Park, this project will expand recreational opportunities along this beautiful stretch of Southern California coast, and protect the magnificent coastal viewshed of Gaviota State Park for visitors on and offshore. The Gaviota Cove property offers the unique opportunity to link isolated beach portions of the Gaviota State Park, adding more than a quarter-mile of shoreline to the park and creating a contiguous corridor of publicly accessible beach for 6.5 miles. The Gaviota State Park is an extremely popular facility, welcoming 86,000 visitors annually for hiking, soaking in hot springs, swimming, diving, surfing, fishing and boating. It currently has 41 developed campsites, which are popular and often full to capacity. In expanding the state park, this project provides excellent opportunities to enhance this public recreation resource, allowing State Parks to increase its number of campsites and create and enhance new trail linkages.

Increased demand for housing and other development, coupled with the rising value of agricultural land, contribute to the rising development pressures on the Gaviota Coast. In fact, the county is projected to grow by 50 percent by 2025. The California Wilderness Coalition has identified the Gaviota Coast as one of California's ten most threatened wild places. Development would threaten the area's biodiversity and the agricultural way of life. It would adversely compromise the area's scenic vistas, air and water quality, and invaluable cultural resources.

An fiscal year 2008 appropriation of $1.5 million from NOAA's Coastal and Estuarine Land Conservation Program (CELCP) is needed to acquire and protect this 42-acre property. If added to Gaviota State Park, it will increase public beach access, expand recreational opportunities, provide much needed visitor facilities, protect scenic viewshed, and conserve important wildlife habitat.

In addition to specifically funding Gaviota Cove, I urge your support for a substantial increase in overall funding for the Coastal and Estuarine Land Conservation Program in fiscal year 2008 to enable the protection of significantly more coastal resources than in previous years. While I am pleased that the program has finally been recommended in the President's budget for $15 million, this level—while a good first step—is inadequate when compared to the needs from across the country, and what Congress has historically provided for this program.

It is well established that coastal land uses can have direct and significant adverse impacts on marine resources. In light of the fact that most Americans live in coastal counties, resulting in ever-increasing demands on coastal resources, it is imperative that a high priority be placed on coastal, estuarine land conservation if we are to properly manage our marine resources.

Thank you, Madame Chairwoman, for the opportunity to present this testimony in support of the Gaviota Cove acquisition and of the CELCP program.

PREPARED STATEMENT OF FIGHT CRIME: INVEST IN KIDS

Ms. Chairman and Members of the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies: Thank your for the opportunity to submit this written testimony. My name is Mary Ann Viverette. I've been with the Gaithersburg Police Department since 1979 and Chief since 1986. My public safety career has included service on the Executive Committee of the Maryland Chief of Police Association, service as a Commissioner with the Commission on Accreditation for Law Enforcement Agencies, and I am currently the Immediate Past President of the International Association of Chiefs of Police. I am also a member of Fight Crime: Invest in Kids, an anti-crime group of more than 3,000 police chiefs, sheriffs, prosecutors, and victims of violence from across the country who have come together to take a hard-nosed look at the research about what really works to keep kids from becoming criminals.

As a police chief, I know there is no substitute for tough law enforcement. Dangerous criminals must be prosecuted and put behind bars. Yet law enforcement leaders like myself know better than anyone that we cannot arrest and imprison our way out of the crime problem. Fortunately, research—and our experiences—show that targeted investments that help kids get a good start in life and that intervene effectively to redirect offending juveniles onto a different path can prevent crime, and can make our communities safer. The federal Juvenile Accountability Block Grant (JABG) and Title II and Title V of the Juvenile Justice and Delinquency Prevention Act (JJDPA) provide needed support for these evidence-based prevention and intervention approaches. The bipartisan Second Chance Act, once enacted, will authorize additional support for these approaches. On behalf of my fel-

low law enforcement leaders around the nation, I urge you to increase our nation's investments in these proven crime-prevention strategies that save lives and taxpayer dollars.

Programs that connect children to caring adults and provide constructive activities, especially during the after-school hours of 3 p.m. to 6 p.m.—the "prime time for juvenile crime" on school days—are among our most powerful tools for preventing crime. For example, a study compared five housing projects without Boys & Girls Clubs to five receiving new clubs. At the beginning, drug activity and vandalism were the same. But by the time the study ended, the projects without the programs had 50 percent more vandalism and scored 37 percent worse on drug activity. Similarly, a study of Big Brothers Big Sisters found that young people who were randomly assigned to a Big Brother or Big Sister mentor were about half as likely to begin illegal drug use and nearly one-third less likely to hit someone compared to those who were assigned to a waiting list. Despite these proven benefits, more than 14 million children nationwide still lack adult supervision after school, and millions lack a caring, responsible adult mentor in their lives.

One source of funding for after-school and mentoring programs is Title V of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA). The Title V Local Delinquency Prevention Grants program is the only federal funding source dedicated solely to the prevention of youth crime and violence. Almost 1,500 communities have received Title V grants since 1994 through a competitive grant process that requires states and localities to match at least 50 percent of the grant with cash or in-kind contributions.

For the most dangerous young offenders, especially those who are involved in violent gangs, a combination of intensive police supervision, expedited sanctions for repeated violence, and expedited access to jobs, drug treatment or other services—a carrot-and-stick approach—has shown in a number of cities that it can cut homicides among violent offenders in high-crime neighborhoods. In Chicago, for example, this comprehensive, community-wide approach was tried in a group of west side Chicago neighborhoods with a long history of high levels of homicide, with another set of dangerous neighborhoods on the south side of Chicago serving as the control group. In the carrot-and-stick approach area there was a 37 percent drop in quarterly homicide rates when the project was implemented, while the decline in homicides in the other neighborhood during the same period was 18 percent. In a number of locations, Juvenile Accountability Block Grant (JABG) or JJDPA state formula grant funds have been used to support these efforts.

Effective interventions that incorporate community sanctions have also been shown to reliably cut crime. One such program is the Functional Family Therapy (FFT) program. FFT works to engage and motivate youth and their families to change behaviors that often result in criminal activity. In one evaluation from Salt Lake City, families with troubled youths were randomly assigned to either a group that received FFT or one that did not. The youths who families received FFT were half as likely to be re-arrested as the youth whose families did not receive the family therapy. By reducing recidivism among juvenile offenders, FFT saves the public an average of $32,000 per youth treated.

Similarly, the Multi-Systemic Therapy (MST) program targets kids who are serious juvenile offenders by addressing the multiple factors—in peer, school, neighborhood and family environments—known to be related to delinquency. One MST study followed juvenile offenders until they were, on average, 29-years-old. Individuals who had not received MST were 62 percent more likely to have been arrested for an offense, and more than twice as likely to be arrested for a violent offense. It is also less expensive than other mental health and juvenile justice services like residential treatment and incarceration, saving the public $4.27 for every dollar invested.

The transition of juvenile offenders from confinement to "life on the outside" presents great risks and opportunities for young people and society. Juveniles released from confinement still have their likely "prime crime years" ahead of them. Perpetrators over age 17 commit 85 percent of all violent crimes and young adults aged 18 to 21 account for a greater percentage of crime than any other four-year age group. Unsuccessful transitions into the community result in an alarmingly high recidivism rate for juvenile offenders of 55–75 percent. Fortunately, the likelihood that young people will successfully transition back into society after confinement improves markedly with comprehensive, research-based reentry efforts. Comprehensive reentry programs are especially effective among young people. With their brain development still in progress, young ex-offenders are more amenable to effective behavior modification interventions, thus saving lives, anguish, and public tax dollars.

Effective offender reentry efforts include programs like Multidimensional Treatment Foster Care (MTFC). Foster care may sound like a pass for juveniles who

should be paying a more severe price for the crime they committed. But for teens who are often used to running the streets, and who see a month in custody as just another chance to socialize with delinquent friends or learn new criminal behaviors, this is a more controlled experience and a tough intervention. MTFC provides specially trained foster parents and ongoing supervision by a program case manager, as well as frequent contact and coordination of services with a youth's parole or probation officer, teachers, work supervisors and other involved adults during and after a youth's out of home placement. Compared to similar juveniles placed in non-secure group facilities, the MTFC approach cuts the average number of repeat arrests for seriously delinquent juveniles in half, and six times as many of the boys in MTFC as boys in a group home were not arrested again. MTFC is also cost-effective: it saves the public an average of over $77,000 for every juvenile treated.

The bi-partisan Second Chance Act of 2007 (H.R. 1593/S. 1060) is a step toward reducing the high recidivism rate among juvenile and adult offenders. The legislation authorizes assistance to states and localities to develop and implement strategic plans for comprehensive efforts to enable ex-offenders to successfully reenter their communities such as: family reunification, job training, education, housing, substance abuse and mental health services. The bill would also provide for research on reentry, as well as create a national resource center to collect and disseminate information on best practices in offender reentry. This legislation is moving towards enactment in 2007, with funding first authorized for fiscal year 2008.

JABG and JJDPA Title II state formula grants already support research-proven programs like FFT, MST and MTFC. But funding falls far short of meeting the need. In 2002, approximately 150,000 juvenile offenders were placed out-of-home, and nearly 400,000 others were placed on probation. Some juvenile offenders must be placed in secure custody to protect public safety, and many others are first-time offenders who will not become repeat offenders and therefore are not high-risk enough to justify the expense and intrusion of the aforementioned programs. But even if only half of those on probation and half of those placed out of home are eligible for these effective intervention programs, the number of young offenders who could benefit from evidenced-based approaches would still amount to 7 times the 35,000 total currently being served by MST, FFT, and MTFC. In other words, these programs will have to expand 7 times their current capacity nationwide before they start running out of youth who could and should be receiving their services.

Unfortunately, the Administration's fiscal year 2008 budget proposes to eliminate all of the JJDPA funding sources and create a single, new "Child Safety and Juvenile Justice" block grant. This block grant would be funded at a level that is 25 percent lower than the total fiscal year 2007 funding for the programs eliminated. We encourage Congress to demonstrate its commitment to crime prevention by rejecting proposed cuts and block-granting, and by increasing funding for federal juvenile justice and delinquency prevention programs. We urge you to restore funding for Title II State Formula Grants to $89 million, Title V funding to $95 million, and JABG funding to $250 million—levels appropriated by Congress in fiscal year 2002—and ensure that the new Second Chance Act of 2007 is fully funded.

If we do not invest in research-proven crime-prevention programs for America's most vulnerable kids, many of them will grow up to become America's most wanted adults. By failing to adequately invest in proven crime-prevention strategies, Congress is not only failing to facilitate a better future for millions of kids but is also permitting the cultivation of criminals—jeopardizing the safety of all Americans for years to come.

Thank you for this opportunity to present our views on how your Subcommittee can help to reduce crime and make us all safer.

PREPARED STATEMENT OF THE WEST CREEK PRESERVATION COMMITTEE

Madam Chairwoman and Honorable members of the Subcommittee, I appreciate and am honored by the opportunity to provide this testimony in support of an appropriation of $1,100,000 from NOAA's Coastal and Estuarine Land Conservation Program to protect the 10-acre West Creek Confluence property in the city of Independence, Ohio.

In addition, I would like to urge your support for a substantial increase in overall funding for the Coastal and Estuarine Land Conservation Program in fiscal year 2008. The coastal resources of this nation, including Ohio's, are under intense and increasing development pressure. It is of the utmost importance that we balance future development with greater protection of our coastal resources and natural heritage. For instance, in Ohio alone approximately $10 billion is generated annually

from Lake Erie tourism and recreation-related activities, which are dependent upon a healthy and aesthetically pleasing coastal area.

Ohio is not alone in regard to its need for greater coastal resource protection. Across this great nation coastal areas are among the most densely populated and heavily utilized. We are pleased that the program has been recommended in the President's budget for $15 million. However, when compared to the needs from across the country and to what Congress has historically provided for this program, we believe that the protection and future wellbeing of our coastlines and coastal watersheds requires a substantially greater investment.

To be specific, the protection and future wellbeing of Ohio's coastal resources and coastal watersheds are why I have traveled to be before you today. I am the Watershed Coordinator for the West Creek Preservation Committee, a citizen-led nonprofit organization that works within the Greater Cleveland area of the Cuyahoga River and Lake Erie watersheds. Our mission is to conserve, protect and restore the environmental, recreational and cultural resources of this area. Our thousands of supporters and members are comprised of a diverse mixture ranging from your average citizens, to business leaders, to elected officials, all with the common goal of protecting environmental quality, furthering outdoor urban recreational opportunities and quality of life, and increasing economic prosperity.

In the ten years that the West Creek Preservation Committee has been in existence we have protected approximately 500 acres of urban and suburban greenspace including the creation of Cleveland's newest Metropark, we have created and restored acres of urban wetlands, we are developing a recreational trail system and greenway that will span multiple communities and be a part of and connect with the Ohio & Erie Canalway National Scenic Byway, and we are undertaking one of the most ambitious and important stream restoration projects in the Greater Cleveland area.

We are proud to be working with the City of Independence, Ohio, and numerous other project partners, including The Trust for Public Land, the Northeast Ohio Regional Sewer District and Cleveland Metroparks, on what we consider to be one of our most critical projects to date, the West Creek Confluence Project. Located within Cuyahoga County in the City of Independence, and within the Cuyahoga River Area of Concern, the West Creek Confluence Project involves the acquisition, and future complete restoration, of ten acres of land at the confluence of two extremely important waterbodies, West Creek and the Cuyahoga River.

The property contains approximately 850 feet of West Creek main stem and includes its confluence with the Cuyahoga River. The property is positioned at the northern end of the Cuyahoga Valley National Park, is adjacent to the Ohio & Erie Canalway National Scenic Byway, and will provide an access point to the Cuyahoga Valley Scenic Railroad and to the Ohio & Erie Canal Towpath Trail.

Several decades ago the property was developed with what is now an empty warehouse, which severely impacted West Creek and has contributed to extensive flooding, degraded aquatic and riparian habitat, and enormous influxes of nonpoint source pollution to the Cuyahoga River and Lake Erie Basin.

Once permanently protected the Confluence Property will be fully restored and the empty warehouse and parking lot removed. Proper hydrology will be restored to the waterway by re-meandering it through the property and re-connecting it with its floodplain. Aquatic and riparian habitat will be restored to the stream and an expansive array of floodplain wetlands and vernal pools will be created to increase ecological habitat and diversity for everything from waterfowl to amphibians, to store and retain stormwater during flooding events, and to filter and reduce sediment influxes and other nonpoint source pollution, one of the greatest contributors to water quality problems within Lake Erie.

Perhaps most importantly, the West Creek Confluence Project will herald in a new era of sustainable land use for the Cuyahoga River floodplain and its development away from previously poor and incompatible land uses. This project will not only improve the environment and Lake Erie Basin water quality, it will also create a dynamic recreational and educational focal point along the Ohio & Erie Canalway Scenic Byway that will attract large numbers of citizens, tourists and new business opportunities.

When completed, as visitors veer west from the Ohio & Erie Canal Towpath Trail onto the West Creek Greenway Trail System, they will see a meandering, willow-lined West Creek, they will see a broad and vibrant floodplain, and they will see numerous floodplain wetlands and vernal pools and the animals that inhabit them. The West Creek Confluence Project will become a gateway to the endless possibilities that exist within the realm of urban coastal conservation and stewardship.

Realizing the importance and value of this project, the State of Ohio (through the Clean Ohio Conservation Fund), the Northeast Ohio Regional Sewer District

(through the Water Resources Restoration Sponsorship Program) and the City of Independence are all making substantial monetary investments in the West Creek Confluence Project. The appropriation of $1,100,000 from NOAA's Coastal and Estuarine Land Conservation Program will leverage and be matched with the committed funding from the State of Ohio, Northeast Ohio Regional Sewer District and City of Independence to bring the protection of this important property through to fruition.

Millions of Ohioans depend upon Lake Erie for clean drinking water, recreational enjoyment and economic prosperity. It is the eleventh largest freshwater lake in the world and, of the five Great Lakes basins, it is the most densely populated and most affected by both urbanization and agriculture. Lake Erie supports one of the world's most significant commercial freshwater fisheries and the largest sport fishery among the five Great Lakes. Lake Erie alone produces more fish for human consumption than the other four Great Lakes combined!

Ohio's North Coast has seen a significant increase in recreation and tourism related revenue over the past decade, which is directly attributable to the environmental and aesthetic health and wellbeing of Lake Erie. Over 7 million people recreate at Ohio's portion of the Lake Erie Basin annually resulting in the sustenance of a quarter of a million jobs and netting $5.8 billion in yearly wages. An additional approximately $10 billion per year is generated from Lake Erie tourism and recreation-related activities.

Lake Erie is key to Northern Ohio's future economic prosperity! The West Creek Confluence Project represents a key step in sustaining and improving Lake Erie watershed water quality and environmental health!

In fiscal year 2008, $1.1 million is needed from NOAA's Coastal and Estuarine Land Conservation Program to complete the protection of the West Creek Confluence Property. Substantial State of Ohio and local investment has been secured to match this Coastal and Estuarine Land Conservation Program funding request. However, due to time limitations associated with some of the State and local matching funds it is critical that this Coastal and Estuarine Land Conservation Project be funded in fiscal year 2008.

On behalf of the West Creek Preservation Committee, our members, supporters and citizens of Greater Cleveland and Northeast Ohio, I thank you, Madam Chairwoman and Honorable members of the Subcommittee, for the opportunity to provide this testimony.

PREPARED STATEMENT OF THE AMERICAN INSTITUTE OF BIOLOGICAL SCIENCES

The American Institute of Biological Sciences (AIBS) encourages Congress to appropriate at least the President's fiscal year 2008 request of $6.43 billion for the National Science Foundation (NSF). Providing at least $20 million more than the request would enable NSF to increase funding for the Biological Sciences Directorate (BIO) by roughly 7 percent, an increase over the requested 4.1 percent and just below the agency-wide average increase for the various research directorates.

AIBS is a nonprofit scientific association dedicated to advancing biological research and education for the welfare of society. Founded in 1947 as a part of the National Academy of Sciences, AIBS became an independent, member-governed organization in the 1950s. AIBS is sustained by a robust membership of some 5,000 biologists and nearly 200 professional societies and scientific organizations; the combined individual membership of the latter exceeds 250,000. AIBS advances its mission through coalition activities in research, education, and public policy; publishing the peer-reviewed journal BioScience and the education website ActionBioscience.org; providing scientific peer review and advisory services to government agencies and other clients; convening meetings; and managing scientific programs.

Invigorating our nation's innovation enterprise, improving science education, and addressing energy, security, and environmental problems are bipartisan national priorities. NSF is the primary federal research agency with the capacity to support the breadth of scientific research programs that have the potential to drive discovery to meet these priorities. Moreover, NSF-sponsored biological and environmental sciences research will contribute to the development of sustainable and cost-effective solutions for these challenges.

NSF's BIO is vital to our nation's continued leadership in the biological sciences, the fields of science dedicated to understanding how organisms and ecological systems function. Research disciplines heavily dependent upon the directorate include botany, ecology, microbiology, zoology, basic molecular and cellular biology, systematics and taxonomy. Equally important, NSF provides essential support for our na-

tion's biological research infrastructure, such as field stations and natural science collections (e.g. university-based natural history museums), and education and training programs for undergraduate, graduate and post-doctoral students.

According to NSF data, BIO provides 68 percent of federal grant support for fundamental biological research conducted at our nation's universities and other nonprofit research centers.

The Administration's fiscal year 2008 budget request would provide $5.131 billion to support disciplinary research programs within the Research and Related Activities (R&RA) account. This funding level would provide an average 7.7 percent increase for the various programs within the R&RA account, and a 4.1 percent increase for the biological sciences.

Members of the biological sciences community appreciate the proposed increase. However, there is growing concern that BIO funding is not keeping pace with the need and demand for biological sciences research. When adjusted for inflation, the requested fiscal year 2008 budget for BIO places the program only slightly above the 2001 funding level and near the 2003 funding level. Scientists dependent upon BIO grants for research support are feeling the pressure. Over the past four years, the research grant funding rate for BIO has been lower than the NSF-wide funding rate. Yet the number and scope of problems requiring biological information continues to increase. In 2006, the research grant funding rate was only 14 percent compared with an agency-wide rate of 21 percent.

Under the requested budget, BIO would receive $633 million in fiscal year 2008 to support its six core programs. These programs and their proposed funding levels are: Molecular and Cellular Biosciences $116.37 million; Integrative Organismal Systems $105.49 million; Environmental Biology $114.66 million; Biological Infrastructure $96.1 million; Emerging Frontiers (a cross-discipline, "virtual" directorate) $99.16 million; and Plant Genome Research $101.2 million.

The fiscal year 2008 budget request includes important funding for the National Ecological Observatory Network (NEON), the first national ecological measurement and observation system designed to answer regional- to continental-scale scientific questions. NEON is an innovative facility that is designed to transform the way science and education are conducted by enabling integration of data from natural- to human-dominated systems and from genomes to the biosphere. A total of $24 million has been requested for NEON in fiscal year 2008. Roughly $16 million would be funded from BIO and $8 million would be funded from the Major Research Equipment and Facilities Construction (MREFC) account.

Research support is only one of NSF's important missions. NSF is a vital component of our nation's formal and informal science education system. Whether through programs such as Research Experiences for Undergraduates, Integrated Graduate Education and Research Traineeships, or other fellowships for graduate and postdoctoral researchers, NSF provides the resources required to recruit, educate and train our next generation of scientists.

The informal science education programs supported by the Education and Human Resources Directorate could benefit from increased funding. Economic growth demands a scientifically aware and technically skilled workforce—one in which employees have the scientific awareness adequate to generate the next great idea. Moreover, we live at a time when the citizenry is increasingly called upon to make informed decisions. Informal science education programs, whether through a natural history museum, science center or other venue, reach large audiences and provide a valuable mechanism for reaching the general public.

Thank you for your thoughtful consideration of this request and for your prior support of the National Science Foundation. If you have any questions or require additional information, please contact me at 202–628–1500.

PREPARED STATEMENT OF THE AMERICAN MUSEUM OF NATURAL HISTORY

ABOUT THE AMERICAN MUSEUM OF NATURAL HISTORY

The American Museum of Natural History (AMNH) is one of the nation's preeminent institutions for scientific research and public education. Since its founding in 1869, the Museum has pursued its joint mission of science and public education. It is renowned for its exhibitions and collections of more than 32 million natural specimens and cultural artifacts. With approximately 4 million annual on-site visitors—approximately half of them children—it is one of the largest, fastest growing, and most diverse museums in the country. Museum scientists conduct groundbreaking research in fields ranging from all branches of zoology, comparative genomics, and informatics to Earth science, biodiversity conservation, and astro-

physics. Their work forms the basis for all the Museum's activities that seek to explain complex issues and help people to understand the events and processes that created and continue to shape the Earth, life and civilization on this planet, and the universe beyond.

THE AMERICAN MUSEUM—NASA PARTNERSHIP

NASA and the AMNH have been engaged in a multi-year partnership founded on a joint commitment to cutting-edge research and the integration of that research into unique educational tools and resources. The AMNH has worked with the Agency to develop innovative technologies and resources that provide an unparalleled platform for interpreting, displaying, and distributing NASA content to audiences nationwide.

—The Museum has built a set of singular national resources that bring cutting-edge science and integrated NASA content to total audiences of more than 15 million in New York City, across the country, and around the world. In the New York area alone, the Museum reaches nearly four million annual visitors, including more than 450,000 children in school groups and more than 5,000 teachers, with millions visiting online.

—We have launched a successful program to disseminate project resources to informal learning venues nationally and internationally, with Science Bulletins already on view in 39 locations and Space Shows at 32, with more being added.

—We have created Science Bulletins—technologically innovative, immersive multimedia science encounters, presenting space, Earth, and life science news and discoveries in visually stunning feature documentaries, data visualizations, and weekly updates.

—The Museum has made numerous technological breakthroughs—it has established leadership in science visualization and high resolution renderings of massive data sets; it has converted its Space Shows to digital format, making the AMNH the only full planetarium dome content provider that crosses all major platforms; it has pioneered a unique online distribution network that each week streams new science content in HD MPEG2 encodes to partners across North America and most recently, has simplified the technical requirements of the network, including new server and/or lower bandwidth for downloading, so that content is more accessible to more venues.

—AMNH routinely hosts major events celebrating NASA's mission highlights and milestones. Recent events have included live, large-scale events of broadcasts of the New Horizons launch, Stardust sample return, and Mars Reconnaissance Orbiter arrival at Mars.

—The Museum's educational mission is fueled by and reflects cutting-edge science, including the work of our scientists in collaboration with NASA centers and researchers.

Building on this foundation, the Museum seeks in fiscal year 2008 to advance the AMNH–NASA collaboration—with a particular focus on scaling up to reach even larger audiences—with a program for communicating current science content, and content about NASA science and missions in particular, to diverse national audiences. The Museum's activities will include the development of current NASA science education resources, such as Science Bulletins, and continuing to scale up their national distribution for presentation in public spaces and for classroom use.

Science Bulletins (SB) is a nationally distributed, multimedia science exhibition program targeted to informal learning settings. It presents cutting-edge research and discoveries in visually compelling feature documentaries and updates in flexible, large-screen, high-definition video and interactive kiosk versions, as well as in a free online version adapted for classroom use. Our SB program for the following year includes expanding dissemination significantly, developing new visualization methods for use in the development and distribution of SB, and reaching out in diverse ways to the formal education sector to maximize access to the Science Bulletins at the K–12 level.

Museum activities for the next year also include R&D on new techniques for visualizing massive space and Earth science data sets, creating visualization tools for presenting NASA missions and other dynamic science stories, and for advancing innovative solutions to technical challenges in presenting digital planetarium shows. AMNH will conduct extensive internal and external evaluation of this program's activities.

Recognizing its potential to support NASA in its goals to pioneer the future in space exploration, scientific discovery, and aeronautics research; to develop a balanced overall program of science, exploration, and aeronautics; and to establish new and innovative programs to enhance understanding of our Earth, other planets, as-

teroids, and comets in our solar system, as well as the search for life around other stars, the Museum looks forward to advancing its successful multi-year collaboration with NASA and to contributing its unique science, education, and technological capacity to helping the Agency to meet these goals.

PREPARED STATEMENT OF THE AMERICAN MUSEUM OF NATURAL HISTORY

ABOUT THE AMERICAN MUSEUM OF NATURAL HISTORY

The American Museum of Natural History (AMNH) is one of the nation's preeminent institutions for scientific research and public education. Since its founding in 1869, the Museum has pursued its mission to "discover, interpret, and disseminate—through scientific research and education—knowledge about human cultures, the natural world, and the universe." It is renowned for its exhibitions and collections of more than 32 million natural specimens and cultural artifacts. With nearly four million annual visitors, its audience is one of the largest, fastest growing, and most diverse of any museum in the country. Museum scientists conduct groundbreaking research in fields ranging from zoology, comparative genomics, and informatics to Earth, space, and environmental sciences and biodiversity conservation. Their work forms the basis for all the Museum's activities that seek to explain complex issues and help people to understand the events and processes that created and continue to shape the Earth, life and civilization on this planet, and the universe beyond.

The Museum's Center for Biodiversity and Conservation, founded in 1993, is dedicated to enhancing the use of scientific data to mitigate threats to global biodiversity, and to integrating this information into the conservation process and disseminating it widely. It conducts conservation-related field projects around the world, trains scientists, organizes scientific symposia, presents public programs, and produces publications geared toward scientists, policy makers, and the lay public. Each spring, the CBC hosts symposia that focus on conservation issues. The 2006 symposium, Conserving Birds in Human-Dominated Landscapes, focused on unique challenges to and key opportunities for invigorating bird diversity in the areas most heavily impacted by human activities, and the 2007 symposium, Small Matters: Microbes and Their Role in Conservation, will bring together a diverse group of microbiologists and conservation biologists to explore broad questions of the planet's microbial diversity and how conservation practices take microbial life into account.

The Museum's renovated Hall of Ocean Life, reopened in spring 2003, is a major focal point for public education on marine science issues. Drawing on the Museum's world-renowned expertise in Ichthyology as well as other areas of Vertebrate as well as Invertebrate Zoology, the Hall is pivotal in educating visitors about the oceans' key role in sustaining life on our planet. The renovated Hall of Ocean Life, together with the new Halls of Biodiversity, Planet Earth, and the Universe and the rebuilt Hayden Planetarium (part of the new Rose Center for Earth and Space) provide visitors with a seamless educational journey from the universe's beginnings to the formation and processes of Earth to the extraordinary diversity of life on our planet.

COMMON GOALS OF NOAA AND AMNH

The National Oceanic and Atmospheric Administration (NOAA) is committed to understanding and predicting changes in the Earth's environment and to conserving and managing coastal and marine resources to meet the nation's needs. NOAA's Education Plan outlines a broad vision for reaching various audiences to build awareness and knowledge of issues related to the world's atmosphere, climate, oceans, and coastal ecosystems. Addressing the needs of teachers, students, and policy makers as well as the general public, the agency's goals include enhancing environmental literacy and knowledge, application of NOAA science, and development of a capable and diverse workforce for environmental science.

The American Museum of Natural History shares NOAA's commitment to these environmental goals and to the scientific research and public education that support them. Since its founding in 1869, the American Museum has pursued its mission of scientific investigation and public education. Its exhibitions and collections serve as a field guide to the entire planet and present a panorama of the world's cultures. Museum collections of some 32 million specimens and cultural artifacts provide an irreplaceable record of life. More than 200 Museum scientists conduct groundbreaking research in fields as diverse as systematic and conservation biology, astrophysics, and Earth and biodiversity sciences. The work of scientific staff fuels exhibitions and educational programming that reach annually an on-site audience of nearly four million visitors—nearly half of them children.

MARINE SCIENCES INITIATIVE

In fiscal year 2004, as a result of Congressional leadership, the Museum entered into a partnership with NOAA that launched a multi-year marine science and education initiative. Support for this initiative, which encompasses a broad range of education and research activities closely aligned with NOAA goals and purposes, was continued in fiscal year 2005 (and recommended in the fiscal year 2007 report), and further leveraged by Museum scientists who successfully secured competitive NOAA funding. Building upon this strong foundation, and in concert with the strategic priorities of NOAA and the Museum, we seek $1 million in fiscal year 2008 to join with NOAA in aquatic research and education activities that promote environmental literacy. Over a one year period, activities will include: ecosystem-based research, training, and research tool development concerning oceans and aquatic environments; professional development for teachers; special programs on New York waterways for New York City schoolchildren; and public education programs—including some built around a special water exhibition—that will increase understanding of the importance of healthy oceans and atmosphere.

Recognizing its potential to support NOAA in its goals to understand and predict changes in the Earth's environment; to conserve and manage coastal and marine resources; and to protect, restore, and manage the use of coastal and ocean resources to meet our Nation's economic, social, and environmental needs, the Museum looks forward to advancing a partnership with the agency in an education, outreach, and research initiative to promote public understanding and stewardship of marine environments.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the Senate Committee on Appropriations, Subcommittee on Commerce, Justice and Science. UCAR is a 70-university member consortium that manages and operates the National Center for Atmospheric Research (NCAR) and additional programs that support and extend the country's scientific research and education capabilities. UCAR is supported by the National Science Foundation (NSF) and other federal agencies including the National Aeronautics and Space Administration (NASA), and the National Oceanic and Atmospheric Administration (NOAA).

Innovation research is about chemistry and physics, but it's also about earth science. Understanding the earth is a basic necessity, because we need to understand our planet and its environments in order to make sound policy decisions. And if we don't understand the earth, we can't save it.——Barbara Mikulski, Chair, Appropriations Commerce, Justice, Science Subcommittee

The American Competitiveness Initiative (ACI) is proposed to double the physical sciences research budget by 2016, thereby strengthening this nation's economic competitiveness. In this most critical moment for the health of our planet and therefore the future of life as we know it, the geosciences contribute knowledge that is absolutely necessary to understanding climate, weather, the dynamics of water resources, solar effects on Earth, space weather, the interactions of Earth's systems, energy resources, geologic hazards, and all aspects of the global oceans. The economic effects are very substantial, with estimates of the component of the U.S. economy exposed to risks associated with weather and climate variability reaching $3 trillion annually.

The strength of the country's R&D investment is a result of multiple agencies playing numerous, complementary and interlocking roles. Through NSF, NASA and NOAA funding of the geosciences, critical information is provided for economic planning and to produce a better equipped work force to deal with environmental challenges. The atmospheric sciences community strongly supports the nation's innovation agenda—an investment that will pay great dividends for this country if it is funded over the next ten years. We urge the Committee to do everything possible to include the geosciences within NSF, as well as NASA and NOAA science programs, in this initiative.

National Science Foundation (NSF)

NSF plays a unique role among all federal agencies in strengthening the ability of the country to: create new ideas; develop new technologies; create a diverse, knowledgeable workforce; and set new standards that challenge any boundaries of

invention and intellect. These are all key components of our capacity to compete globally in the 21st Century and are fundamental drivers of wealth producing growth and job creation. I urge the Committee to support the President's overall fiscal year 2008 request of $6.4 billion for the National Science Foundation and, within NSF, the request of $5.1 billion for Research and Related Activities (R&RA), the heart of NSF's scientific enterprise. In addition, I urge the Committee to support the Administration's goal of doubling the research budget of NSF over the course of a decade, realizing the promise of the National Science Foundation Authorization Act of 2002.

Geosciences Directorate (GEO).—GEO is the principal source of federal funding for university based, basic research in the geosciences, providing 61 percent of the total federal support in these areas. As stated directly in the fiscal year 2008 budget request, "GEO directly contributes to innovation and competitiveness through its broad portfolio of investments in fundamental research, facilities, and instrumentation that enable discovery, innovation, and integrated education and research activities that increase the effectiveness of the science and engineering workforce." I urge the Committee to support the President's fiscal year 2008 request of $792.0 million for the Geosciences Directorate and, within GEO, to provide the President's request of $240.8 million for the Atmospheric Sciences Division which provides resources for the atmospheric sciences community that are critical to the physical safety of our citizens, our economic health, and global issues of national security such as severe weather hazards, climate change, the security of our communications infrastructure, and the environmental health of the planet.

Education and Human Resources (EHR) Directorate.—Key to the success of the innovation agenda and to the future of this country, is the improvement of math and science education. However, EHR funding has declined steadily for the last several years, particularly in the K–12 and undergraduate areas. We believe those reductions should be reversed so that a strong NSF presence in the K–12 and undergraduate areas can be maintained. The strengthening of science education, so critical to the nation's future, must be intimately connected with the best scientific practices and results being produced via the NSF scientific directorates. We appreciate the recognition in the request of the value of digital libraries to major communities of learners. Within the Division of Undergraduate Education (DUE), the National STEM Education Digital Library (NSDL) receives a modest increase of $500,000. The value of this program continues to rise as its capacity to bring first-rate education tools into the classroom is broadened and enhanced. I urge the Committee to provide as healthy an increase as possible, above the request of $750.6 million, for the Education and Human Resources Directorate so that it may play its rightful, critical role in achieving the country's ACI goals.

National Aeronautics and Space Administration (NASA)

NASA's Science Mission Directorate (SMD) plays a unique and central role in our nation's ability to attract students into science and engineering fields, and to understand the universe, our own planet's environmental complexities and its relationship to the Sun, and major factors contributing to climate change. Despite this essential role, NASA's fiscal year 2008 federal budget request would significantly decrease the science portfolio, defer or eliminate many of the nation's most successful and promising missions, and fund only a relatively small number of scientific missions (albeit promising ones) in the next five to ten years. While the manned program is important, it cannot come at the expense of this critical investment. Within SMD, NASA also plays a unique and central role in the study of the complexities of the Earth system and the equally complex relationship of the Sun to Earth. NASA's continued funding for Landsat Data Continuity Mission (LDCM), Glory, NPOESS Preparatory Project (NPP), and the Global Precipitation Measurement (GPM) mission to maintain current schedules is strongly endorsed. However, given the recent release of the National Research Council's Decadal Survey on Earth Science, NASA should increase its funding levels for earth sciences consistent with the report's recommendations to ensure that future critical missions are supported.

Moreover, NASA's investment in Earth Science Research and Analysis (R&A) and the missions and tools associated with this research makes possible the study of Earth from space providing data that simply are not available from any other sources. These observations, used in research and in the construction of computer models to predict weather, climate, and natural hazards, provide a critical basis from which our understanding of our planet evolves and on which informed policy decisions, both long term and emergency response, can be made. Given the tremendous importance of this underlying activity, I urge the Committee to restore Research and Analysis (R&A) programs to funding levels at least commensurate with fiscal year 2006 levels.

In addition to investments in Earth-Sun System, NASA must preserve the essential PI-led programs that serve as a primary conduit through which the nation's best scientists can engage NASA in cutting-edge problems. NASA should support the Explorer, Discovery, and New Frontier programs and fully commit to missions unless there are technical or cost related issues. When NASA promotes premature termination of those missions for non-technical or cost reasons, it is in danger of sending the message to the community that it is an unreliable partner and that this is not a field that future scientists and engineers should pursue. Moreover, balanced, highly skilled teams of talent are lost, as are discoveries on the immediate horizon. NASA also sends a troubling message to graduate students and young investigators by delaying new opportunities in these programs. The long delay in Explorer opportunities from a once annual opportunity runs the risk of depleting the nation's pipeline of scientists and program managers capable of leading the next generation of earth and space missions.

While the exploration initiative and International Space Station are of great human interest and of scientific value, we are far from unlocking all the mysteries of our own planet. NASA programs that are in progress and others that are yet to be implemented will enable us to protect space vehicles, astronauts, and satellites from the devastating radiation of solar storms; mitigate some of the property damage and prevent some of the deaths caused by severe weather; and help us to mitigate, understand, and cope with the inevitable effects of natural and human-induced climate change. These programs are critical to the health of our economy, to the health of the Earth, and to our national security. As the Administration's new vision for U.S. space exploration unfolds, I urge the Committee to protect the vibrant NASA science accounts and missions, current and planned, that make possible the study of our own planet and the environment that sustains life on Earth.

National Oceanic and Atmospheric Administration (NOAA)

NOAA's contributions to the nation's safety, economy and environment more than justify increased investment in its research and education programs, its personnel and related scientific support facilities. One of NOAA's most important contributions is its support for the weather enterprise—a partnership between government, academic and private sector organizations. For example, NOAA maintains a world-class satellite and surface-based observational system without which weather research and operational forecasts simply could not function. NOAA also makes its own key contributions to both research and to developing and maintaining operational systems. Without the R&D and operations behind the accurate forecasts and warnings that moved tens of thousands of people out of the path of Hurricane Katrina, the number of deaths caused directly by the storm would have been catastrophic. This is just one example of the manner in which NOAA provides a critical link that often means the difference between life and death, between research results, research applications, technology development, and operations.

We strongly support an appropriation of $4.5 billion for NOAA in fiscal year 2008—a level recommended by the Senate for the past two fiscal years and endorsed by the House Oceans Caucus and the Friends of NOAA Coalition. The fiscal year 2008 request is $3.8 billion, a decrease of more than $96.0 million from the fiscal year 2006 enacted level. We believe that under-funding NOAA is a false economy that will degrade critical weather and climate services all too often taken for granted. For NOAA to address all areas of concern and priority that have been identified by Congress and that are listed below, and to restore core funding that has decreased in recent years, I urge the Committee to fund NOAA at $4.5 billion for fiscal year 2008 and to do so while maintaining vital support for other portion's of the Subcommittee's research and development portfolio.

National Weather Service (NWS).—The fiscal year 2008 President's request for NWS contains modest growth above the fiscal year 2007 request and joint resolution. This amount will modestly help to ease demoralizing pressures put on NWS operations staff in recent years. Unfortunately, several important programs continue to fare poorly. The Space Environment Center (SEC) provides space weather and solar radiation warnings for, among other things, modern telecommunications and electricity grid operations. Yet the fiscal year 2008 request is only $6.2 million, down from $7.3 million in fiscal year 2007. The NOAA Profiler Network (NPN) gathers vertical wind data of proven value for weather prediction and severe storm warnings. We appreciate the stated commitment to beginning the NPN conversions needed to avoid a near complete shutdown by 2010, but note that the fiscal year 2008 request would leave 90 percent of the conversions to be completed in only two years. Additional funds in the PAC account for NPN may provide a more realistic completion schedule. The U.S. Weather Research Program (USWRP) request reduces funding to multi-national cooperative research efforts by $1.5 million, in par-

ticular pulling out of the THORPEX Pacific-Asia Regional Campaign (T–PARC) designed to improve pacific coast winter storm forecasts. This would renege on U.S. commitments and slow forecast improvements. I urge the Committee to increase the President's fiscal year 2008 request of $903.5 million for the NWS by the amount necessary, approximately $3.5 million to fund SEC, NPN, and THORPEX at reasonable levels.

Office of Oceanic and Atmospheric Research (OAR).—The OAR fiscal year 2008 budget request is $368.8 million, a decrease of over $10.0 million from the fiscal year 2006 enacted level. The fiscal year 2008 request will allow modest increases for implementation of the National Integrated Drought Information System (NDIS) and improving hurricane intensity research, extremely important and timely progress that we welcome. The climate research programs of OAR, including the competitive grants program within Climate and Global Change, have been combined into a new account titled, Competitive Research Program. Since the overwhelming percentage of the programs funded within this account are operated by NOAA and not open to competition, this new title is misleading. However, many of the programs within this account are certainly of importance to the atmospheric sciences community, in particular the extramural, merit-based grants program which could address shortfalls in critical areas such as badly needed improved observations provided through programs such as ARGO, if it were fully funded. I urge the Committee to provide at least the President's fiscal year 2006 enacted level of $379.6 million for OAR in fiscal year 2008 in order to allow for a robust and truly competitive extramural climate research program.

National Environmental Satellite, Data and Information Service (NESDIS).—NESDIS is responsible for managing all aspects of NOAA's remotely gathered environmental data that form the basis for environmental research meeting the needs of policy makers and users. Continued support for the Global Earth Observation System of Systems (GEOSS) is appreciated, but the overall NESDIS request is down as is the request for the National Data Centers which are of critical importance in making data available to researchers and policy makers. Our community is well aware of the significant budget problems that the National Polar-orbiting Operational Environmental Satellite (NPOESS) will surely cause as it becomes operational. The NPOESS program is essential to maintaining and upgrading a comprehensive satellite and surface observational system, 40 percent of which, according to a recent NRC report, is quickly coming to the end of its functional life. At a time when the nation should be fixing the NPOESS problem, we do not understand how NESDIS could be slated for a budget cut. I urge the Committee to protect other NOAA research and operational programs that serve this nation well, while addressing the NPOESS issue and giving NESDIS the resources it needs in fiscal year 2008 to keep this country ahead of all others in our ability to gather environmental data that are essential for policy decisions, the management of resources, and the health of our economy.

National Ocean Service (NOS) and Ocean Research Priorities Plan.—NOAA is the nation's preeminent agency for ocean research and for the transfer of research results into products and services that affect the health of the oceans, coastlines, and coastal water sheds; the nation's economy; and the well being of many U.S. citizens. In 2004, the U.S. Commission on Ocean Policy recommended approximately $3 billion in projects to improve the state of our oceans, yet NOAA's budget has fared poorly since then and many ocean programs of NOAA have been cut. There is an urgent need to implement programs such as the Integrated Ocean Observing System at this particular time when our environment is changing rapidly and we need to monitor changes in the oceans as well as interactions between the atmosphere and oceans. I urge the Committee to fund NOS at the fiscal year 2006 enacted level of $590.4 million in fiscal year 2008.

The Administration has recently completed and released an interagency Ocean Research Priorities Plan and implementation strategy in a report entitled Charting the Course for Ocean Science in the United States for the Next Decade. This plan is an important first step toward building the scientific foundation to improve society's stewardship and use of, and interaction with, the ocean and understanding its impact on our weather and climate systems. I urge the Congress to examine this interagency plan closely—particularly as it relates to NSF and NOAA—and provide as much support as possible for its implementation.

On behalf of the UCAR community, I want to thank the Committee for your stewardship of the nation's scientific enterprise and your understanding that the future strength of the nation depends on the investments we make in science and technology today.

PREPARED STATEMENT OF THE NATIONAL MARINE SANCTUARY FOUNDATION

Dear Chairwoman Mikulski and Ranking Member Shelby: We, the Board of Directors of the National Marine Sanctuary Foundation, are writing as supporters of the oceans programs of the National Oceanic and Atmospheric Administration (NOAA). We strongly encourage you to consider appropriations for NOAA at the $4.5 billion level for fiscal year 2008.

This investment in NOAA yields great returns for the nation, especially when you consider that over half of the nation's gross domestic product is generated in coastal counties and adjacent waters, yielding $2.5 trillion. Through its weather forecasting, nautical charting, fisheries management, hazard mitigation, and ocean protection and management responsibilities, no other federal agency affects this country's 300 million Americans every day the way NOAA does. An investment of $4.5 billion averages out to just $15 per person annually.

Despite the many benefits NOAA provides, shifts in funding priorities in recent years have led to substantial cuts in key NOAA programs with long-standing reputations for excellence. The National Marine Sanctuary System (NMSS), for example, is a crucial thread in the larger fabric of ocean science, conservation and education. To enhance and sustain the effectiveness of the system, we strongly urge you to fund NMSS at no less than $78 million for fiscal year 2008, which would restore the fiscal year 2005 enacted level and provide a $10 million increase to support the system's growth since then.

The National Marine Sanctuary System includes 14 sites nationwide that serve as living laboratories, classrooms, and playgrounds for all Americans by making areas of the ocean realm manageable and accessible for state and local partners, research centers, educators, and other partners. The most recent addition to the system is the newly designated (June 2006) Northwestern Hawaiian Islands Marine National Monument, which provides 140,000 square miles with the nation's highest form of marine environmental protection, while preserving access for native cultural activities and allowing for carefully regulated educational and scientific activities.

During this fiscal year 2008 appropriations process, we urge you to be the ocean champion that this country so desperately needs by supporting a $4.5 billion appropriation for NOAA, which would collectively provide critical funding for many important ocean programs and activities around the nation, including the National Marine Sanctuary System, the Ocean Exploration Program, the National Sea Grant College Program, the Education Initiative, and many others. Such NOAA programs are not only vital to our nation's environment, economy, and competitiveness, but also to the health and well being of every resident of your state.

SANCTUARY HIGHLIGHTS

You can learn more about these and other accomplishments by visiting http://sanctuaries.noaa.gov

Channel Islands
Researchers looked at how the recent establishment of no-take zones within the boundaries of the sanctuary affects ocean users in an innovative aerial survey program. Shipwrecks were explored and two major marine debris clean-up efforts were completed.

Cordell Bank
A new local radio program highlighting sanctuary life was launched this year. Staff monitored potential threats to marine life from marine debris, and created detailed maps of the sanctuary that will aid in habitat restoration efforts.

Fagatele Bay
To help control soil erosion which impacts water quality, staff developed a project to plant rows of non-invasive grass. Staff launched an innovative education program to help Samoans develop stewardship for their coral reefs, and 2006 marked 20 years serving Samoa.

Florida Keys
Urchins that play a critical role in reef health were moved to safer ground. Studies show increases in several fish species in largest U.S. no-take zone, and sanctuary staff introduced a continuing education course at a local community college. The Nancy Foster Eco-Discovery Center opened in January 2007.

Flower Garden Banks
Scientists monitored reefs following coral bleaching events. Whale shark and manta ray tagging effort was launched, and a new partnership began with the Aquarium at Moody Gardens in Galveston, Texas.

Gulf of the Farallones
California seabirds got a helping hand in a cooperative effort to lessen human impact on bird nesting and breeding grounds. Researchers documented reduction of krill in the ocean food web, and a settlement was reached with a dredging company for spilling dredged mud into sanctuary waters.

Gray's Reef
The sanctuary turned 25 and continued its ocean stewardship by promoting ocean awareness in students through student/teacher workshops, and conducted studies that revealed new species of sponges. Staff prepared analysis of the region's diverse habitat and marine life.

Hawaiian Islands Humpback Whale
Sanctuary staff worked with state partners to continue marine mammal protection, completed the field study portion of the largest whale study ever and developed innovative methods to reduce ship strikes to whales.

Monitor
A summer expedition to the USS *Monitor* gave the public an up-close-and personal with researchers studying the historic wreck. Major restoration efforts continue on *Monitor* artifacts. A *Monitor* replica was christened in summer 2006 and a new *Monitor* Center opened in March 2007.

Monterey Bay
Scientists studied deep sea corals on Davidson Seamount, an area proposed for inclusion in the sanctuary. The Coastal Discovery Center, the sanctuary's first public visitor center opened its doors, and staff published a new sanctuary field guide.

Northwestern Hawaiian Islands Marine National Monument
While monument proclamation took center stage, work continued on looking at the ecosystem connectivity between Johnston Atoll and the islands. Scientists believe the atoll may be a key stepping stone that links marine species from other areas in the Pacific to the Hawaiian archipelago.

Olympic Coast
NOAA teamed with Canadian government on spill response drill, and staff worked with four Indian tribes to provide a forum for discussing ocean management in the sanctuary. Scientists observed several cases this summer where oxygen in the ocean dipped to dangerously low levels.

Stellwagen Bank
Two sunken schooners were listed on the National Register of Historic Places. A sanctuary exhibit was unveiled at the Gloucester Maritime Heritage Center, and innovative acoustic studies continue to reveal new findings on humpback and right whale behavior.

Thunder Bay
Archaeologists documented the sanctuary's oldest known shipwreck. Researchers used remote sensing technology in shallow waters to further characterize some areas of the sanctuary, and the Great Lakes Maritime Heritage Center continues to draw thousands of visitors each year to learn about the region's maritime history.

National Oceanic and Atmospheric Administration

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Scale varies in this perspective.
Adapted from National Geographic maps.

PREPARED STATEMENT OF THE NORTHWEST INDIAN FISHERIES COMMISSION

Thank you for the opportunity to appear before this Committee and provide oral testimony on the Department of Commerce fiscal year 2008 appropriations. We support full funding for the NOAA Fisheries and NOAA-National Ocean Service (NOS) budgets that include appropriations necessary for key Federal and State partnerships with the twenty Treaty Indian Tribes in Western Washington. We would like to highlight the following requests:

SUMMARY OF FISCAL YEAR 2008 APPROPRIATIONS REQUEST

NWIFC Specific Requests:

—$100 million for the Pacific Coastal Salmon Recovery Fund with a $9 million allocation for the twenty affected Treaty Tribes in Western Washington for their management responsibilities and the Northwest Indian Fisheries Commission along with support language (NOAA/National Marine Fisheries)

—$500,000 for Coastal Marine Resource Management

$100 million for the Pacific Coastal Salmon Recovery Fund with a $9 million allocation for the twenty affected Treaty Tribes in Western Washington and the Northwest Indian Fisheries Commission

The Pacific Coastal Salmon Recovery Fund (PCSRF) is a multi-state, multi-tribe program established by Congress in fiscal year 2000 with a primary goal to help recover wild salmon throughout the Pacific Northwest and Alaska. The PCSRF seeks to aid the conservation, restoration and sustainability of Pacific salmon and their habitats by financially supporting and leveraging local and regional efforts. Recognizing the need for flexibility among Tribes and the States to respond to salmon recovery priorities in their watersheds, Congress earmarked the funds for salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements. PCSRF is making a significant contribution to the recovery of wild salmon throughout the region. Since the program's inception, Pacific coastal Tribes, including the 20 Treaty Tribes in Western Washington, who are members of the NWIFC, have used PCSRF monies to remove 79 fish passage barriers-opening up 47 stream miles; restore 282 miles of instream habitat; restore 747 acres and 113 stream miles of riparian habitat; restore 129 acres of wetland habitat and protect 288 acres of habitat through land acquisition, easement or lease. The Tribes are using these funds to implement the recovery plan for ESA-listed Puget Sound Chinook recently approved by NOAA. However, even though Tribes were to receive at least a 10 percent set aside from PCSRF funding every year, the $90 million base dropped to $67 million in fiscal year 2006 and Tribes were disproportionately cut to $4.4 million. Restoration of these funds to support this important recovery work by the Tribes is vital.

$500,000 for Coastal Marine Resource Management

The NOAA/Marine Sanctuary Program has provided nominal funding from its base to enable the four coastal Tribes to effectively participate in sanctuary management, based on the federal/state/tribal Memorandum of Understanding that established the Intergovernmental Policy Council earlier this year. National programs currently are in place and budgets exist and are funded for the NOAA/National Marine Sanctuary Program. Early planning and negotiation has occurred, setting the framework for Pacific Ocean planning. This funding will allow Tribes to build their staffing expertise and support their policy involvement in the later detailed work processes.

The economic value associated with effective marine resource protection is huge. Not only are marine areas crucial for our natural resources and those that use them; they are bridges of commerce between nations and continents. Healthy oceans are essential if we value stable climates that will sustain our economies and our lives. Tribes must be partners in the efforts to research, clean up and restore the environs necessary to deal with such problems as:

—Damage to Dungeness Crab Fisheries—The State commercial crab season annually nets more than 20 million pounds of Dungeness crab, valued at nearly $1 billion. Tribes presently harvest a fraction of that amount. Yet declining salmon runs caused by lost and degraded habitat have made fisheries such as those for Dungeness crab increasingly important to Tribal communities.

—Groundfish, such as black cod, whiting and halibut have also grown in economic importance to Tribes. Unfortunately, just as coastal Treaty Tribes are beginning to fully access some of their treaty-reserved harvest of groundfish, several rockfish species have declined sharply. As a result, severe harvest restrictions have had to be implemented, threatening the cultural, spiritual and economic vitality of coastal Treaty Tribes.

As co-managers of groundfish with the Federal and State governments, Tribes want to work collaboratively to address a significant lack of data on groundfish populations. Better data will enable Tribes to make more informed management decisions. Better data also facilitates the move to an ecosystem-based management approach that takes into consideration the differences among groundfish populations in different areas.

Tribes have proven that we can bridge different interests for the good of the whole. Tribes have been actively involved in marine issues off the coast of Washington. As described earlier, Tribes, NOAA and the State of Washington have jointly signed a working MOU to guide Olympic Marine Sanctuary planning and implementation. The Tribes also participate in the State Ocean Policy Workgroup. Besides State and Federal government partners, the Tribes work closely with business, industry, sportsman and commercial fishing groups, environmental and community groups and individuals. Incidentally, Tribes are also key partners in the Puget

Sound Shared Salmon Strategy and the Puget Sound Partnership. Tribal leaders have consistently been early advocates, leaders and technicians as these efforts were brought to fruition.

BACKGROUND

When our ancestors signed treaties, ceding millions of acres of land to the United States government, they reserved fishing, hunting and gathering rights in all traditional areas. These Constitutionally-protected treaties, the Federal Trust Responsibility and extensive case law, including the *U.S.* v. *Washington* Decision of 1974, all consistently support the role of Tribes as natural resource managers, on and off reservation. In Washington State, these provisions have developed into a generally successful co-management process between the Federal, State and Tribal governments. The co-management route is the one and only path that leads to true sustainability in our region, and is the tool that must be used to meet the many environmental challenges we face, such as polluted and over-appropriated waters, species decline and climate change. Treaties are nation-to-nation accords, and Tribes have always been outstanding natural resource managers and stewards of the land.

However, the Federal government has chosen to cut funding to Tribal natural resource management programs over the past six years. There is no question that this jeopardizes the bond of trust between our governments. It also jeopardizes management programs and infrastructure critically important to co-management and to the health and vitality of natural resources, and the Tribal and non-tribal people they sustain. The timing of funding cuts could not have been worse. We are facing many environmental and natural resource management challenges in the Pacific Northwest, caused by human population expansion and urban sprawl, increased pollution problems ranging from storm water runoff to de-oxygenated or "dead" areas in the Hood Canal, parts of Puget Sound and in the ocean off the coast. The pathway to the future is clear to us. The Federal, State and Tribal governments must strengthen our bond and move forward, together, with the determination and vigor it will take to preserve our heritage. Together, we must focus on the needs of our children, with an eye on the lessons of the past.

OUR MESSAGE

Our message to you now is that achieving such objectives requires adequate funding. The Tribes strive to implement their co-management authority and responsibility through cooperative and collaborative relationships with the state and local communities. We constantly seek ways to restore and manage these precious natural resources in a manner that can be supported by all who live in this area. The work the Tribes do benefits all the citizens of the State of Washington, the region and the nation. But the increasing challenges I have described and the growing demand for our participation in natural resource/environmental management requires increased investments of time, energy and funding. Restoring and protecting these natural resources is essential to the economy and the quality of life that is so valued by those who live in the Northwest.

We are sensitive to the budget challenges that Congress faces. We recognize that this Administration has greatly reduced the allocation to discretionary domestic spending during the last several years, which makes it increasingly difficult to address the many requests you receive. Still, we urge you to maintain and increase the allocation and appropriations for priority ecosystem management initiatives. The need for an ecosystem-based management approach for Washington's marine waters have come into sharp focus in recent years. Major studies by the U.S. Commission on Ocean Policy and the Pew Charitable Trust, and the appearance of the low-oxygen dead zones are clear signals that the health of our rivers and marine waters is in rapid decline. In its report, "An Ocean Blueprint for the 21st Century," the Ocean Commission essentially concluded that the oceans are sick, and estimated the costs for reversing declines and restoring coasts and oceans nationwide at about $4 billion annually. Follow through on that report has obviously not approached that level of investment—and it might not for some time. But, for the sake of sustainable health, economies and the natural heritage that sustains them, it is critically important for Congress to do more than it has, and to direct federal agencies to do even more to coordinate their efforts with State and Tribal governments.

In Washington State, the Ocean Policy Workgroup, created by Gov. Chris Gregoire, was an outgrowth of the Ocean Commission. This group consists of 20 members, made up of state agency heads, legislators, the Governor's Office and Tribes. Among the group's recommendations was the creation of a governing board and council, with representatives from management agencies and Tribes, scientific communities, and stakeholder groups, to establish management needs, align re-

search priorities and monitor the progress through specific work plans. We have been actively engaged in this process, and see great value in continuing our participation. We also look forward to increased participation in multi-state agreements and efforts on the Pacific Coast as well as the Puget Sound Estuary. Tribes hope to stay active with the Ocean Policy Workgroup, as well as with such programs as the Oil Spill Advisory Committee. Early this year, the coastal Treaty Indian Tribes, the State of Washington and the U.S. Government created a policy council to guide the Olympic Coast National Marine Sanctuary. An MOA between the parties has resulted in the creation of an Inter-governmental Policy Council with members from each coastal Tribe and the State to ensure coordinated and comprehensive management of the sanctuary and its resources. Related to all of these efforts, we look forward to participating in the development of a coast-wide cooperative ecosystem management approach in response to the Ocean Commission Report.

As frequently attributed to Chief Seattle (Sealth), Tribes believe all things are connected. That is why we believe only through a holistic ecosystem management approach can we find success in achieving a healthy environment and robust natural resources. We believe failure to deal with the natural resource/environmental challenges forced upon us, with an ecosystem approach, can only result in ruinous impacts on treaty-protected resources.

All of this requires adequate funding.

CONCLUSION

Clearly, Western Washington Tribes are leaders in the Northwest salmon recovery effort. The Tribes possess the legal authority, technical and policy expertise, and effective programs to address impacts on wild salmon from harvest and hatcheries. The Tribes are strategically located in each of the major watersheds, and no other group of people knows salmon like the Tribes. No one else so deeply depends on salmon for their cultural, spiritual and economic survival either, although the habitat and salmon restoration work we do will definitely benefits everyone who lives here. Tribes seize every opportunity to coordinate with other governments, and non-governmental entities, to avoid duplication, maximize positive impacts and emphasize the application of holistic ecosystem management. We continue to participate in salmon recovery, habitat restoration, etc. on an equal level with the State, because we understand the great value of such cooperation. It is said that salmon are our miners' canary. They absolutely depend on clean water and healthy habitat—and so do we. We ask Congress to help us in the effort to restore salmon, other species and habitat by supporting our funding requests.

I thank the Committee for allowing me this opportunity to make these budget requests of the fiscal year 2008 Appropriations for the Department of Commerce.

PREPARED STATEMENT OF THE POPULATION ASSOCIATION OF AMERICA/ASSOCIATION OF POPULATION CENTERS

INTRODUCTION

Thank you, Senator Mikulski, Senator Shelby, and other distinguished members of the Subcommittee, for this opportunity to express support for the Census Bureau and the National Science Foundation (NSF), two agencies important to the Population Association of America and the Association of Population Centers (PAA/APC).

BACKGROUND ON THE PAA/APC AND DEMOGRAPHIC RESEARCH

The PAA is an interdisciplinary, scientific organization comprised of over 3,000 research professionals, including demographers, economists, sociologists, and statisticians. The APC is a similar organization comprised of over 30 universities and research groups that foster collaborative demographic research and data sharing, translate basic population research for policy makers, and provide educational and training opportunities in population studies.

Demography is the study of populations and how and why they change. Demographers, as well as other population researchers, collect and analyze data on trends in births, deaths, immigration and disabilities as well as racial, ethnic and socioeconomic changes in populations. Among the major policy issues, population researchers study the demographic causes and consequences of population aging, trends in fertility, marriage, divorce and their effects on the health and well being of children, and immigration and migration and how these patterns affect the ethnic and cultural diversity of our population and the nation's health and environment.

PAA/APC members rely on a number of federal agencies charged with funding demographic research and generating reliable, accessible data. The ability of our mem-

bers to produce meaningful research, often used to inform policy decisions, requires the use of substantial data sets and support for research projects and research training.

THE CENSUS BUREAU

The Census Bureau is the premier source of information about the American people and the U.S. economy. In addition to the decennial census and the American Community Survey, the Census supports a variety of surveys to measure changes in individual and household demographic and economic conditions. PAA and APC members rely on accessible data produced by the Census Bureau to conduct their research.

NATIONAL SCIENCE FOUNDATION

The mission of NSF is to promote the progress of science; to advance the national health, prosperity, and welfare; and to secure the national defense. The demography of our population directly impacts the health, prosperity, welfare, and security of our nation. NSF support of demographic research, particularly its support of large-scale longitudinal surveys, such as the General Social Survey and Panel Study of Income Dynamics, is central to the agency's mission and essential for the field of population research. NSF provides about 20 percent of all federally supported basic research conducted by America's colleges and universities, including basic behavioral and social research. Demographic research also depends on support from NSF for support of individual research projects and research centers.

RECOMMENDATIONS

PAA and APC urge you to support the Administration's request for the Census Bureau, which is $1.23 billion in fiscal year 2008. Substantial preparation is required to ensure the success of an accurate 2010 Census and fully implemented American Community Survey. In 2008, the Census Bureau will be conducting the only dress rehearsal of the decennial census. The rehearsal, which will be conducted in San Joaquin County, California, and nine counties in the Fayetteville area of North Carolina, will evaluate the integrated census plan in a census-like environment. Also, in 2008, the Bureau will design and test a system for capturing and processing census data, open 12 regional census centers nationwide, and verify address information submitted by state, local, and Tribal governments. All of these key planning, or ramping up, activities are central to the success of the 2010 Census. Thus, it is imperative the Bureau receive the Administration's request in 2008. Receiving anything less than the President's request, jeopardizes the accuracy of the 2010 Census, increasing the chances of over counts, undercounts, and, ultimately, geographic misallocations of federal resources, and threatens the availability of key demographic and economic data researchers and policymakers require.

PAA and APC, as members of the Coalition for National Science Funding, support the President's budget request for NSF in fiscal year 2008, which is $6.43 billion. This budget will enable the NSF Social, Behavioral and Economic Science Directorate (SBE) to continue its support of social science surveys and a rich population research portfolio. Furthermore, the proposed budget will enable SBE to fully implement the Science of Science and Innovation Policy initiative. The goal of this initiative is to develop an evidence-based platform from which policymakers and researchers may assess the impacts of the Nation's science and engineering enterprise.

The Census Bureau and the National Science Foundation support, indirectly and directly, the collection and availability of rich data sources to PAA/APC members. Our economists, statisticians, and social survey design experts rely on federally supported data to conduct their research and inform public policy. Investments in these data sets are investments in good policy.

Thank you for considering our requests and for supporting federal programs that benefit the field of demographic research.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF MARINE LABORATORIES

Madam Chair and Members of the Subcommittee, on behalf of the National Association of Marine Laboratories (NAML) I am pleased to submit this statement in strong support of the research and education programs under the subcommittee's jurisdiction that are vitally important for a vibrant oceans, coastal, and Great Lakes research and education enterprise. I will focus my remarks on four key areas: federal extramural research funding, innovation and competitiveness, implementation

of ocean commission recommendations and other federal ocean research reports, and ocean education, literacy and workforce development.

NAML (www.naml.org) is a nonprofit organization of over 120 institutions employing more than 10,000 scientists, engineers, and professionals and representing ocean, coastal and Great Lakes laboratories stretching from Maine to the Gulf of Mexico, Guam to Bermuda, and from Alaska to Puerto Rico. NAML labs support the conduct of high quality ocean, coastal and Great Lakes research and education in the natural and social sciences and the effective use of that science for decision-making on the important issues that face our country.

FEDERAL SUPPORT FOR EXTRAMURAL OCEAN, COASTAL AND GREAT LAKES RESEARCH AND INFRASTRUCTURE

NAML strongly urges federal commitment to enhance support for cutting-edge ocean, coastal, and Great Lakes research and infrastructure across federal funding agencies.

The marine sciences have much to offer the Nation as it seeks to strengthen its ability to innovate and compete in today's global economy. They are inherently interdisciplinary, address science, technology, engineering, and mathematics (STEM) disciplines, push the envelope in terms of technology development, test the boundaries of our data collection and analysis systems, and offer an effective training ground for future scientists and engineers. NAML asks that the value of extramural research funding at all relevant federal agencies not be overlooked, but recognized as essential to the overall progress of coastal, ocean and Great Lakes science and education. Further, in order to support this research and ensure that this country is achieving the best possible results, all types of infrastructure-marine laboratories, observatories, ships, underwater vehicles, and satellites-must be supported across the board.

—*National Science Foundation*.—NAML supports increased federal funding for the National Science Foundation (NSF) consistent with the President's budget request of $6.5 billion for fiscal year 2008. Basic research and the transfer and use of the knowledge developed through research are vital for the long-term economic competitiveness and national security of this Nation. NSF provides vital support for basic research and education which enhances public understanding of the Nation's oceans, coastal areas, and the Great Lakes. NSF also provides important support for basic laboratory facilities, instrumentation, support systems, computing and related cyberinfrastructure, and ship access. The final report of the U.S. Commission on Ocean Policy makes several recommendations on the need to develop and enhance ocean, coastal and Great Lakes research infrastructure. To that end, NAML strongly supports the development of the Ocean Observatories Initiative at NSF. Further, NAML urges the Subcommittee to significantly enhance the NSF Major Research Instrumentation (MRI) program and its Field Stations and Marine Laboratories (FSML) program. FSML is of particular interest to marine labs as it provides researchers with access to state of the art instrumentation for research and education and necessary cyberinfrastructure and data management systems that compliment the Ocean Observatories Initiative. We urge the Subcommittee to double the modest FSML budget from $2.5 million to $5 million for fiscal year 2008 and further request that the program ultimately be increased to $10 million annually.

—*National Oceanic and Atmospheric Administration*.—NAML requests a top-line appropriation of $4.5 billion for NOAA for fiscal year 2008. This is consistent with the position take by the Friends of NOAA (www.friendsofnoaa.org) coalition which represents a diverse group of NOAA stakeholders.

A Congressionally requested study of NOAA's research programs, entitled, Review of the Organization and Management of Research in NOAA completed August 2004, concluded that extramural research is critical to accomplishing NOAA's mission. The access to such enhanced research capacities provides NOAA with world-class expertise not found in NOAA laboratories; connectivity with planning and conduct of global science; means to leverage external funding sources; facilitation of multi-institution cooperation; access to vast and unique research facilities; and access to graduate and undergraduate students. Academic scientists also benefit from working with NOAA, in part, by learning to make their research more directly relevant to management and policy. It is an important two-way interaction and exchange of information.

NAML strongly supports robust NOAA extramural research activities expressed though such programs as the National Sea Grant College Program, the National Undersea Research Program (NURP), Ocean Exploration, research related to aquaculture, invasive species, and the various joint and cooperative in-

stitutes supported by NOAA. The Bush Administration has proposed to maintain the Sea Grant program at $55 million for the third straight year. Sea Grant is already feeling the pinch of a flat-funding environment and the President's request will only further hinder the programs' ability to address local, regional and national ocean research and education needs. A budget of $72 million for Sea Grant will allow the program to mend past cuts and address emerging needs facing our coasts. In addition, the Bush Administration has proposed to the merge NURP with the Ocean Exploration program. NAML hopes that if or when this merger comes to fruition the new program will still provide an extramural research component that is so valued by the research community. While the merger of the two programs is still under development, we support funding NURP at $20 million and Ocean Exploration at $28 million for fiscal year 2008. These noted partnership programs are not only consistent with the findings of the August 2004 review of NOAA research, but are also consistent with NOAA's missions. As such they should be strongly supported and made accessible to the ocean, coastal, and Great Lakes research community on a competitive basis.

NAML is encouraged that the Administration has included in its budget request for fiscal year 2008 a line for the development of an Integrated Ocean Observing System (IOOS) within NOAA with $16 million set aside for initial funding. However, the amount needed to sustain and enhance current observing system efforts by the research community is closer to $100 million annually. Integrated observations offer critical information on coastal processes necessary for addressing issues, such as the health of humans and marine life, weather and climate nowcasts and forecasts, homeland security, and resource management. Much work is still needed to shape the federal government's involvement in IOOS and larger global observing efforts. NAML urges the Subcommittee to provide adequate funding for IOOS in fiscal year 2008 consistent with the needs of the community.

—*National Aeronautics and Space Administration*.—NASA's support for earth and space sciences is vital in helping us better understand our planet. NASA's Earth Science Applications theme benchmarks practical uses of NASA-sponsored observations from Earth observation systems and predictions from Earth science models. The National Academy of Sciences released a report[1] this year which calls on NASA to "renew its investment in Earth observing systems and restore its leadership in Earth science and applications." NAML is one of many groups that believe we need a balanced investment in NASA that will maintain a strong and vibrant earth and space science enterprise. If we are concerned about the fate of the planet, NASA's support for science is absolutely crucial to understanding and ultimately deciding how to address the concerns we are facing. NAML urges the Subcommittee to renew its investment in the NASA Earth Science budget for fiscal year 2008.

INNOVATION AND COMPETITIVENESS

NAML strongly supports efforts by the Administration and Congress to strengthen the nation's position as a world leader in scientific innovation and competitiveness.

As the Nation seeks to expand its investment in the physical sciences to increase its international competitiveness, NAML calls on the Subcommittee to recognize the integrated and strategic relationship between all scientific and engineering disciplines and to support an enhanced investment in science and technology across the board as part of any long-term economic competitiveness policy. NAML is encouraged that the federal government has begun focusing on the physical sciences for targeted funding increases, particularly through efforts to double the budget of the National Science Foundation (NSF) over the next 10 years. However, we must ensure that the entire breadth of the physical sciences, which include the earth and ecosystem sciences as well, is supported so we do not hinder this nation's true innovative potential. Other federal agencies involved in the "physical sciences" need to be supported within the context of innovation, namely the extramural research programs within the National Oceanic and Atmospheric Administration (NOAA) and the National Aeronautics and Space Administration (NASA). Improvements in the quality of education provided to our students with a strong foundation in math and science as well as support for universities and laboratories that provide world-class

[1] *Earth Science and Applications from Space: National Imperatives for the Next Decade and Beyond*, Committee on Earth Science and Applications from Space: A Community Assessment and Strategy for the Future, National Research Council, January 2007.

education and research opportunities will only benefit the nation and its science enterprise. As the Subcommittee sets its funding priorities for the year we hope it will consider the relevance of NOAA and NASA to U.S. innovation and competitiveness.

IMPLEMENTATION OF OCEAN COMMISSION RECOMMENDATIONS AND OTHER FEDERAL OCEAN RESEARCH REPORTS

NAML continues to strongly support implementation of the recommendations made by the U.S. Commission on Ocean Policy (2004)[2]. In addition, NAML looks forward to the implementation of the interagency Ocean Research Priorities Plan (2007)[3].

NAML believes that public policy with respect to the nation's oceans, coasts and Great Lakes should always be based on sound science and the most up-to-date information. The U.S. Commission on Ocean Policy's analysis of existing policies and future needs has resulted in a collection of bold and broad-reaching recommendations for reform. The Congress has taken these recommendations to heart in recent years and has begun addressing the nation's ocean needs. Federal implementation of these recommendations will enable the United States to maintain and strengthen its role as a world leader in protecting and sustaining the planet's oceans and coasts. NAML is particularly supportive of the Commission's recommendation to re-align NOAA's functions to support ecosystem-based management approaches. In addition, we fully endorse the Commission's recommendations to double the federal investment in ocean, coastal, and Great Lakes research as well as its recommendation to promote a strong federal investment in ocean, coastal, and Great Lakes education, outreach, and stewardship.

As the Bush Administration states in its decade-focused Ocean Research Priorities Plan, "Scientific discovery driven by competitive peer-reviewed investigations is the foundation of the nation's research enterprise." This plan identifies the nation's most urgent short- and longer-term ocean research needs. NAML is encouraged that the Administration proposed new funding for ocean issues in its budget request for fiscal year 2008. However, we urge the Administration and Congress to not overlook the importance of the extramural research community to the implementation of the plan's goals. The external research community stands equipped and ready to assist the federal government in implementing its identified priorities. NAML hopes that the dedication to ocean, coastal and Great Lakes issues expressed by the federal government in recent years will continue and be further enhanced to ensure that the external research community is being utilized to the fullest extent possible as the valuable resource that it is. In order to be successful, the federal government will need to look to the extramural research community to tap into existing capabilities to ensure that they are taking the most practical approach to ocean governance.

OCEAN EDUCATION, LITERACY, OUTREACH AND WORKFORCE DEVELOPMENT

NAML believes that an ocean literate populace will lead to a well-informed and safe nation. NAML encourages the federal government to strengthen its commitment to enhancing ocean, coastal and Great Lakes education, literacy and outreach as well as workforce development.

A strong national ocean policy can only be sustained with the most up-to-date and reliable scientific information. To ensure that the nation will continue to have the ability to address emerging ocean issues in the future, investments are needed today in coastal, ocean, and Great Lakes education programs that support learning at all age levels, by all disciplines, and for all Americans. NAML strongly supports the NSF Centers for Ocean Science Education Excellence (COSEE) program, NSF education and human resources generally, and NOAA's Office of Education. Such programs provide a rich environment for which collaborations and partnerships flourish. A greater understanding of the oceans and coastal ecosystems will instill in the American population a sense of stewardship for these important environments. These programs also yield a diverse workforce that includes a significant percentage from underrepresented groups. Preparing these cultural bridges would allow us to capitalize upon diverse national strengths, ensuring the flow of intellectual talent into ocean, coastal, and Great Lakes-related fields.

NAML member laboratories contribute to maintaining a competitive and first-rate marine research and education workforce by providing a unique training ground that is conducive to on-the-job learning and mentoring. Marine labs, because of their

[2] *An Ocean Blueprint for the 21st Century*, U.S. Commission on Ocean Policy, April 20, 2004.

[3] *Charting the Course for Ocean Science in the United States for the Next Decade: An Ocean Research Priorities Plan and Implementation Strategy*, NSTC Joint Subcommittee on Ocean Science and Technology, January, 2007.

flexibility and interdisciplinary nature, are leaders in addressing science, technology, engineering, and mathematics (STEM) education disciplines and hope to see support for these disciplines enhanced. Marine labs are also committed to enhancing diversity within the field of ocean, coastal and Great Lakes research and education by fostering relationships with community colleges and minority-serving institutions (MSIs) to provide distinctive learning opportunities for individuals who may not otherwise have an opportunity to participate in ocean, coastal and Great Lakes research. NAML hopes to be seen as a model to the nation for this type of collaboration.

The 2006 Conference on Ocean Literacy (CoOL), which convened in Washington, DC, and at satellite sites throughout the country, provided an unprecedented national platform for discussion on the essential principles of ocean literacy and the current challenges and opportunities for both formal and informal education efforts in educating the public to make informed, responsible decisions about the ocean and its resources. NAML hopes that the topics addressed during this conference will continue to reach policymakers and the general public and will shape future ocean, coastal and Great Lakes education policy.

Thank you for the opportunity to express these views on behalf of the National Association of Marine Laboratories. We hope the Subcommittee will take these points into consideration as you move forward in the fiscal year 2008 appropriations process.

PREPARED STATEMENT OF THE SEA GRANT ASSOCIATION

Madam Chair and Members of the Subcommittee, on behalf of the Sea Grant Association (SGA) I respectfully submit this written testimony for the official record. Thank you for the opportunity to express these views. The Sea Grant Association joins with other stakeholders in urging the Subcommittee to recognize and support the vital research and outreach programs of the National Oceanic and Atmospheric Administration (NOAA). The community requests that the Subcommittee fund NOAA at $4.5 billion in fiscal year 2008. This is a modest request when considering the immense impact such an increase would have in terms of assisting NOAA in carrying out its mission: to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. Further, SGA requests that, within the overall fiscal year 2008 appropriation for NOAA, the Subcommittee appropriate $72 million in base funding for the National Sea Grant College Program. I will use the remainder of this statement to discuss why it is so important to support Sea Grant at realistic levels this year and in the future.

The National Sea Grant College Program is a key component of NOAA's extramural research, education and outreach enterprise. This request of $72 million is well within the $103 million authorized for fiscal year 2008 in Public Law 107–299, National Sea Grant College Program Act Amendments of 2002, and consistent with the level of base funding approved by your Subcommittee (Commerce, Justice and Science) last year. Further it is the amount supported in the Senate Dear Colleague Letter for Sea Grant which was submitted with 27 signatures to the Subcommittee on March 29, 2007 by Senators Maria Cantwell and Olympia Snowe.

The Bush Administration's request of $55 million for fiscal year 2008 would put Sea Grant at a hard freeze for the third year in a row. Implications of such a freeze for the nation with respect to the economy, sustainability of natural resources, and national safety and security are significant. With the costs of research and education rising, the flat-funding of Sea Grant during the last few years have forced programs to cut jobs and leave countless high-quality research and outreach projects unsupported. The Sea Grant network cannot sustain current activities, staff, and operations within this budget scenario. This request of $72 million would allow Sea Grant to sustain ongoing research and education efforts, address emerging needs, and continue assisting NOAA in carrying out its many missions.

SCIENCE SERVING THE NATION'S COASTS

Research and outreach programs supported by Sea Grant are based on competition, undergo rigorous peer-review, and are geared to address the many marine, coastal and Great Lakes challenges and opportunities that face our citizens. The federal investment in Sea Grant enables a nationally coordinated network embedded in the best research universities to apply unparalleled intellectual capital to address these problems and opportunities while assisting NOAA in addressing its missions. Cost-effectiveness is enhanced by access to existing university management infrastructure.

Sea Grant serves the nation in many ways. Sea Grant's unmatched access to regional, state and local constituencies through its extension and outreach programs ensures that the federal investment is targeted at relevant issues. The Sea Grant model contributes to the missions of NOAA and other federal agencies, and state and local governments, to the benefit of the general public. In addition, marine education programs supported by Sea Grant funds reach from kindergarten to marine-related business people to elder hostels.

Sea Grant is a national program addressing national, regional, state and local needs. It is a partnership among government, academia, business, industry, scientists, and private citizens to help Americans understand and wisely use our precious coastal waters and Great Lakes for enjoyment and long-term economic growth. This network unites 32 Programs, over 300 universities, and millions of people. Sea Grant is an agent for scientific discovery, technology transfer, economic growth, resource conservation, and public education. It is government as our citizens want it—visible, tangible, relevant, efficient, and effective.

AN ECONOMIC DRIVER

Sea Grant is an investment in America's economic future. Attempts to balance our booming coastal economy with its associated impacts on the coastal and marine environment have raised the stakes for effective government action. America's ocean, coastal and Great Lakes resources encompass an immense area with more than 95,000 miles of coastline and more than 3.4 million square miles of ocean within the U.S. territorial sea. Over half the nation's 280 million people live in coastal counties that comprise less than one-fifth of the total land area of the United States. The economy of these coastal counties is critical to the economic well being of the entire nation, providing a wide array of goods and services that account for at least 50 percent of the gross national product of the United States. By 2010, U.S. foreign trade in goods is expected to double to $5 trillion, with ocean-going cargo increasing by 30 percent. Coastal tourism and recreation account for 85 percent of all U.S. tourism revenues. The oceans, in one way or another, account for one out of every six jobs. Tax revenues in coastal areas are among the fastest growing revenue sources for state and local governments. In fact, the collective economic impact of the coastal economy far exceeds U.S. agriculture, and yet federal investments in Sea Grant colleges and universities are much smaller than investments in the Land Grant college and university system funded by the U.S. Department of Agriculture for agriculture and land-based natural resource activities, the program after which Sea Grant was modeled.

Sea Grant has been leading the quest for practical solutions by providing research and education on national coastal and Great Lakes issues for four decades. Federal dollars appropriated to the Sea Grant program are leveraged and matched by state and private funds by at least 2 to 1, some states matching 60 percent or more. The matched federal investment fills an enormous demand for expertise to tackle rapid growth, change, and pressure on coastal resources. In addition, the 32 Sea Grant programs, located in every coastal, Great Lakes and Gulf Coast state, conduct policy-relevant research linked to an extensive outreach and education network. This structure ensures that Sea Grant research is useful to coastal resource managers at the regional, state and local levels, marine-related businesses and industries, and most importantly the general public. Some examples where Sea Grant has contributed to economic growth and vitality at the local, state and regional levels include:

—Following the devastation of Hurricanes Katrina and Rita in the Gulf Coast in 2005, approximately 3,000 commercial and 35,000 to 40,000 recreational boats were in need of salvage due to the storms. The Washington and Alaska Sea Grant Programs donated a surplus 60-ton Traveliftr from Alaska to Plaquemine Parish, Louisiana. Without that hoist to move displaced boats to dry land for repair, fishermen affected by the hurricanes would have been out of work for several years, potentially costing millions of dollars in loss to the fishing industry.

—Sea Grant plays an instrumental role in nature-based tourism by promoting low impact uses of natural resources. For example, efforts to develop state designated underwater preserves have led to new diving activity in Great Lakes coastal communities providing an economic stimulus of at least $1.5 million over a two-year period.

—Sea Grant saved taxpayers $120,000 in the annual Beach Sweep/River Sweep litter cleanup program in South Carolina. Over the past 14 years, more than 75,000 volunteers have collected 728 tons of trash and have saved state taxpayers more than $1.6 million.

—Sea Grant research efforts to develop new drugs from marine organisms have resulted in discovery and description of more than 1,000 compounds that may be vitally important to the health industry.
—Sea Grant training at 5,000 seafood processing plants will prevent 20,000 to 60,000 seafood-related illnesses a year, which could cost consumers as much as $115 million annually.
—Sea grant specialists are working directly with seaport managers, resource managers, commercial interests and the general public to address issues associated with ports, harbors and marine transportation—ecological and economic centers of America's coasts. For example, in Southern California, Sea Grant continues to educate local businesses on maritime security and business continuity in this, the busiest port complex in the United States.
—Sea Grant research and extension work with hybrid striped bass aquaculture has expanded this species from being a demonstration project ten years ago to a $25 million annual business.
—In North Carolina, 200 of the 205 new oceanfront homes built to the Sea Grant hurricane standards survived Hurricane Fran in 1996, compared to more than 500 older oceanfront houses in the same area that were destroyed.

A LOCAL APPROACH TO ADDRESSING NATIONAL PRIORITIES

Sea Grant has established long-standing working relationships with a broad spectrum of stakeholders in every coastal state. Because it is science-based and non-regulatory, Sea Grant is viewed as an honest broker among a wide range of constituents. The U.S. Commission on Ocean Policy called on Congress in its 2004 report to expand the Sea Grant program in conjunction with a doubling of all ocean and coastal research funding. Further, in January 2007, the Bush Administration released its inter-agency Ocean Research Priorities Plan and Implementation Strategy, Charting the Course for Ocean Science in the United States for the Next Decade. Several of the plan's most important priorities dovetail with Sea Grant's strength, experience, and relationships with state and local decision makers and ocean, coastal and Great Lakes resource managers. Here are just two examples:

Sea Grant Increases Resiliency to Natural Hazards.—Coastal areas of the United States comprise only 10 percent of our nation's land mass, yet they are home to over half of all Americans. As witnessed by recent record-breaking storm seasons, coastal communities and the natural resources and infrastructure on which they depend are at increasing risk from hurricanes, tsunamis, coastal storms, shoreline change, and sea level rise. Sea Grant institutions and their partners pool research, education and outreach capabilities to enhance mitigation, preparedness, planning, education, response, and recovery in coastal communities throughout the nation. As a result of the 2005 hurricanes, Sea Grant is working to improve storm modeling and community resiliency through regional research initiatives. In addition, Sea Grant is working closely with coastal communities to develop and implement long-term planning that will allow communities to become more resilient to storm events.

Sea Grant is a Dedicated Steward of Natural and Cultural Ocean and Great Lakes Resources.—Domestic seafood production has not kept pace with consumer demand; the United States imports an ever-increasing amount of seafood consumed domestically. Issues with quality assurance and consistent supplies are increasing. At the same time, the nation's commercial seafood industry is threatened by the loss of coastal access and multiple use conflicts in coastal waters. Sea Grant institutions, through the use of their fisheries extension, address the increasing needs of the nation's seafood industry by utilizing expertise in seafood safety and technology and marine aquaculture.

The above examples illustrate Sea Grant's connectivity to the Administration's stated priorities. As the federal government works to implement these priorities, we hope it will look to the National Sea Grant College Program—a major component of NOAA's extramural research arm—as a resource and as a partner.

The SGA recognizes and appreciates the difficult funding tradeoffs the Subcommittee is forced to make each year. We urge you to consider Sea Grant as an investment in the future health and well-being of our coastal communities and support the program at $72 million in fiscal year 2008.

Thank you for the opportunity to present these views.

ABOUT THE SGA

The Sea Grant Association is a non-profit organization dedicated to furthering the Sea Grant program concept. The SGA's regular membership consists of the academic institutions that participate in the National Sea Grant College Program, located within the National Oceanic and Atmospheric Administration (NOAA). SGA pro-

vides the mechanism for these institutions to coordinate their activities, to set program priorities at both the regional and national level, and to provide a unified voice for these institutions on issues of importance to the oceans, coasts and Great Lakes. The SGA advocates for greater understanding, use, and conservation of marine, coastal and Great Lakes resources.

PREPARED STATEMENT OF THE NATIONAL CENTER FOR VICTIMS OF CRIME

The National Center for Victims of Crime submits this testimony to urge members of the Subcommittee on Commerce, Justice, Science, and Related Agencies to reject the Administration's proposed cancellation of the Victims of Crime Act (VOCA) Fund. This proposal would result in the removal of nearly $1.3 billion in funds currently designated to support crime victim services programs. Moreover, it would change VOCA from a reliable, offender-supported program to one dependent on annual appropriations from the General Treasury. Such an action would be disastrous for the state and local programs that already struggle to meet the needs of all crime victims. We urge Subcommittee members to instead raise the cap on VOCA Fund distributions by $375 million for the 2008 fiscal year and to provide further program stability by extending the time states have to spend this one-time increase in funds from the current four years to six years.

As the leading national resource and advocacy organization for victims of crime, the National Center knows the considerable and urgent funding needs of those who serve crime victims. Since our founding in 1985, we have worked with public and nonprofit agencies throughout the country, providing information, support, and technical assistance to thousands of victims, victim service providers, allied professionals, and advocates. Our toll-free information and referral Helpline alerts us to the needs of crime victims nationwide. Through our Training Institute and our daily interactions with both our members and the more than 11,000 crime victim service providers in our referral network, we stay informed of their work and know the impact of federal-level funding decisions on their ability to meet the needs of victims. In short, we hear from victims and service providers every day about the impact and importance of the VOCA Fund.

Understanding the VOCA Fund

Congress created the VOCA Fund over twenty years ago to ensure on-going, dedicated federal support for state and local programs for crime victims. The Fund receives no taxpayer dollars; it is made up of solely criminal fines and penalties imposed on federal offenders. Most of the funds are distributed each year by formula grants to the states to support two specific types of programs: (1) crime victim compensation programs; and, (2) crime victim assistance programs.

Crime victim compensation programs directly reimburse crime victims or their families for many of the out-of-pocket expenses that directly result from the crime. These statutorily defined expenses include medical and counseling costs, funeral bills, crime scene cleanup, and lost wages. Essentially, these programs step in when victims have no insurance, no workman's compensation, and no other assistance available to help them meet expenses incurred as a result of the crime.

In addition to compensation programs, the VOCA Fund supports more than 4,400 state and local victim assistance programs. Victim assistance programs include rape crisis centers, domestic violence shelters, victim assistants in law enforcement and prosecutor offices, and other direct service providers for victims of crime. For instance, the Fund supports: Child Protect, Inc., serving victims of child abuse in Montgomery, Alabama; the Shenandoah Women's Center, serving victims of domestic violence and sexual assault in Martinsburg, West Virginia; an advocate for elder victims of domestic violence at the Women's Community in Wausau, Wisconsin; Jackson Urban League, serving victims of homicide in Jackson, Mississippi; Advocates for Survivors of Torture and Trauma, serving victims of torture and war trauma in Baltimore, Maryland; the state MADD office in Baton Rouge, Louisiana; and the Virginia Network for Victims and Witnesses of Crime in Chesterfield, Virginia.

VOCA assistance grant money is crucial in enabling both criminal justice system-based and community programs to serve victims of crime. As crime increases across the country, so too does the need for victim services. If VOCA funding remains stagnant or becomes unreliable due to a shift away from the current offender-supported system, states and their subgrantees will be unable to adequately address the needs of their communities. Moreover, their ability to reach more isolated and vulnerable populations will be diminished.

Why the VOCA Fund Currently Has a Balance

Seven years ago, Congress acted to ensure the continuing stability of VOCA funding. For many years, all the money collected in a given year was disbursed during the following year. The nature of the funding stream—criminal fines and penalties imposed on federal offenders—caused the level of available funding to vary significantly. For example, in some years, large fines against corporate offenders would cause a surge in deposits. However, in 1999, Congress chose to reserve a portion of the deposits from such years to offset lower collections in leaner years by placing a cap on the amount of disbursements from the Fund. The appropriations conference report noted that "the conferees have taken this action . . . to ensure that a stable level of funding will remain available for these programs in future years."[1] Therefore, as a result of this decision, a variable sum of money—called the "rainy day fund"—is routinely carried over from one fiscal year into the next.

Reject the Proposed Cancellation and Protect the VOCA Fund Balance

For the past two fiscal years, the Administration unsuccessfully sought to rescind the balance of the VOCA Fund, withdrawing the money from the "rainy day fund" and leaving the Fund with a zero balance. The Administration's 2008 fiscal year budget request now seeks an outright cancellation of the Fund, resulting in the transfer of the current balance of the Fund to the General Treasury. Annual tax dollars would be used to fund the $625 million VOCA cap, to be offset by federal fines collected over the course of the year. Additionally, the proposal would take $50 million from under the $625 million cap to be designated for the emergency reserve, effectively lowering the amount available to states.

Due to the Fund's allocation formulas, the impact of fluctuations falls most heavily on victim assistance grants. A cancellation of the VOCA Fund would eliminate the dedicated funding stream that has enabled steady support for crime victim services. Each year, victim advocates would have to lobby for funding, competing against each other and every other federal budget item. Moreover, the proposed cancellation and system shift would undermine the Fund's principal philosophy of offender accountability as originally proposed by President Reagan's 1982 President's Task Force on Victims of Crime. As Reagan Administration Attorney General Ed Meese testified before a Senate subcommittee last year, such a profound change "would be a perversion of the original concept of the Crime Victims Fund and would violate its integrity."[2]

Fiscal Year 2008 VOCA Funding Should Be Raised by $375 Million; States Should Have Six Years to Spend This Money

Approximately 4,400 agencies rely on continued VOCA funding to serve 3.8 million crime victims a year.[3] Even so, the recent increase in crime across the country has meant a heightened demand for victim services. Moreover, victim service programs report an urgent need to expand their outreach and service components in order to reach all victim populations. Without increased VOCA funding, programs in all fifty states and six additional jurisdictions will be unable to adequately address the needs of their communities and may have to lay off staff and limit, or even suspend, programs.

One of the most underserved populations of crime victims is victims with disabilities. Victims with mental or physical disabilities are frequently targets for criminals, and face increased barriers in seeking services. For example, studies have shown that almost two-thirds of women with disabilities report abuse and violence; additionally, in domestic violence situations, these women reported staying with their batterers almost twice as long as women without disabilities.[4] However, only 35 percent of shelters recently surveyed have disability awareness training for their staff and only 16 percent have a dedicated staff person to deliver services to women

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[1] H.R. Rep. No. 106–479, at 239 (1999) (Conf. Rep.).

[2] *Crime Victims Fund Rescission: Real Savings or Budget Gimmick?: Hearing Before the Subcomm. on Fed. Financial Mgmt., Gov't Info., and Int'l Security of the S. Comm. on Homeland Security and Governmental Affairs*, 109th Cong. (2006) (statement of Ed Meese, Att'y Gen., Ronald Reagan Distinguished Fellow in Pub. Pol'y and Chairman of the Ctr. for Legal and Judicial Studies, The Heritage Foundation).

[3] *See* Office for Victims of Crime, U.S. Dept. of Justice, Victims of Crime Act: 2005 Victim Assistance Grant Program Nationwide Performance Report (2005); full text available at: http://www.ovc.gov/fund/vocanpr__va05.html (accessed on April 11, 2007).

[4] M.E. Young et al., *Prevalence of Abuse of Women with Physical Disabilities*, 78 Arch. Phys. Med. & Rehabil., Special Issue (1997).

with disabilities.[5] Without the proper training, shelters and victim services programs cannot expect to adequately respond to the needs of victims with disabilities.

Similarly, dating and sexual violence is frighteningly prevalent in the youth population, yet there is a serious dearth of appropriate services and resources geared toward helping this underserved age group. One in three teens knows a friend or peer who has been hit, punched, kicked, slapped, choked, or physically hurt by a dating partner.[6] Approximately 25 percent of high school girls have been the victims of physical abuse, sexual abuse, or date rape.[7] Understandably, many service providers express a strong desire to expand their services to better serve teen victims of crime; however, they lack the funding for the staff, training, and outreach programs that would make this feasible.[8]

Service providers also recognize that there are significant populations of immigrant victims of crime who do not have access to services. These victims are often culturally and linguistically isolated from the general society, making them vulnerable to crime but also unaware of the services that can help them. Victim service providers know that to make inroads in reaching these populations, they must make an investment in personnel and in the time needed to build trust with existing community members. Without additional funding, such critical expansions in services, outreach, and programs are not possible.

There are many other underserved populations of victims across the country. In a recent National Center poll of our members, service providers indicated a need to reach and serve homeless victims, victims with mental illness, racial or ethnic minority victims, and victims who are members of the GLBTQ population.[9] Respondents also mentioned that indigent or poor victims, incarcerated victims, and Native American victims remain underserved and at risk for greater victimization.

A one-time increase in VOCA funds, coupled with an extension of time for states to use that extra funding, would allow the development of services targeted at these vulnerable and underserved victim populations. Such an investment of funding would enable victim service providers to form partnerships with agencies already connected to and trusted by those communities.

Raising the cap on VOCA Fund distributions by $375 million for the 2008 fiscal year would allow a comfortable Fund balance of approximately $300 million to remain for future years to help guarantee reliable funding for victim services programs. Moreover, it would ensure that the money collected from offenders was actually used for the purpose for which it was originally designed and authorized by law. Finally, allowing six instead of four years to spend VOCA grant money would provide states with the flexibility necessary to address the specific assistance needs of their communities.

Conclusion

In closing, we urge Congress to reject the Administration's proposed cancellation and to affirm the vital importance of protecting the VOCA Fund for years to come. Raising the VOCA Fund cap for the 2008 fiscal year by $375 million and extending the time states have to spend the money to six years will permit states to reach additional victims while ensuring the future stability of the Fund.

PREPARED STATEMENT OF THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

This statement focuses on two areas: National Aeronautics and Space Administration (NASA) and National Science Foundation (NSF).

Mr. Chairman and Members of the Subcommittee, on behalf of the nation's 34 American Indian Tribal Colleges and Universities (TCUs), which comprise the American Indian Higher Education Consortium (AIHEC), thank you for the opportunity to express our views and recommendations for fiscal year 2008 on programs that directly affect our institutions.

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[5] Margaret A. Nosek, Ph.D., et al, Baylor College of Medicine, Violence Against Women With Disabilities—Fact Sheet #1: Findings From Studies 1992–2002.

[6] *See* Liz Claiborne Inc., Omnibuzz Topline Findings: Teen Relationship Abuse Research (Feb. 2005).

[7] *See* Cathy Schoen et al., The Commonwealth Fund, the Commonwealth Fund Survey of the Health of Adolescent Girls (Nov. 1997).

[8] *See* National Center for Victims of Crime, Results From the National Center's 2006–2007 Public Policy Poll (a compilation of the National Center's member responses to a survey regarding legislative priorities, underserved victims in communities, coming legislative sessions, and requests for general feedback); available at: http://www.ncvc.org/ncvc/AGP.Net/Components/documentViewer/Download.aspxnz?DocumentID=41511 (accessed on April 13, 2007).

[9] Id.

SUMMARY OF RECOMMENDATIONS

National Aeronautics and Space Administration (NASA).—In fiscal year 2001, tribal colleges established a formal cooperative agreement with NASA for a project designed to increase access, participation, and success of American Indians in high quality K–16 science, technology, engineering, and mathematics (STEM) programs. The agreement includes a modest program to support TCU STEM education and research programs, as well as a summer research opportunities program for TCU faculty and students to participate in NASA research projects at the various NASA centers around the country. This program and other minority-serving programs have demonstrated success in improving STEM education and research programs at TCUs and encouraging more American Indians and other minorities to pursue degrees and careers in the hard sciences. However, NASA recently reorganized its funding priorities resulting in severe cuts in education programs overall and the near elimination of this modest TCU program. We are requesting that no less than $2.5 million of the NASA budget be made available to continue to support TCU STEM research and education programs.

—*Strengthen NASA's Role in Developing the American STEM Workforce*.—The ability of NASA to help develop and train the American STEM workforce has been severely undercut by NASA's current budget policy. In general, we urge the Subcommittee to ensure that funding for NASA education programs, particularly, those targeting minority serving institutions, is restored to levels necessary for a meaningful impact on the ability of Tribal College and Universities and other MSIs to prepare their students to enter the national science, technology, engineering and mathematics workforce. We further urge the Subcommittee to examine and address the disproportionate impact that NASA's current budget priorities have on minority serving institutions and minority students, which represent America's best hope for securing a well trained STEM workforce in the future.

—*National Science Foundation (NSF): Tribal Colleges and Universities Program (TCUP)*.—Over the past seven years, this program has provided vital assistance to TCUs as they build their capacity to provide strong science, technology, engineering, and mathematics (STEM) teaching and learning programs for American Indians. Since its inception, 29 of the 31 eligible TCUs have participated in this program, along with six Alaska Native and Native Hawaiian serving institutions. While the impact of the TCUP program on Tribal Colleges and Alaska Native and Native Hawaiian institutions has been significant, the program funding level has not grown above the initial $10 million/year, and can no longer sufficiently address the needs of eligible institutions. We request that the Subcommittee increase the amount of funding for the NSF–TCU program by $5 million, for a total of $15 million.

—*TCU STEM Blue Ribbon Panel*.—We request that funding be appropriated to establish and support a Blue Ribbon Panel comprised of national leaders in scientific research and education, to be organized and convened by the National Academies to (1) monitor and review developments and changing policy issues related to STEM research and education at the nation's Tribal Colleges and Universities; (2) examine and evaluate the current state of Federal program opportunities available to TCUs for developing and sustaining STEM education and research programs; and (3) prepare a report recommending strategies at all levels for improving STEM education and research programs at TCUs. Sources of information that will be reviewed by the Blue Ribbon Panel will include public symposia organized by the Panel, published documents, and written comments by members of the scientific research and education community, and examination of past and current STEM education and research programs at, and technical assistance programs for, Tribal Colleges and Universities. We request that the Subcommittee appropriate $500,000 for the purpose of establishing this TCU STEM Blue Ribbon Panel.

JUSTIFICATIONS

In 2007, the report "Rising above the Gathering Storm—Energizing and Employing America for a Brighter Economic Future" (National Academies Press (NAP) 2007) prepared by the Committee on Science, Engineering, and Public Policy, warns that America's place as the world's leader in science and technology is at risk. The report lists the growing need for a competitive and qualified workforce and government investment in national research and development as two essential ingredients of a formula for maintaining America's continued leadership in science and technology. This request addresses the role of Tribal Colleges and Universities specifically and minority serving institutions generally in these two critical areas.

America's minority serving institutions—Tribal Colleges and Universities, Historically Black Colleges and Universities (HBCUs), and Hispanic Serving Institutions (HSIs)—are a primary provider of higher education programming for their respective populations. Although only a relative small percentage of colleges and universities in the country, MSIs serve a much greater proportion of underrepresented minority students, for example, HSIs are only about 6 percent of the higher education institutions in the country, but produce 33 percent of Hispanic science baccalaureates. HBCUs produce the same percentage for African Americans (National Science Board, 2004). Studies have shown the reservation-based American Indians attending mainstream institutions of higher education have a failure rate of 70–80 percent. However, these same students have a success rate of 70–80 percent at TCUs. Despite these successes, Native Americans, African Americans and Hispanics continue to be seriously underrepresented in the sciences even as their numbers and proportion in higher education grow (National Science Board (NSB), 2004). Supporting MSIs is critical for reaching the growing number of underrepresented minority college students, the next generation of scientists and engineers.

National Aeronautics and Space Administration (NASA)

The NASA AIHEC Cooperative Agreement has served 27 Tribal Colleges and Universities with support for faculty and student research at NASA Centers, STEM course and curriculum development, research instrumentation, research projects, professional development for STEM faculty, and information infrastructure improvements supporting the delivery of high quality STEM education and research programs. These NASA-supported activities have impacted nearly 700 K–12 students and teachers, 2,700 Tribal College and University students, and over 150 faculty members, significantly furthering TCU efforts at recruitment and retention of American Indian students, and their preparation for careers in science, engineering, and technology fields.

In 2007, NASA support for Tribal Colleges and Universities under the NASA–AIHEC Cooperative Agreement was reduced from $1.2 million to approximately $400,000. This reduction has necessitated a significant re-scoping of the activities supported under the Cooperative Agreement, and thereby has significantly reduced resources available to positively affect the educational experience of American Indian students. In addition, over the past two years, other vital TCU STEM programs funded by NASA were eliminated entirely due to budget restructuring. For example, a program to train TCU faculty at multiple campuses in geospatial technologies, and another STEM education program involving a TCU partnership with other key institutions of higher education were both eliminated entirely. The funding for these and other programs must be restored to a level at which a significant impact on the TCU educational community can be realized.

National Science Foundation Programs

Since 2001, NSF's Tribal Colleges and Universities Program has been a primary resource for Tribal Colleges and Universities and Alaska Native/Native Hawaiian institutions to plan and develop STEM education and research programs designed to respond to local and regional STEM workforce challenges and opportunities. To date, 29 of the 31 eligible TCUs have participated in the program, along with 6 Alaska Native and Native Hawaiian serving institutions. Participating colleges and universities have enhanced existing degree programs and developed entirely new program offerings. Funded institutions have upgraded their laboratory facilities, hired instructors, and introduced innovative strategies to recruit and retain students. While these TCUP-funded activities have had a significant impact on college STEM programs and on the students who have enrolled in them, this initiative is still too modest in scope to ensure that these activities can be sustained by all TCUP-eligible institutions for a period necessary to realize significant outcomes in terms of student success in STEM, particularly at the baccalaureate and graduate education levels. Additional funding is necessary to ensure that all TCUP-eligible institutions are able to receive sustained funding necessary to continually develop and improve their STEM program offerings in response to changing local and regional STEM workforce demands and research opportunities.

In addition to the TCUP program, a number of other programs for which Tribal Colleges and Universities compete within the Education and Human Resources Directorate have experienced reductions. Overall, there has been a 19 percent cut in inflation adjusted dollars for NSF's Education and Human Resources budget since 2004. This is particularly difficult to understand given the severe challenges facing the nation in preparing the nation's science, technology, engineering, and mathematics workforce documented in the above-referenced report "Rising above the Gathering Storm". The TCUP program should be expanded by at least $5 million

annually for a total of $15 million to allow TCUP-eligible institutions to fully implement STEM education and research improvement plans that are responsive to local and national STEM workforce development needs, particularly given the shortfall in funding for other Education and Human Resources programs.

Further, based on a motion of the AIHEC Board of Directors, which is comprised solely of TCU presidents, we recommend that a policy be put in place that stating that any grants or contracts for technical assistance under any NSF–TCU program shall be awarded to an Indian organization which: (a) the NSF Director finds is nationally based, (b) represents a substantial American Indian constituency, and (c) has expertise in the field of Tribal Colleges and Universities and American Indian higher education. This will help ensure that the unique needs of the TCUs, their students and faculties are addressed effectively and efficiently in a productive and responsive manner.

Finally, given the limited pool of applicants and the tremendous need to sustain STEM programs for a length of time deemed sufficient to achieve improvement at all levels, we urge the subcommittee to direct NSF to:

—Award grants under the NSF–TCU program for a period of five years, with ongoing support for an additional five years (without the need to re-enter a program competition), provided the programs meet appropriate NSF criteria for satisfactory progress; and

—Refrain from expanding funding priorities under the NSF–TCU program into new areas (e.g. K–12 teacher education, which previously had been supported by NSF under the Urban and Rural Systemic Initiatives) until sufficient funding exists to meet the basic STEM needs of TCUs and reliable data demonstrates a significant improvement in basic STEM education participation and completion rates across TCUs.

We recognize that a tremendous need exists to address STEM education at all levels. However, funding is severely limited under the NSF–TCU program and it has not grown in seven years. Therefore, should NSF personnel believe additional areas should be addressed or additional programs established, beyond those proposed by TCUs under the general NSF–TCU program, then new funding should be requested or designated, rather than taking funds appropriated for desperately needed basic STEM/Technology education and research programs. This is particularly important when the new funding priorities imposed on grantees under programs such as NSF–TCUP are simply replacing programs that have been eliminated elsewhere within NSF.

TCU STEM Blue Ribbon Panel

An independent Blue Ribbon Panel on TCU STEM would be empowered to examine, evaluate, and make recommendations regarding the design and delivery of STEM programs at the Tribal Colleges and Universities, as well as research and education funding programs operated by the federal agencies. Recommendations provided by such a Panel would provide significant impetus in moving Tribal Colleges and University programs toward greater effectiveness while ensuring greater accountability. The National Academies are the primary source of expert guidance in science, engineering, and medicine to academia, industry, the U.S. Government, and the general public and as such is the appropriate organization to convene and conduct activities within the intended scope of this request.

CONCLUSION

In light of the justifications presented in this statement, we respectfully request that Congress appropriate funding for NASA and NSF programs that directly impact the STEM programs at Tribal College and Universities at the levels recommended. This relatively small investment will go a long way toward helping to build the nation's STEM workforce while fostering economic self-sufficiency in Indian Country. Fulfillment of AIHEC's fiscal year 2008 recommendations will strengthen the missions of all of the TCUs and significantly enhance the strong positive impact that they have on their respective communities. We respectfully request your continued support of TCUs and full consideration of our fiscal year 2008 appropriations recommendations.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY (CCOS) COALITION

Madam Chairman and Members of the Subcommittee: On behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2008

funding request of $150,000 from the Department of Commerce/NOAA account for CCOS. These funds are necessary for the State of California to address the very significant challenges it faces to comply with new national ambient air quality standards for ozone and fine particulate matter. The study design incorporates technical recommendations from the National Academy of Sciences (NAS) on how to most effectively comply with federal Clean Air Act requirements.

First, we want to thank you for your past assistance in obtaining federal funding for the Central California Ozone Study (CCOS) and California Regional $PM_{10}/PM_{2.5}$ Air Quality Study (CRPAQS). Your support of these studies has been instrumental in improving the scientific understanding of the nature and cause of ozone and particulate matter air pollution in Central California and the nation. Information gained from these two studies is forming the basis for the 8-hour ozone, $PM_{2.5}$, and regional haze State Implementation Plans (SIPs) that are due in 2007 (ozone) and 2008 (particulate matter/haze). As with California's previous and current SIPs, all future SIPs will continue to be updated and refined due to the scientific complexity of our air pollution problem. Our request this year would fund the completion of CCOS to address important questions that won't be answered with results from previously funded research projects.

To date, our understanding of air pollution and the technical basis for SIPs has largely been founded on pollutant-specific studies, like CCOS. These studies are conducted over a single season or single year and have relied on modeling and analysis of selected days with high concentrations. SIPs are now more complex than they were in the past. The National Academy of Sciences (NAS) now recommends a weight-of-evidence approach that will involve utilizing more broad-based, integrated methods, such as data analysis in combination with seasonal and annual photochemical modeling, to assess compliance with federal Clean Air Act requirements. This will involve the analysis of a larger number of days and possibly an entire season. In addition, because ozone and particulate matter are formed from some of the same emissions precursors, there is a need to address both pollutants in combination, which CCOS will do.

Consistent with the NAS recommendations, the CCOS study includes corroborative analyses with the extensive data provided by past studies, advances the state-of-science in air quality modeling, and addresses the integration of ozone and particulate pollution studies. In addition, the study will incorporate further refinements to emission inventories, address the development of observation-based analyses with sound theoretical bases, and includes the following four general components:

	Year
Performing SIP modeling analyses	2005–2011
Conducting weight-of-evidence data analyses	2006–2008
Making emission inventory improvements	2006–2010
Performing seasonal and annual modeling	2008–2011

CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State, and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional $PM_{10}/PM_{2.5}$ Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS.

For fiscal year 2008, our Coalition is seeking funding of $150,000 from the Department of Commerce/NOAA account in support of CCOS. California has a very complex terrain that includes mountain ranges, flat valleys, and long coastal regions. Some meteorological models are known to have difficulty in simulating high-resolution airflow over such complex terrain. NOAA has a vast amount of experience in applying meteorological models in several different areas of the country and their scientific know-how is a valuable asset to CCOS. This request will be used to continue NOAA's involvement in developing meteorological simulations for Central California, specifically longer-term simulations of seasonal and annual meteorology. The long-term record of meteorological data in the CCOS database can be used to improve NOAA's meteorological forecasting abilities and in the evaluation of U.S. western boundary conditions for weather forecasting models.

As you know, NOAA is at the scientific forefront of the development of meteorological models including the Weather Research and Forecasting (WRF) model that is viewed as a replacement for the Mesoscale Meteorology Model, Version 5 (MM5). Thus, NOAA's involvement would facilitate the use of CCOS measurements in the development and refinement of WRF. In addition, NOAA has conducted prior research in the CCOS region on atmospheric airflows, sea breeze circulation patterns,

nocturnal jets and eddies, airflow bifurcation, convergence and divergence zones, upslope and down-slope flows, and up-valley and down-valley airflow. Thus, CCOS provides the opportunity to draw from or extend this research for a longer, multi-year time period. This research provides fundamental data needed to understand airflow over complex terrain, and has national applicability.

If we receive the funds requested this year to complete this research project, this will be our final request.

Thank you very much for your consideration of our request.

COOPERATIVE PARTNERSHIP

Private Sector

Western States Petroleum Association; Pacific Gas and Electric Company; Electric Power Research Institute; NISEI Farmers League and Agriculture; Independent Oil Producers' Agency; and California Cotton Ginners and Growers Associations.

Local Government

San Joaquin Valley Unified Air Pollution Control District (on behalf of local cities and counties); Bay Area Air Quality Management District; Sacramento Metro Air Quality Management District; San Luis Obispo County Air Pollution Control District; Mendocino County Air Pollution Control District; and Yolo-Solano Air Quality Management District.

State Government

California Air Resources Board; and California Energy Commission.

Federal Government

Environmental Protection Agency; Department of Agriculture; Department of Commerce; National Oceanic and Atmospheric Administration; Department of Transportation; Department of Interior; and Department of Energy.

PREPARED STATEMENT OF THE MARINE CONSERVATION BIOLOGY INSTITUTE

On behalf of the Marine Conservation Biology Institute (MCBI), I thank the members of the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee for the opportunity to submit written testimony on fiscal year 2008 appropriations for NOAA. MCBI is a national, nonprofit environmental organization interested in advancing the science of marine conservation biology and securing protection for ocean ecosystems. Our headquarters are in Bellevue, Washington and we also have offices in California and Washington, DC.

MCBI is a member of the Friends of NOAA Coalition and supports the Coalition's recommendation for funding NOAA at $4.5 billion in fiscal year 2008, the same amount recommended by the Senate for fiscal year 2006 and 2007, and the same amount currently being recommended by the House Oceans Caucus. In addition, we support funding augmentation for several important conservation programs and activities as follows: $3.2 million for the Marine Protected Areas Initiative; $14.5 million for the National Undersea Research Program; $78 million for the National Marine Sanctuaries Program; and $7.7 million for conservation of the Hawaiian monk seal. Our justifications for these requests are as follows:

National Marine Protected Areas Center (MPA Center) is responsible for the implementation of Executive Order 13158, "Marine Protected Areas" (MPAs), which President Clinton issued in May 2000. The objective of the executive order is to protect "significant natural and cultural resources within the marine environment for present and future generations by strengthening and expanding the Nation's system of marine protected areas." (Exec. Order No. 13158, 65 Fed. Reg. 34,909 (2000)). Federal agencies are directed to use their existing legal authorities to develop an effective national system of marine protected areas, including expansion of existing protected areas and the creation of new ones. The MPA Center is housed within NOAA's National Ocean Service (Office of Ocean and Coastal Resource Management).

MPAs are designated to protect marine ecosystems, processes, habitats, and species, and contribute to the restoration and replenishment of resources for social, economic, and cultural enrichment. The MPA Center's specific goals include designing a framework for a national system of MPAs, developing innovative approaches to understanding the ecosystem effects and human dimensions of MPA design and management, facilitating coordination among MPA agencies and stakeholders, and conducting outreach and education about place-based ocean management. Cuts in funding have greatly impacted the MPA Center's activities. The Center has lost 75

percent of its staff since 2005. This has severely impacted the Center's ability to implement the President's executive order, and to facilitate national, state and local MPA coordination.

MCBI recommends $3.2 million for the MPA Center in fiscal year 2008, enabling it to get back on track with its goals and work plans. In addition to allowing the Center to continue the work below, this funding would also allow the Center to rehire the seven staff that were lost under previous budgets. Funding at this level would enable the Center to:

—Complete its Draft Framework for a national system of MPAs. Funding at the fiscal year 2006 level could delay this project another 1–2 years.

—Allow for more stakeholder and advisory committee participation. Funding at the fiscal year 2006 level will only allow minimal external consultation with stakeholders.

—Continue and accelerate the West Coast Pilot Project. Funding at fiscal year 2006 levels would delay critical components of this important project another 3–4 years, and significantly limit its ultimate utility to the region as a model for the rest of the national system of MPAs. Completion of the Pilot Project would be extremely helpful to the Governors of California, Oregon, and Washington, who jointly seek to create an ocean and coastal resource action plan for the Pacific Coast.

National Undersea Research Program (NURP) is a key vehicle in implementing many of the priority topics identified by the U.S. Commission on Ocean Policy's Ocean Research Priority Plan. These topics include "Stewardship of Natural and Cultural Resources," "Improving Ecosystem Health," the "Ocean's Role in Climate," and "Increasing Resilience to Natural Hazards." Through its regional science centers, NURP provides scientists with the advanced underwater technologies needed to conduct important research, such as remotely operated and autonomous underwater vehicles, human occupied submersibles, advanced technical diving, and underwater laboratories. NURP is the nation's only federal scientific program that specializes in providing the undersea technology needed to help us better manage Earth's last frontier.

NURP-sponsored research has contributed to improving methods for assessing fish populations, locating and mapping areas of deep sea corals, and assessing the impacts of overfishing, climate change, and water pollution. Additionally, NURP activities will be an integral part of the Deep Sea Coral Research and Technology Program at NOAA, newly authorized by the Magnuson-Stevens Fishery Conservation and Management Act in 2006.

In fiscal year 2008 NURP and NOAA's Ocean Exploration (OE) Program will be merged into a new Office of Ocean Exploration and Research (OER). The office will support exploration, research, and advanced technology development efforts.

Cuts in funding have greatly impacted NURP's activities. In fiscal year 2006, funding was cut by more than 60 percent of fiscal year 2005 levels to $4.1 million. This reduced level of funding has continued in fiscal year 2007. MCBI recommends $14.5 million for NURP in fiscal year 2008. This amount would enable NURP to:

—Complete the second year of an east coast MPA site identification project, organized by the NURP University of Connecticut Center. This project, at the Stellwagen Bank National Marine Sanctuary, aims to identify the full range of ecosystems and habitats that should be protected in an MPA network.

—Map deep sea coral habitat in the Gulf of Maine, providing valuable information to marine resource managers. Funding at fiscal year 2006 levels would not support this project.

—Continue a Lake Superior project examining the impacts of PCBs on fish and human health.

—Map and characterize the new deep sea coral Habitat Areas of Particular Concern (HAPCs) and shelf edge MPAs off the southeast U.S. coast.

—Obtain vital climate records from west coast deep-water corals. This project was approved for funding in fiscal year 2006 and fiscal year 2007 but was deferred in both cases due to budget cuts, and is at risk of cancellation.

—Undertake an ecosystem connectivity cruise off the west coast and Northwestern Hawaiian Islands. This project was originally planned for fiscal year 2008 but has been delayed because budget uncertainties.

The National Marine Sanctuaries Act authorizes the Secretary of Commerce to designate and manage areas of the marine environment for resource protection. Currently, the National Marine Sanctuary Program (NMSP) is responsible for the management and oversight of 13 national marine sanctuaries comprising over 18,000 square miles, and for the Papahānaumokuākea Marine National Monument.

The NMSP is responsible for education, research, monitoring and management programs. In order to successfully carry out its objective, each sanctuary develops,

reviews, and implements a comprehensive management plan. Each site also carries out local research, monitoring programs, cultural programs, education and outreach programs, enforcement, and permitting. The NMSP headquarters offers oversight, guidance, and support to each sanctuary site. Recent NMSP accomplishments include the discovery of deep sea corals in the Olympic Coast National Marine Sanctuary, the documented increase of marine life in the Florida Keys Tortugas Ecological Reserve (part of the Florida Keys National Marine Sanctuary), and research that led to the International Maritime Organization approving a shift in the shipping lanes in the Stellwagen Bank National Marine Sanctuary region to reduce whale/ship strikes to protect endangered whales.

For the last few years the NMSP has seen its budget fall from approximately $68 million (including ORF and PAC accounts) in fiscal year 2005 to approximately $55 million in fiscal year 2006. As of April 13, 2007, the NMSP has received approximately $35 million of its fiscal year 2007 budget for ORF; the PAC numbers are still unknown. In fiscal year 2008, the President requested approximately $50 million for the NMSP. However, $8 million of the allocation is specifically for the Papahānaumokuākea Marine National Monument. As it stands now, the NMSP operations budget of approximately $36 million has been unchanged for three consecutive years.

Increased funds are needed to ensure that the NMSP can continue to meet its growing responsibilities and keep up with inflation. Furthermore, the NMSP will be unable to meet the management benchmarks that must be met before the congressional moratorium imposed on new sanctuary designations can be lifted. MCBI recommends that the NMSP receive $78 million for fiscal year 2008. This amount would restore the NMSP's funding to the fiscal year 2005 enacted level of $68 million, plus another $10 million for construction and facilities. This amount includes the President's $8 million request for the management of the Papahānaumokuākea Monument. As it stands now, the NMSP operation budget has been roughly the same for three consecutive years.

The Hawaiian monk seal is one of the most endangered marine mammals in the world and is the only marine mammal species whose entire range lies within the U.S. jurisdiction. Most Hawaiian monk seals reside in the Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands (NWHI). Over the last 50 years, the Hawaiian monk seal population has declined by more than 60 percent to an estimated 1,252 individuals, its lowest level in recorded history. A number of human and environmental factors have contributed to this decline, including overfishing; environmental cycles; entanglement in marine debris; predation by sharks; injuries and deaths caused by aggressive adult male monk seals; habitat modification and loss; and disturbance by humans.

The Hawaiian monk seal is currently spiraling into extinction. What happens next will be crucial to the monk seal's recovery prospects. The National Marine Fisheries Service (NMFS) and its partner agencies must aggressively budget for and carry out key recommendations of the draft recovery plan, which include the following:

—Implement a suite of actions to improve female survival in the 6 main subpopulations, including: conservation of habitats and prey base; research on juvenile survival factors; interventions to protect juveniles, especially females, until they are strong enough to care for themselves; and protection of females from male seal aggression and shark predation.

—Continued removal of hazardous debris from monk seal habitat.

—Maintain and expand field efforts to carry out research and management actions in the NWHI.

—Develop and implement a coordinated plan with the state, local, and non-governmental organizations to encourage growth of the monk seal population in the Main Hawaiian Islands (MHI) and prevent harmful human interactions with the seals that reside there; and consider a best-site relocation program for seals in the MHI to optimize their survival prospects.

—Determine and take reasonable steps to reduce the probability of exposure of monk seals to new diseases (e.g. distemper).

Historically, Hawaiian monk seal recovery efforts have been funded primarily by NMFS and have focused heavily on scientific research. Much more attention now needs to be paid to hands-on interventions to save the seals from dying. For fiscal year 2008, MCBI recommends $7.7 million for monk seal conservation under the following programs:

—$3 million allocated to the monk seal in the Marine Mammal and Sea Turtle ESA base, under the NMFS, Office of Protected Resources. These funds would support direct intervention and research activities.

—$500,000 as part of the Marine Mammal Initiative (Cetaceans and Monk Seals), under NMFS, Office of Protected Resources. These funds support the annual

summer field camp and monk seal population assessment through the Marine Mammal Initiative. NOAA staff and volunteers must be supported on the six main seal islands over a five-month period to observe seals, collect data, and undertake urgent conservation activities.

—$3 million is needed for marine debris removal through the Coral Reef Conservation Program line item and the National Marine Sanctuaries Program under the National Ocean Service. These funds would ensure debris removal from all islands in the Papahānaumokuākea Marine National Monument and protect seals, birds, and sea turtles from entanglement death.

—$1.2 million is needed in for the Hawaiian Monk Seal Program line item. These funds support salaries, benefits, and travel costs for NMFS seal program staff. Additional staff is needed to carry out the required level of conservation activities.

In summary, MCBI respectfully requests that the subcommittee augment funding for the ecosystem and species protection programs mentioned above. Thank you for the opportunity to share our views on appropriations for NOAA.

PREPARED STATEMENT OF THE NATIONAL CORN GROWERS ASSOCIATION

The National Corn Growers Association (NCGA) appreciates the opportunity to share with the subcommittee our appropriations priorities for fiscal year 2008. Specifically, our top priority in the fiscal year 2008 Science, State, Justice and Commerce appropriations bill is the National Science Foundation's (NSF) Plant Genome Research Initiative (Initiative).

NCGA is a national organization founded in 1957 and represents more than 32,000 members in 48 states, 47 affiliated state organizations and more than 300,000 corn farmers who contribute to state checkoff programs for the purpose of creating new opportunities and markets for corn growers.

NCGA's top priority in the fiscal year 2008 Science, State, Justice and Commerce appropriations bill is increased funding to $150 million for the National Science Foundation (NSF) Plant Genome Research Initiative (initiative). The initiative is supported by the Interagency Working Group on Plant Genomes under the auspices of the National Science and Technology Council within the Office of Science and Technology Policy.

In 1997, NCGA spearheaded the effort on legislation that authorized major plant genome research, which resulted in the Plant Genome Research Initiative. Obtaining genome sequence information frequently leads to breakthroughs in the study of a particular organism. The goal of the initiative is to understand the structure and function of all plant genes at all levels from molecules to organisms and to ecosystems and indeed, the initiative has led to an unprecedented increase in our understanding of the genomics and genetics of plants. The initiative also changed the way research is conducted in plant biology and helped to attract a new generation of scientists to the plant sciences field at U.S. colleges and universities.

Bringing agriculturally important plant species into the genomic age is an important goal. Initial major accomplishments included the completion of the model laboratory plant Arabidopsis and rice genome sequences. Completion on those genomes demonstrated that genomic sequence was the most comprehensive way toward gene discovery—a first step toward identifying the role of each gene. Building upon lessons learned sequencing smaller plant genomes, sequencing the corn genome became feasible. Arabidopsis, a member of the brassicaceae, or mustard, family, has a genome of 125 million base pairs. Rice's genome, has 430 million base pairs. Sequencing the corn genome had been considered difficult because of its large size and complex genetic arrangement. The genome has 50,000 genes scattered among the haploid genome size of 2.3 billion nucleotides—molecules that form DNA—that make up its 10 chromosomes.

In 2004, valuable corn research was made available through NCGA to research scientists working to understand the maize genome through the availability of sequencing data from Ceres, DuPont and Monsanto. This information, combined with the corn sequence data already in the public domain, significantly accelerated the identification of genes within the entire corn genome and was a precursor to the effect that the full corn sequence will have on the research community.

In 2005, NSF, the United States Department of Agriculture (USDA) and the Department of Energy (DOE) awarded $32 million to sequence the corn genome. NSF selected a consortium of four research institutions to sequence the maize genome: The University of Arizona, Washington University in St. Louis, Iowa State University in Ames and Cold Spring Harbor Laboratory in Cold Spring Harbor, New York. The goal of the Maize Genome Sequencing Project is to unravel the complete DNA

sequence of the maize plant and to determine the number of genes and their position on the chromosomes—the tiny bundles of DNA that form the storage units of genetic information. Corn is pushing the state of the art of genetic research to new levels as its genome has complexities beyond any plant sequenced to date. The highly repetitive regions of DNA, formerly considered "junk" DNA, are extremely prevalent in corn, and have been shown to have a significant impact on how the genetic engine of life truly works. These issues have posed significant challenges to researchers interested in crop improvement, plant molecular biology, or genome evolution. Using a physical map that covers about 95 percent of the maize genome map, scientists generate a draft sequence to reveal the locations of regulatory elements within stretches of so-called non-coding "junk" DNA. Focus of the project does center on gene-containing regions and are sequenced in detail. This sequencing strategy enables the consortium to sequence the corn genome at a fraction of the cost that was necessary to decipher the human genome, which is only slightly larger than the corn genome.

Today, genomic research technology and techniques are ready to complete a high quality corn genome sequence. The result will be the complete sequence and structural understanding of the entire corn genome, annotated functional sequences, and their locations on corn's genetic and physical map. This genome will be the most complex eukaryotic genome to be sequenced to date, including the human genome. The corn genome sequence will, in turn, help in the eventual completion of other major crop genome sequences, as itself benefited from knowledge gained through the prior completion of other genome sequences. It will also hold clues to improve the growth and development of other related grass crops, such as wheat, sorghum, millet and barley. Importantly, access to all of this information is shared through GenBank, a public repository for genome-sequence data.

With increased funding, we will be much closer to achieving the goal of this initiative—understanding the structure and function of all plant genes. The corn industry, including the academic research community, grain handlers, growers, and seed companies support the corn genome sequencing project. A complete corn genome sequence and the application of its information will provide a wide range of benefits. Industry, both public and private, will be able to expedite their breeding programs and increase their knowledge of corn's important agronomic traits. Corn growers will be able to plant varieties of corn that are better suited to market and environmental needs, such as pest resistant traits. Quality researchers will continue to be attracted to the field of plant genomics and genetics.

Consumers will also benefit from more abundant and sustainable food, feed and fuel supplies. Corn is not only grown for food and feed, it is converted to a myriad of processed food products—literally thousands of products in the typical supermarket contain corn. Improvements aim at increasing yield and nutritional value and optimizing the properties crucial for grain products such as flour and pasta. The production of corn-based products with enhanced nutritional value that are safer and less allergenic will directly benefit consumers.

Corn is also an important material for many industrial purposes and products including rubber, plastics, fuel and clothing. Corn is a model system for studying complex genomic structure, organization and function, and its high quality genetic map will serve as the foundation for studies that may lead to improved biomass and bioenergy resources from corn and related plant species.

The request for the Directorate for Biological Sciences (BIO) is $633 million, and increase of $25.15 million, or 4.1 percent, over the fiscal year 2007 request of $607.85 million. The Directorate for Biological Sciences supports research, infrastructure, and education in the biological sciences at U.S. colleges, universities, nonprofit research institutions, and other research and education organizations.

BIO includes a subactivity request for Plant Genome Research (PGR) of $101.22 million, an amount that does not contemplate an increase from the fiscal year 2007 request and is a slight decrease from fiscal year 2006 actual spending. PGR subactivity was initiated in fiscal year 1998, as part of the initiative. In general, 36 percent of the PGR portfolio is available for new research grants. The remaining 64 percent is used primarily to fund continuing grants made in previous years, which includes corn genome sequencing. PGR supports corn genome sequencing jointly with USDA and DOE. The Administration's proposal would contribute the third and last increment in support of the interagency corn sequencing project that began in fiscal year 2005.

PGR also supports the Arabidopsis 2010 project. This project in fiscal year 2007 and 2008 could receive up to $25 million per year. It is important to note that model systems research such as this project, has been traditionally supported through NSF's core budget and not PGR. This change may result in a reduction of resources available for economically significant plants, such as continued work on new projects

involving the rice genome and future new project stemming from corn genome work, during flat budget cycles. The Arabidopsis 2010 project and the NSF's PGRP complement each other and provide a broad base of support for the plant biology research community. It is critical that both activities receive enough support to achieve their goals.

Maintaining and improving upon the resources available for crop systems is now more important than ever, as agriculture tries to meet the demands of consumers worldwide by providing a safe and secure supply of resources for human and animal nutrition, fiber, bioenergy, and industrial feeds. Continued strong governmental support of basic agricultural research is essential to ensure that the innovation pipeline remains robust. NCGA requests that this subcommittee include in the fiscal year 2008 Science, State, Justice and Commerce appropriations bill an increase in funding to $150 million for the National Science Foundation Plant Genome Research Initiative.

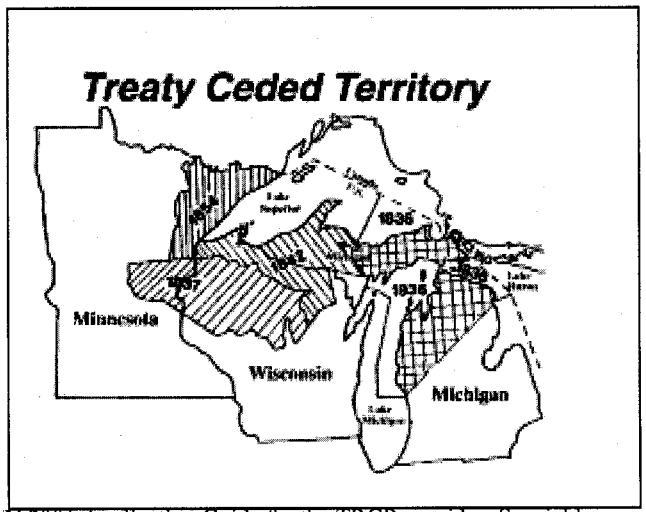
Thank you for the support and assistance you have provided to corn growers over the years. Please feel free to contact Lisa Kelley at 202–628–7001 if you need any additional information.

PREPARED STATEMENT OF THE GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION

Agency Involved: Department of Justice
Program Involved: COPS Tribal Resources Grant Program (TRGP)

Summary of GLIFWC's Fiscal Year 2008 Testimony

GLIFWC requests that Congress: (1) continue funding the DOJ COPS Tribal Resources Grant Program at $31,065,000 in fiscal year 2008 (i.e. the same level as requested by the Administration in fiscal year 2007 and appropriated by both the House and Senate), and (2) specifically authorize eligibility for tribes' special law enforcement agencies, including fish and wildlife departments and game wardens, to participate in the COPS Tribal Resources Grant Program.[1]



Ceded Territory Treaty Rights and GLIFWC's Role

GLIFWC was established in 1984 as a "tribal organization" within the meaning of the Indian Self-Determination Act (Public Law 93–638). It exercises authority delegated by its member tribes to implement federal court orders and various inter-

[1] Unlike previous years and without notice or explanation, the Fiscal Year 2006 Application Guide for the TRGP provides: Special law enforcement agencies such as fish and wildlife departments, game wardens, park and recreation departments, and environmental protection agencies are not eligible to apply under this program at this time. The status of GLIFWC's fiscal year 2007 TRGP eligibility is unknown at this time.

jurisdictional agreements related to their treaty rights. GLIFWC assists its member tribes in: securing and implementing treaty guaranteed rights to hunt, fish, and gather in Chippewa treaty ceded territories; and cooperatively managing and protecting ceded territory natural resources and their habitats.

For the past 23 years, Congress and Administrations have funded GLIFWC through the BIA, Department of Justice and other agencies to meet specific federal obligations under: (a) a number of U.S./Chippewa treaties; (b) the federal trust responsibility; (c) the Indian Self-Determination Act, the Clean Water Act, and other legislation; and (d) various court decisions, including a 1999 U.S. Supreme Court case, affirming the treaty rights of GLIFWC's member tribes. GLIFWC serves as a cost efficient agency to conserve natural resources, to effectively regulate harvests of natural resources shared among treaty signatory tribes, to develop cooperative partnerships with other government agencies, educational institutions, and non-governmental organizations, and to work with its member tribes to protect and conserve ceded territory natural resources.

Under the direction of its member tribes, GLIFWC operates a ceded territory hunting, fishing, and gathering rights protection/implementation program through its staff of biologists, scientists, technicians, conservation enforcement officers, and public information specialists.

Community-based Policing

GLIFWC's officers carry out their duties through a community-based policing program. The underlying premise is that effective detection and deterrence of illegal activities, as well as education of the regulated constituents, are best accomplished if the officers live and work within tribal communities that they primarily serve. The officers are based in reservation communities of the following member tribes: In Wisconsin—Bad River, Lac Courte Oreilles, Lac du Flambeau, Red Cliff, Sokaogon Chippewa (Mole Lake) and St. Croix; in Minnesota—Mille Lacs; and in Michigan—Bay Mills, Keweenaw Bay and Lac Vieux Desert.

Interaction With Law Enforcement Agencies

GLIFWC's officers are integral members of regional emergency services networks in Minnesota, Michigan and Wisconsin. They not only enforce the tribes' conservation codes, but are fully certified officers who work cooperatively with surrounding authorities when they detect violations of state or federal criminal and conservation laws. These partnerships evolved from the inter-governmental cooperation required to combat the violence experienced during the early implementation of treaty rights in Wisconsin. As time passed, GLIFWC's professional officers continued to provide a bridge between local law enforcement and many rural Indian communities. GLIFWC remains at this forefront, using DOJ funding to develop inter-jurisdictional legal training attended by GLIFWC officers, tribal police and conservation officers, tribal judges, tribal and county prosecutors, and state and federal agency law enforcement staff. DOJ funding has also enabled GLIFWC to certify its officers as medical emergency first responders trained in the use of defibrillators, and to train them in search and rescue, particularly in cold water rescue techniques. When a crime is in progress or emergencies occur, local, state, and federal law enforcement agencies look to GLIFWC's officers as part of the mutual assistance networks of the ceded territories. These networks include the Wisconsin Department of Natural Resources, Minnesota Department of Natural Resources, Michigan Department of Natural Resources, U.S. Coast Guard, USDA-Forest Service, State Patrol and Police, county sheriffs departments, municipal police forces, fire departments and emergency medical services.

GLIFWC Programs Funded by DOJ

GLIFWC recognizes that adequate communications, training, and equipment are essential both for the safety of its officers and for the role that GLIFWC's officers play in the proper functioning of interjurisdictional emergency mutual assistance networks in the ceded territories. GLIFWC's COPS grants for the past six years have provided a critical foundation for achieving these goals. Significant accomplishments with Tribal Resources Grant Program funds include:

Improved Radio Communications and Increased Officer Safety.—GLIFWC replaced obsolete radio equipment to improve the capacity of officers to provide emergency services throughout the Chippewa ceded territories. GLIFWC also used COPS funding to provide each officer a bullet-proof vest, night vision equipment, and in-car video cameras to increase officer safety.

Emergency Response Equipment and Training.—Each GLIFWC officer has completed and maintains certification as a First Responder and in the use of life saving portable defibrillators. Since 2003, GLIFWC officers carried First Responder kits and portable defibrillators during their patrol of 275,257 miles throughout the ceded

territories. In remote, rural areas the ability of GLIFWC officers to respond to emergencies provides critical support of mutual aid agreements with federal, state, and local law enforcement agencies.

Ice Rescue Capabilities.—Each GLIFWC officer maintains certification in ice rescue techniques and was provided a Coast Guard approved ice rescue suit. In addition, each of patrol areas was provided a snowmobile and an ice rescue sled to participate in interagency ice rescue operations with county sheriffs departments and local fire departments.

Wilderness Search and Rescue Capabilities.—Each GLIFWC officer completed Wilderness Search and Rescue training. The COPS Tribal Resources Grant Program also enabled GLIFWC to replace a number of vehicles that were purchased over a decade ago, including 10 ATV's and 16 patrol boats and the GPS navigation system on its 31 foot Lake Superior Patrol Boat. These vehicles are used for field patrol, cooperative law enforcement activities, and emergency response in the 1837 and 1842 ceded territories. GLIFWC officers also utilize these vehicles for boater, ATV, and snowmobile safety classes taught on Reservations as part of the Commission's Community Policing Strategy.

Hire, Train and Equip Three Additional Officers.—Funding has been contracted to provide three additional officers to ensure tribes are able to meet obligations to both enforce off-reservation conservation codes and effectively participate in the myriad of mutual assistance networks located throughout a vast region covering 60,000 square miles.

Consistent with numerous other federal court rulings on the Chippewa treaties, the United States Supreme Court re-affirmed the existence of the Chippewa's treaty-guaranteed usufructuary rights in *Minnesota* v. *Mille Lacs Band*, 526 U.S. 172 (1999). As tribes have re-affirmed rights to harvest resources in the 1837 ceded territory of Minnesota, workloads have increased. But for GLIFWC's COPS grants, this expanded workload, combined with staff shortages would have limited GLIFWC's effective participation in regional emergency services networks in Minnesota, Michigan and Wisconsin. The effectiveness of these mutual assistance networks is more critical than ever given: (1) national homeland security concerns, (2) state and local governmental fiscal shortfalls, (3) staffing shortages experienced by local police, fire, and ambulance departments due to the call up of National Guard and military reserve units, and (4) the need to cooperatively combat the spread of methamphetamine production in rural areas patrolled by GLIFWC conservation officers.

Examples of the types of assistance provided by GLIFWC officers are provided below:

—as trained first responders, GLIFWC officers routinely respond to, and often are the first to arrive at, snowmobile accidents, heart attacks, hunting accidents, and automobile accidents (throughout the ceded territories) and provide sheriffs departments valuable assistance with natural disasters (e.g. floods in Ashland County and a tornado in Siren, Wisconsin).

—search and rescue for lost hunters, fishermen, hikers, children, and the elderly (Sawyer, Ashland, Bayfield, Burnett, and Forest Counties in Wisconsin and Baraga, Chippewa, and Gogebic Counties in Michigan).

—being among the first to arrive on the scene where officers from other agencies have been shot (Bayfield, Burnett, and Polk Counties in Wisconsin) and responding to weapons incidents (Ashland, Bayfield, Burnett, Sawyer, and Vilas Counties in Wisconsin).

—use of a thermal imaging camera (purchased through the COPS program) to track an individual fleeing the scene of an accident (Sawyer County, Wisconsin).

—organize and participate in search and rescues of ice fishermen on Lake Superior (Ashland and Bayfield Counties in Wisconsin), Lake Superior boats (Baraga County in Michigan and with the U.S. Coast Guard in other parts of western Lake Superior), and kayakers (Bayfield County in Wisconsin).

GLIFWC is proposing to utilize DOJ TRGP funding for training and equipment to: (1) recognize, secure and respond appropriately to potential methamphetamine production sites, (2) identify addicts while on patrol, and (3) improve community awareness through hunter safety classes. Simply put, supporting GLIFWC's officers will not only assist GLIFWC in meeting its obligations to enforce tribal off-reservation codes, but it will enhance intergovernmental efforts to protect public safety and welfare throughout the region in the states of Wisconsin, Minnesota, and Michigan. The COPS Tribal Resources Grant Program provides essential funding for equipment and training to support GLIFWC's cooperative conservation, law enforcement, and emergency response activities. We ask Congress to support increased funding for this program.

[From Outdoor Life Magazine, December 2006]

METH WARS IN DEER COUNTRY

As its cost in dollars and lives mounts, the fight against methamphetamine now involves sportsmen to a degree no one predicted a handful of years ago. Across the rural countryside, meth labs have invaded the lands where we fish and hunt.

One December evening in 2004, Wildlife Officer Amy Snyder heard shots after legal shooting hours in a popular duck-hunting area in Madison County, Tenn. She put on hip boots and set out into the marsh. But when she arrived at the blind where she thought the shooting had occurred, she found it unoccupied.

Then Officer Snyder noticed a chemical odor in the air. She shined her light around and in the grass saw a large glass mason jar filled with what looked like corn hominy. She kicked over the jar, saw rubber hoses coming out of the top and panicked.

"It was a meth lab, actively cooking," Snyder recalls. "What I'd done was extremely dangerous. The stuff could have exploded, not to mention what might have happened if I'd surprised the cookers at work."

Snyder had reason to be unnerved. The February before in Greene County, Ind., Conservation Officer Mike Gregg got a report of suspicious activity deep inside the Hillenbrand Fish and Wildlife Area. Gregg went in alone to investigate on a cold winter day and caught the unmistakable acrid tang of anhydrous ammonia, a liquid fertilizer and key component in the manufacture of methamphetamine. He got closer and, to his surprise, noticed a man trying to hide beneath the root ball of a fallen tree.

"He took off and I chased him through the snow," Gregg says. "When I caught up to him, he pulled a 9 mm pistol on me. I had to shoot him in the leg to subdue him. He was typical of the methers we see: paranoid, armed and violent."

The prior March, Alabama conservation officer Jimmy Hutto learned just how paranoid, armed and violent meth cookers can be. While arresting a man for fishing without a license, he found meth and soon was involved in serving a search warrant on the suspected cooker. But the man's property was wired to detect intruders. And when Hutto broke down the door to the lab, the cooker was waiting and shot the conservation officer in the abdomen. Hutto died two weeks later.

A RURAL SCOURGE

These incidents are not isolated. Law enforcement and conservation officials we contacted across the country describe a wave of methamphetamine manufacturing activity that has crashed across the rural countryside in the last five years, causing a dramatic change in the way game wardens operate and in the way hunters, anglers and other recreationists should conduct themselves afield.

"The landscape is changing," says Keith Aller, deputy director of law enforcement for the U.S. Bureau of Land Management. "Twenty years ago meth was an outlaw biker thing, an urban thing. But in the past five years we've seen cookers take their labs to the forests and rural areas to avoid detection and to dump the toxic by-products of their work. We've also seen meth addicts exploiting public lands to pay for their habits. I don't want to sound alarmist, but people need to understand what we're up against these days and what they might encounter when they head outdoors."

METH'S HISTORY

Methamphetamine was first synthesized in Japan in 1919 and was widely prescribed to Allied and Axis combatants to keep them awake during protracted World War II battles. Marketed as Benzedrine in the 1950s, it was the drug of choice for people who wanted to lose weight. A decade later, outlaw biker gangs in the United States learned the so-called "Birch" or "Nazi method" of manufacturing the drugs from over-the-counter cold medicines, and created the market for speed.

Congress made the drug illegal without a prescription in 1970, but by the early 1980s new recipes had made meth easier to cook and more potent, offering the user a 6- to 24-hour high that also damaged the brain.

This super-meth took off in Hawaii and Southern California first, manufactured by Mexican drug cartels. But soon the drug was being manufactured by mom-and-pop cookers, and within 20 years it spread eastward through the Rocky Mountains, into the Midwest and onto the East Coast. An urban phenomenon at first, it turned rural as the rank odors associated with its production caused cookers to set up in less populated areas to avoid detection. That practice has placed some meth labs in the same woods and waterways as hunters, anglers and other outdoorsmen.

Consider that in 2003 the greatest number of reported meth lab seizures on Department of Interior lands occurred on those managed by the Fish & Wildlife Service (38 laboratories), followed by the Bureau of Land Management (31 laboratories), National Park Service (8 laboratories) and Bureau of Indian Affairs (6 laboratories). That same year, the National Forest Service discovered 56 working labs on its land.

HUNTERS AND METH

But those numbers are believed to be only a fraction of the activity on federal land, not to mention state and private property. And anecdotal evidence of meth invading the outdoors is easy to come by.

In November 2004, for example, deer hunters on state land near Reelsville, Ind., came upon a duffel bag containing an actively cooking meth lab. They wisely backed away from the potentially explosive situation and notified the local police, who quickly dismantled and removed it.

Twelve months earlier in Ashley County, Ark., deer hunters tipped sheriff's investigators to the fact that methamphetamine manufacturers had taken over remote deer blinds and were using them as labs. Narcotics detectives ended up finding four cooking operations set up in Ashley County deer blinds. In Wright County, Minn., four years before, cookers decided to use ice-fishing shanties to manufacture meth on Waverly Lake. Game wardens notified Sheriff's Sergeant Todd Hoffman of the activity. When Hoffman arrived to investigate, he noticed a solvent smell seeping from one of the shacks.

Some of the more dangerous ingredients found in meth labs include lithium battery acid, charcoal lighter fluid and paint thinner. But the most common component—other than cold and allergy medicines that contain the drug pseudoephedrine—is anhydrous ammonia. Cookers sometimes steal this fertilizer from storage tanks on rural farms, ranches and supply stores.

Needing more evidence to justify a search, Hoffman sifted through a nearby trash pile. When he picked up a thermos, anhydrous ammonia gas erupted from the vessel.

"My face began to burn, and for five or ten seconds I couldn't breathe," Hoffman told the Minneapolis City Pages newspaper. "I thought my face was dissolving."

Hoffman was lucky not to have been seriously injured: When anhydrous ammonia contacts skin, it forms ammonium hydroxide, a highly caustic liquid that burns. Exposure to low levels of some meth ingredients like anhydrous ammonia can cause flu-like symptoms. Higher levels of exposure can cause lung and eye damage, chemical burns and even death.

Idaho Fish and Game officer Clint Rand was involved in a meth-related theft in 2000. Rand pulled over to help a disabled vehicle only to be shot at four times by the occupants, who had recently stolen anhydrous ammonia from a fertilizer supply store in Farmington, Wash., at gunpoint.

"Rand was very lucky not to have been hit," says Idaho Fish and Game law enforcement bureau chief Jon Heggen. "But they blew out his windshield. It affected him and his family greatly. He recently decided to retire. That said, we're not experiencing the level of activity seen in other parts of the country. We've found labs in abandoned mines and dumps in the forest, but it's not widespread. However, it only takes one to get your attention. Meth goes beyond the bad guys trying to harm you. The stuff they leave behind in those dumps can kill you."

TOXIC WASTE DUMPS

Indeed, as any law enforcement or conservation officer familiar with meth will tell you, one of the truly insidious aspects of the drug is that the waste associated with its manufacture is as dangerous as the drug, the labs or the users.

According to the National Drug Intelligence Center, every pound of meth creates 5 to 7 pounds of toxic waste. Of the 32 chemicals required to make meth by the Nazi method, for example, a third of them are so poisonous that cleanup workers have to wear biohazard suits and respirators.

The chemical residues of meth manufacture can include lye, phosphorous, hydrochloric acid and iodine. Dump sites can include contaminated coffee filters stained red from the dye in cold medicines, mason jars or Pyrex baking dishes, rubber and plastic hosing, plastic bottles, salt, industrial solvent tanks, discarded methanol or alcohol bottles, white gas containers and propane tanks with the brass fittings stained blue or green from contact with anhydrous ammonia.

According to congressional testimony, it can take up to eight hours and $5,000 to $20,000 to clean up a meth lab. Depending on its size, the manpower and money required to clean up a meth dump site are less. But when the lab or the dump is outdoors, there are hidden costs, such as contamination of groundwater and the po-

tential poisoning of game, hunting dogs or humans—all things that law enforcement officers who patrol the great outdoors are forced to keep in mind these days.

LAW ENFORCEMENT'S NEW BURDEN

"Before 2000, we'd be hard-pressed to find a meth dump. Now it's not uncommon to find two or three a week," says Patrol Captain Dennis Whitehead, who oversees law enforcement in Kentucky's Daniel Boone National Forest. "Drug crimes have come to the forest in a big way. We're not just squirrel cops anymore. Sometimes forty percent of our job is associated with drugs. We've had cookers use campsites. We've had them drive roads with the stuff cooking in their cars. We've even had a ring of poachers who were shooting deer and trading the meat for meth. In the last five years, being a forest ranger has changed one hundred and eighty degrees, and it's all due to that drug."

Indiana conservation officer Gregg agrees: "Meth has changed my job. It's gotten to the point where as a conservation officer these days you're better off going into a situation thinking you may be dealing with meth rather than a game violation."

The state-by-state statistics back up Gregg's grim assessment. The Drug Enforcement Administration reports that in 1999 in Indiana, there were 151 methamphetamine incidents where law enforcement officials, including conservation officers, had to deal with labs, dump sites or disposal of cooking chemicals or equipment.

The following year the incidents in Indiana more than doubled to 353. By 2004, the latest year for which numbers are available, the state reported 1,074 cases in which law enforcement officials had to confront meth labs or dumps in the course of their work.

The situation was even worse in Missouri, where the number of meth incidents jumped from 439 in 1999 to 2,885 in 2003 before falling slightly (to 2,788) in 2004. In those years nearly 70 percent of the dumps were found in the Mark Twain National Forest, one of the best places to hunt in the state.

SPORTSMEN WARNED

Iowa had the second-highest number of meth-lab incidents in 2004. Like several other states, including Montana, South Dakota and Tennessee, Iowa has taken to informing hunters and other outdoor enthusiasts about the threat.

The Iowa Division of Natural Resources, for example, now posts warnings on its Web site and at its offices around the state, alerting hunters to the potential hazards they face from meth when afield.

"It's sad to say, but many of our best hunting and fishing areas are conducive to cooking and dumping meth," says Lowell Joslin, chief of law enforcement for the Iowa DNR. "We've found as an agency that one of the best things we can do is put information out to sportsmen. We want to educate them about meth so they know for their own health what to do when they encounter a lab or a dump, and also to have them report what they find to the nearest law enforcement agency."

Like many rural states these days, Iowa provides its conservation officers with extensive training in drug enforcement and drug lab/drug dump recognition and management. The state also includes a methamphetamine awareness component in its hunter-safety courses.

"In every hunter-ed course I teach, I talk about meth," says Iowa conservation officer Kirby Bragg. "It's just a smart thing to do. For a while there out in the field I was running across active labs or the remnants of labs two to five times a week. The most memorable incident occurred opening day of deer season in 2003. I spotted a guy in a van parked with his motor running on a road adjacent to one of our more popular hunting areas. I didn't know if he was hunting or what. When I tried to approach him, he took off and we ended up in a high-speed pursuit. Turns out he had an active lab going in the back of the van. Moving meth labs are essentially moving bombs. We never had to deal with that kind of thing ten years ago."

Nor did outdoor law enforcement officials have to deal with the kind of random paranoid violence that BLM ranger Steven Martin faced in California in 2003.

"He was driving on a remote section of BLM land and happened on two guys sitting in a car," says BLM deputy director Aller. "When he approached, they immediately opened fire and then took off into the hills. These were young kids, eighteen to twenty, with no history of violence. But meth was found in the car and when they were finally apprehended, they told investigators they felt their best option was to kill the ranger when he stopped them. That's extreme, but that's what meth does to people."

Another incident Aller cites shows how far meth addicts are willing to go to support a habit, and how that can lead to the destruction of property and murder.

"The BLM administers two hundred and sixty million acres out west, and that land includes all sorts of recreational, archeological and paleontological resources that can be and have been stolen by addicts and sold to buy more meth," Aller says. "In early 2005, for example, one of our special agents in Oregon got word that a group of meth addicts were dismantling a BLM bridge and selling it as scrap aluminum. It sounds screwy, but that's what they were doing. Anyway, our bridge was disappearing, so the agent began to investigate, and he identified the people he thought were responsible and started doing interviews. It turns out that the suspects believed one of their own was cooperating, so they killed him. Because of a bridge. Again, extreme, but that's what meth does."

FIGHTING BACK

Thankfully, there is some good news on the prevention front: In the past year, many of the rural states hit hardest by the drug have passed strong laws limiting access to over-the-counter cold and allergy medicines that contain pseudoephedrine. Many are based on a law first passed in Oklahoma that resulted in an 80 percent reduction in meth lab seizures in that state since April 2004.

The laws require products containing pseudoephedrine to be sold behind the pharmacy counter. They also limit the purchase of pseudoephedrine products to 250 thirty-milligram pills a month and require buyers to present I.D. and sign for the medicine at the time of sale.

Iowa, one of the hardest-hit states, has gone several steps further, requiring a prescription for pseudoephedrine medicines. And some Iowa counties have started distributing locks that prevent anhydrous ammonia from being stolen from retailers.

"It's helped," says Iowa conservation officer Kirby Bragg. "I haven't run across as many labs or dumps this year as I did just two years ago."

Indiana conservation officer Mike Gregg has seen a similar drop but cautions all outdoor enthusiasts to be careful in the woods and on lakes.

"It has slowed a little," Gregg says. "The new laws are good and so are ideas like locking up anhydrous tanks. But meth cookers are clever. We've already seen them shifting from using anhydrous ammonia to using red phosphorous in their labs. We're also hearing about them experimenting with cold alcohol as a component. When it comes right down to it, meth is highly addictive and highly lucrative, and it isn't going away anytime soon. People who live or recreate in rural areas need to be aware of its dangers."

WHAT TO DO IF YOU ENCOUNTER A METH LAB

Okay, so you come across what looks like a high school chemistry experiment that stinks or a pile of trash dumped somewhere in your hunting woods or streamside of your favorite trout river. What do you do?

First, err on the side of caution. Meth labs and meth dumps are dangerous places. If actively cooking, meth labs are highly volatile and can explode. And meth dumps are filled with toxins. So get back. If you're hunting with dogs, get your dogs back, too. If you've got a binocular, use it to confirm what you're looking at.

With an active lab or a dump, you'll see a combination of these items: glass jars, rubber tubing, thermometers, aluminum foil, blenders, cheesecloth, coffee filters, funnels, gas cans, hot plates, paper towels, propane, Pyrex dishes, rubber gloves, strainers, duct tape and clamps.

The chemicals involved are harder to identify unless they're labeled. But expect that any lab or dump might contain the following: acetone; isopropyl or rubbing alcohol; cold pills containing ephedrine or pseudoephedrine; drain cleaner (sulfuric acid); engine starter (ether); iodine; HEET gasoline additive; lithium batteries; matches for red phosphorous; muriatic acid, anhydrous ammonia; Red Devil lye; salt; or trichloroethane, which ironically is a common gun-cleaning solvent.

If, based on what you can see from a distance, you believe you've stumbled onto a lab or a dump, back completely out of the area and contact the closest law enforcement department, including rangers and conservation officers. They'll get hazardous-materials experts to dismantle and clean up the mess.

"We don't want hunters or anglers to get hurt, but if they locate some of the meth activities and report them, it's a big help to us," says Lowell Joselin, chief of law enforcement for the Iowa Division of Natural Resources.

PREPARED STATEMENT OF THE TRUST FOR PUBLIC LAND, LAND TRUST ALLIANCE, THE NATURE CONSERVANCY, THE CONSERVATION FUND, THE OCEAN CONSERVANCY, ASSOCIATION OF NATIONAL ESTUARY PROGRAMS, AND RESTORE AMERICA'S ESTUARIES

On behalf of The Trust for Public Land, Land Trust Alliance, The Nature Conservancy, The Conservation Fund, The Ocean Conservancy, Association of National Estuary Programs, and Restore America's Estuaries, we would like to thank you for your strong support of our nation's Coastal Zone Management Program, and coastal land conservation. We are writing today in support of the Coastal and Estuarine Land Conservation Program (CELCP).

Created by Congress in 2002, CELCP protects "those coastal and estuarine areas with significant conservation, recreation, ecological, historical or aesthetic values, or that are threatened by conversion from their natural or recreational states to other uses." Thus far, this program has invested over $177 million towards 119 conservation projects in 25 of the nation's 35 coastal states, and has helped preserve some of America's greatest coastal treasures. All federal funding has been leveraged by at least an equal amount of state, local and private funds. NOAA has a proud 200-year tradition of sound management of our nation's coastal resources, and the CELCP program further builds upon that achievement. We hope to continue this federal-state partnership and encourage you to fund CELCP at $80 million for fiscal year 2008.

Our nation's coastal zone is under significant pressures from unplanned development. In fact, it is estimated that by 2025, nearly 75 percent of the nation's population will live within 50 miles of the coast, in addition to millions more who enjoy America's storied coastlines. Across the nation, beaches and waterfronts have always been the destination of choice for Americans. Billions of dollars of the country's GDP are generated by coast-based economic activities, inexorably linking our coastal zone with the economic health of the nation.

As a result of this economic boom, rapid, unplanned development has marred once-pristine viewsheds and substantially reduced public access to the coast. The resulting increase in impervious surfaces has correspondingly increased non-point source pollution and seriously degraded coastal and estuarine waters. The loss of coastal wetlands has drastically impaired estuaries, some of the most productive habitat on earth. The U.S. Commission on Ocean Policy has also stressed the importance of land conservation as part of its broader recommendations to Congress and the Nation.

Increased funding for CELCP will complete a substantial number of important coastal conservation projects around the country, many of which still hang in the balance from the yet-undecided fiscal year 2007 allocation. While we are optimistic at the first-time inclusion of CELCP in the President's fiscal year 2008 proposed budget, the proposed funding level is vastly lower than what is needed on the ground and well below what your subcommittee has historically proposed. While this signal of the Administration's growing support for the program is an important and welcome milestone in the evolution of the federal-state CELCP partnership, the strong support of Congress is paramount. Again, we urge you to sustain that partnership this year by using your discretion to fund CELCP at $80 million in fiscal year 2008. We look forward to working with you as this process moves forward.

PREPARED STATEMENT OF THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA, NISQUALLY TRIBE OF WASHINGTON, PUYALLUP TRIBE OF WASHINGTON, AND SHOSHONE-PAIUTE TRIBES OF THE DUCK VALLEY RESERVATION

Chairwoman Mikulski, Ranking Member Shelby and members of the Subcommittee, we respectfully submit the following written testimony regarding funding for tribal law enforcement and justice programs within the Department of Justice budget. In fiscal year 2008, as in past years, the President has proposed significant cuts to several grant programs that provide critical funding to tribal law enforcement agencies and justice systems. If enacted, these cuts will cripple tribal justice systems. We respectfully request that you reject these proposed cuts. We would also like to endorse the recommendations made by the Senate Committee on Indian Affairs in its "views and estimates" letter.

INTRODUCTION

The need for law enforcement resources across Indian country is severe. Today, there are 1.3 law enforcement officers per 1,000 citizens in Indian county, compared to 2.9 law enforcement officers per 1,000 citizens in non-Indian communities. It is estimated that more than 2,000 additional officers are required across Indian coun-

try just to meet minimum safety standards. Police officers working on reservations frequently have to patrol alone because of personnel shortages. Understandably, newly-trained and veteran officers often leave to take jobs that require less of a risk to their personal safety, exacerbating officer shortages. Equipment needs are also great. Tribal law enforcement agencies need stable funding to address these core shortages. This need has become even more severe in recent years because of increased methamphetamine use, production and trafficking on reservations. It is a vicious cycle—lack of funding for even the most basic elements of a law enforcement program is part of what contributes to the perception that reservations are "lawless." This perception is what makes our communities attractive to drug dealers, which in turn increases the need for resources.

Of course, effective crime prevention takes more than just police officers. Tribes also operate court systems, detention facilities, drug treatment services and other alternatives to detention. Many tribes have also invested in preventative programs, such as youth centers, youth activity programs and drug education. As governments, we recognize our responsibility for fostering positive change and rehabilitation, even in our jails. More often than not, the inmates are people from our community who will be returning to the community when they are released, so we have a particular incentive to help them pursue positive changes. Without all of these services, though, we are stuck in a cycle of arresting and locking up our own people.

REQUESTS

Office of Justice Programs, State and Local Law Enforcement Assistance.—For fiscal year 2008, the Department of Justice has requested $550 million for state and local law enforcement assistance within the Office of Justice Programs. Instead of breaking the funding request down into specific grant programs—as in past years, the Administration instead requests $312 million for flexible public safety grants under the Byrne Public Safety and Protection program and $180 million for a violent crime reduction partnership initiative. However, this reorganization of the OJP budget camouflages an overall decrease of $900 million for all the programs included in this category. While such flexible funding initiatives can often be useful to tribes, the Administration's proposal would (1) significantly reduce the overall funding amount and (2) eliminate any specific set-aside for tribes. We are greatly concerned that, without this set-aside, tribal programs will lose funding because they are forced to compete with all other programs. We request that Subcommittee reject any decrease in the programs and, specifically, we ask that the following tribal justice programs be funded at least at fiscal year 2007 levels:

—Tribal courts—No less than $8 million.
—Indian Country Grant program—No less than $5 million.
—Correctional Facilities on Tribal Lands—No less than $20 million to address the facility needs documented by the Office of the Inspector General.
—Bureau of Justice Assistance, Indian Alcohol and Substance Abuse Demonstration Program—No less than $5 million.

Tribal Youth Program.—The Administration again proposes an overall decrease of $100 million for child safety and juvenile justice programs. As with state and local law enforcement assistance, the proposal would consolidate several programs into the new Child Safety and Juvenile Justice Initiative, a single, flexible, competitive grant program. This would encompass funding for Juvenile Justice and Delinquency Prevention, Juvenile Delinquency Block Grants, Internet Crimes Against Children, and several other grant programs. By combining these programs, however, the Administration tries to hide its overall reduction and also eliminates the set-aside for tribes typically provided by the Tribal Youth Program earmark. We ask that the Subcommittee provide at least as much funding for these programs as was provided last year. Most importantly, we ask that the Subcommittee restore the $10 million earmark for the Tribal Youth Program.

Indian Country COPS.—The Administration proposes to completely eliminate funding for the Indian Country COPS program. The justification provided is that tribes can apply for competitive grants under other OJP programs, but—as described above—the Administration is in fact decreasing funding for those programs. Since its establishment in fiscal year 1999, the COPS program has provided essential public safety services in Indian County and has assisted tribes in increasing the number of law enforcement officers. We simply cannot afford to lose these officers, which is what will occur if COPS funding is cut. We ask the Subcommittee to restore funding for the COPS program at $33.2 million, the fiscal year 2007 amount.

Office of Violence Against Women.—The Office of Violence Against Women administers the programs authorized by the Violence Against Women Act (VAWA). The most recent VAWA reauthorization provided for a range of important intervention,

support and enforcement programs. Importantly, that law also provides that 10 percent of all appropriated funds be set aside for Indian tribes. These programs are of critical importance in Indian country, where the rates of domestic violence are extremely high. As Congress found, Indian women are battered at a rate of 23.2 per 1,000 (compared with 8 per 1,000 among Caucasian women). From 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances. Rape is also far too common—1 out of every 3 American Indian and Alaska Native women are raped in their lifetimes. Indian women experience 7 sexual assaults per 1,000 (compared with 4 per 1,000 among Black Americans, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanic women, and 1 per 1,000 among Asian women). Unfortunately, these programs have never been funded up to authorized levels. For fiscal year 2008, the Administration proposes yet another decrease. We ask the Subcommittee to restore funding for VAWA programs to at least $387 million, the amount provided in fiscal year 2006.

Office of the United States Attorney.—We would like to see funding increased for local Assistant U.S. Attorneys with responsibilities for Indian country law enforcement sufficient to support at least one full-time position. Currently, the part-time hours of many Indian country AUSAs make effective law enforcement on our Reservations difficult.

CONTEXT

We would like to give the Committee a picture of the law enforcement systems in our communities and some of the specific needs we face.

Nisqually Tribe.—The Nisqually Reservation is located in Washington State. Our Reservation is approximately 5,000 acres. We serve approximately 6,000 Indian people in our service area, about 600 of whom are enrolled tribal members living on the Reservation, and the rest of whom live in surrounding areas. We have a land-based police force with nine officers, which is solely responsible for enforcing tribal law and also works closely with local police on other matters. Our police also have extensive marine water enforcement duties. We employ two water patrol officers to patrol over 100 square miles of Puget Sound for both the treaty salmon fishery and treaty shellfish harvesting. We also provide hunting enforcement for over 50,000 acres of land in the Tribe's usual and accustomed area within the Nisqually River watershed. Besides our police department, we have a tribal court with two full-time judges, and we employ ten detention officers at our 45-bed detention facility (built in 2002). Like many other tribes, we are struggling to cope with escalating methamphetamine use and associated increases in gang activity and property crime related to dealing and manufacturing.

Shoshone-Paiute Tribes.—The 463-square mile Duck Valley Reservation straddles the border of Nevada and Idaho. We have approximately 1,700 tribal members, about 900 of whom live on the Reservation. Our population is very young—nearly 70 percent of our people are under the age of 34. Much of our law enforcement is handled by the Bureau of Indian Affairs. However, the DOJ has been an important source of funding for us—for example, we have received grants in the past to construct a juvenile detention facility and to encourage enforcement of protection orders. At this time, our greatest need is more help from federal law enforcement officials, such as regional AUSA.

Puyallup Tribe.—The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. The 18,061-acre reservation and related urban service area contains 17,000 plus Indian people from over 435 Tribes and Alaska Villages. The Puyallup Nation Law Enforcement Division currently has 26 commissioned officers to cover 40 square miles of reservation in addition to the usual and accustomed areas. We currently operate with limited equipment, patrol vehicles requiring constant repair and insufficient staff levels. With the continuing increase in population, increase in gang related activities on the Puyallup Reservation and the impact of the increase in manufacturing of methamphetamines in the region, the services of the Puyallup Nation Law Enforcement Division are exceeding maximum levels.

The demand on law enforcement services will increase as tribal governments continue to enhance civil and criminal justice administration and as tribal governments play an integral role in securing America's borders, citizens and physical infrastructure. This demand is further impacted by the existing and growing "gang problem" within the boundaries of the Puyallup Reservation. These gangs are different than other reservations due to our urban setting (Puget Sound region of the State of Washington), five other city boundaries next to our exterior boundaries, six separate local jurisdictions and Interstate 5 traversing through the reservation. In an effort

to combat these gang activities, the Puyallup Tribal council created a Gang Task Force from the Tribal Police Department, representatives from various Tribal Services Divisions and community members. The Gang Task Force developed a gang policy that includes a four-prong approach to gang related activities: (1) enforcement, (2) intelligence, (3) education, and (4) and physical-mental health. We have begun to implement this strategy, but such a major law enforcement undertaking will require more officers, additional and continued training, specialized equipment, and adequate detention facilities for adults and juveniles.

A major area of concern is the status of the Tribe's Regional Detention Facility. Due to damages from the February 2001 Nisqually earthquake, we have had to relocate to modular/temporary facilities. As a regional detention facility, the relocation to the modular facility not only impacts the Tribe's ability to house detainee's but also the approximately 173 native inmates that were incarcerated at the Puyallup Incarceration facility during the period of 2001–2002. Relocation to the modular facility has also impacted the Tribes ability to house juvenile detainees. With no juvenile facilities, our youth are sent to non-Native facilities. Both the Department of the Interior and the Department of Justice have essentially stopped providing construction funding since 1998. Yet the need for new and replacement facilities is still great.

Fond du Lac Band of Lake Superior Chippewa.—The Fond du Lac Band's law enforcement program grew out of the Band's responsibilities for enforcing conservation laws that protect natural resources and regulate Band members who hunt, fish and gather those resources both within and outside the Reservation pursuant to rights reserved under Treaties with the United States in 1837 and 1854. The Band's rights to hunt, fish and gather on lands ceded under these treaties have been recognized and upheld by the federal courts and the United States Supreme Court. Under established Band conservation law, the Band is responsible for enforcing regulations over approximately 8,000,000 acres in northern and central Minnesota. It is also essential that the Band continue to manage its on-reservation resources in order to meet the demands of an increasing population. The on-reservation resources are vitally important to Band members as they provide the foundation for our culture, subsistence, employment and recreation.

Following a Minnesota Supreme Court decision in 1997 holding that the State did not have jurisdiction to enforce traffic laws on roads within Indian reservations, the Band needed to establish a Tribal law enforcement department to address on-reservation law enforcement needs. The Band has done this, using a combination of tribal funds and federal funds (made available through the Community Oriented Policing Services (COPS) program and the Bureau of Indian Affairs), and by entering into cooperative agreements with local law enforcement agencies. Due in large part to that decision, the Band responds to a few thousand calls every year including traffic stops, domestic assaults, disturbance, theft and drug and alcohol related incidences, to name just a few. The Band has also experienced an increase in law enforcement responsibilities as a result of the insurgence of methamphetamine and prescription drug use on our Reservation. Drug-related deaths and crime are dramatically increasing on our Reservation which in turn drastically increases our law enforcement responsibilities.

With these increased responsibilities, the Band has begun to plan and develop strategies to address our law enforcement needs, including staffing, training, equipment, and educating our youth to prevent crime and drug use. The Band currently operates its law enforcement program with ten officers but would be able to better address the growing law enforcement needs if the Band had 15–20 officers, which would require additional funding for staffing, training, recruitment and retention. Further, the current budget does not allow the Band to offer competitive salaries needed to recruit and retain officers. Additional tribal officers would also enable the Band to ensure that a School Resource Officer be permanently located at the Ojibwe School and would allow the Band to implement programs aimed at educating youth about a career in tribal law enforcement. The Band is also developing a tribal process for issuing and enforcing orders for protection, which will compliment our existing family support services programs. In regards to equipment, the Band would be more efficient if it had its own intoxilizer instead of having to transport arrestees an hour away to the St. Louis County Jail for DWI processing. Lastly, and of significant importance, the Band anticipates that additional funding will be necessary to address support costs associated with upgrading to the advanced dispatching system already in use by St. Louis and Carlton Counties.

CONCLUSION

The need for law enforcement resources in each of our communities is great. We ask that the Subcommittee recognize the important role that the Department of Justice plays in providing law enforcement resources to tribes. At a minimum, we ask you to reject the Administration's proposal to eliminate specific tribal programs under its jurisdiction. If we can provide any additional information, please do not hesitate to contact our counsel, Mary J. Pavel or Addie C. Rolnick at Sonosky, Chambers, Sachse, Endreson & Perry, LLP, 1425 K Street NW, Ste. 600, Washington D.C. 20005; 202–682–0240 (tel); 202–682–0249 (fax); mpavel@sonosky.com; arolnick@sonosky.com.

PREPARED STATEMENT OF THE UNH COOPERATIVE EXTENSION

Madam Chairwoman and Honorable members of the Subcommittee, I appreciate the opportunity to provide testimony in support of an appropriation of $1,300,000 from NOAA's Coastal and Estuarine Land Conservation Program to protect the 288-acre Isinglass River Conservation Corridor in New Hampshire.

In addition, I would like to urge your support for a substantial increase in overall funding for the Coastal and Estuarine Land Conservation Program in fiscal year 2008 to enable the protection of significantly more coastal resources than in previous years. While we are pleased that the program has been recommended in the President's budget for $15 million, this level, while a good first step, is inadequate when compared to the needs from across the country, and what Congress has historically provided for this program.

I work with UNH Cooperative Extension as an Educator in Land and Water Conservation in 62 communities within Rockingham County and north to the extent of the Great Bay watershed. My involvement with conservation over the past three years has resulted in the successful completion of more than 130 projects covering in excess of 6,000 acres. The Isinglass River Conservation Corridor is one of the most exciting that I have been involved with during this period. My role from the outset has been to bring the landowner, the community, a regional land trust Bear-Paw Regional Greenways and the Trust for Public Lands together to try to find a way to conserve the keystone property in this important river corridor.

Of New Hampshire's many waterways, only 14 rivers have the distinction of being officially recognized by the state's Rivers Management Protection Program for outstanding natural and cultural resources. The Isinglass River, which flows freely for its entire 18-mile course through the southeastern portion of the state, is one of these select few. Winding its way through one of the most rapidly developing portions of the state, the scenic and ecological conditions which make the Isinglass so unique are increasingly in jeopardy. As expanding development is frequently accompanied by habitat loss, degradation of water quality, and loss of recreational opportunities, programs such as the Coastal and Estuarine Land Conservation Program (CELCP) have been established to help protect and preserve landscapes vital to the healthy functioning of ecosystem processes.

The Isinglass River property is 288 forested acres bounded to the west, northwest, and northeast by the Isinglass River. It is surrounded by 1,500 acres of contiguous forest, and has 7,800 feet of river frontage. The Isinglass River property is the top priority for the State of New Hampshire for CELCP funding in fiscal year 2008 and is located in a section of the river that is identified as a Conservation Focus Area in the New Hampshire Coastal Management Plan. In 2005, the New Hampshire State Wildlife Action Plan categorized the river corridor as Tier I habitat, the highest quality designation in the State. The current landowner has already submitted a subdivision plan for 72 housing lots, which would forever fragment this large, undeveloped block of land along the Isinglass River.

The length of the Isinglass River provides home to a variety of wildlife, including mink, otter, raccoon, deer, moose, black bear and bobcat, all of which would be threatened if development were to proceed. A wildlife inventory of the Isinglass corridor has confirmed the presence of several species classified at the federal and state level as threatened, endangered, or of special concern, which include the American bald eagle, common loon, osprey, Cooper's hawk, wood turtle, Blanding's turtle and spotted turtle. There is also the presence of a seven-acre beaver impoundment. The Isinglass River itself is considered an important fishery. Naturally occurring warm-water game fish include small and largemouth bass in the lower portion of the river. The New Hampshire Department of Fish and Game annually stocks more than 3,000 rainbow trout and 2,500 brook trout in the headwaters. In addition, over 73,000 Atlantic salmon fry are being stocked as part of an ongoing anadromous fish restoration effort. Several species of concern also are known to live in the Isinglass

River, including the American eel, banded sunfish, bridle shiner, and the blacknose shiner, a fish located in only one other waterway in the state.

The Isinglass River property will offer recreational benefits as well as habitat protection. A trail network already exists on the property, which makes hiking a main activity. Pig Lane, the road that provides access to the Isinglass River property, is used extensively for mountain biking. Hunting and fishing have long been historic uses of the property, and access for these activities will continue. The Isinglass River itself has been used extensively for fishing, boating, and other recreational uses. The river is considered to be an important seacoast trout stream and is heavily utilized by local anglers. Due to the free-flowing nature of the Isinglass River it provides both challenging whitewater and relaxing flatwater boating opportunities for canoeists and kayakers. Because of the importance of Isinglass River, as a fishery and recreational boating destination, New Hampshire Fish and Game would be interested in constructing and maintaining a car-top boat launch with access through Pig Lane.

A fiscal year 2008 Coastal and Estuarine Land Conservation Program (CELCP) appropriation of $1.3 million, directed to the Town of Strafford, is needed to acquire and conserve this property. This appropriation will be matched with funds from the New Hampshire Land and Community Heritage Investment Program, New Hampshire Fish and Game, and private donations, and the value of match properties. The Town of Strafford has already committed up to $200,000 towards acquisition of this property.

Thank you, Madam Chairwoman, for the opportunity to provide this testimony.

PREPARED STATEMENT OF THE CLEAR CREEK NATURE AND CULTURAL TOURISM COUNCIL

Madam Chairwoman and Honorable members of the Subcommittee, I appreciate the opportunity to present this testimony in support of an appropriation of $705,000 from NOAA's Coastal and Estuarine Land Conservation Program to acquire potential parkland along Clear Creek in Webster, Texas.

NOTE ABOUT ORGANIZATION

Identified for acquisition with fiscal year 2008 funds are approximately 90 acres in several ownerships within the proposed Clear Creek Park boundaries. Once acquired, the City of Webster will own and maintain the land as a public park and conservation area. Purchase of these properties is critical to the protection of habitat and recreational open space along Clear Creek, one of the few remaining unchannelized stream and river corridors in the Houston metropolitan area. Development is currently the largest threat to habitat in the Galveston Bay estuary, and some parcels within the park area have already been sold. If additional tracts in the proposed Clear Creek Park area are developed, the creek's floodway would be degraded by loss of wetlands and increase in runoff pollutants.

The Clear Creek corridor offers the potential for significant recreational opportunities for residents and visitors. Several parks operated by local governments extend along the creek, including Harris County's Challenger Seven Memorial Park, Galveston County's Walker Hall Park, and League City's Erikson Tract and Clear Creek Nature Park. In order to enlarge and further link this important corridor of parks and reserves, the City of Webster has proposed the acquisition of approximately 200 acres along the northern banks of the creek for a new Clear Creek Park. Within the planned park area, the City of Webster envisions building a trail along Clear Creek for hiking and biking. The trail will also feature access to launch sites on the creek for canoeing and kayaking, small piers for fishing, observation points and decks for bird watching, and picnic areas for families. The multiple opportunities along the trail are expected to accommodate and contribute to outdoors and environmental education. The opening of a trail would also advance the Galveston Bay Estuary Program's goal of increasing public access to Galveston Bay and its tributaries.

Galveston Bay was recognized in 1988 as an estuary of national importance in the EPA's National Estuary Program, one of 28 such estuaries in the nation. The comprehensive management plan of the Galveston Bay Estuary Program identified wetlands habitat loss and degradation as a priority problem in the estuarine system. Webster lies at the lower end of the Clear Creek watershed and is home to diverse communities of ecologically important coastal habitats and systems. Riparian forests of willow oaks, water oaks, and cedar elms provide habitat for amphibians, owls, hawks, neotropical migrant birds, and the reddish egret, a state-listed threatened bird species. Along the creek banks are several areas of coastal prairie. Near Clear

Lake and the entrance to Galveston Bay, marshes, wetlands, and embayments support fish, waterfowl, and migrant birds.

An appropriation of $705,000 from the Coastal and Estuarine Land Conservation Program (CELCP) is needed in fiscal year 2008. Clear Creek Park will protect critical coastal land and provide multiple recreational possibilities to residents of Webster and other nearby communities.

In addition to specifically funding Clear Creek, I urge your support for a substantial increase in overall funding for the Coastal and Estuarine Land Conservation Program in fiscal year 2008 to enable the protection of significantly more coastal resources than in previous years. While I am pleased that the program has finally been recommended in the President's budget for $15 million, this level, while a good first step, is inadequate when compared to the needs from across the country, and what Congress has historically provided for this program.

Thank you, Madam Chairwoman, for the opportunity to present this testimony in support of the Clear Creek project and the CELCP program.

PREPARED STATEMENT OF THE NATURE CONSERVANCY

Thank you for the opportunity to offer the recommendations of The Nature Conservancy on the fiscal year 2008 budget for the National Oceanic and Atmospheric Administration (NOAA).

In general, we are concerned that funding for oceans in general and NOAA specifically is declining. The Conservancy urges the Committee to provide appropriations for NOAA at or approaching $4.5 billion, as recommended by the Joint Oceans Commission Initiative and the Friends of NOAA Coalition. This funding level for NOAA would allow enhancements in the development of an integrated ocean and atmospheric observing system; increased research and education activities, expanded ocean conservation and management programs; and provide critical improvements in infrastructure (satellites, ships, high performance computers, facilities), and data management. Such an increase would represent significant progress toward addressing recommendations contained in the reports of the U.S. Commission on Ocean Policy and the Pew Oceans Commission.

The Conservancy works to identify priorities for coastal and marine conservation through marine ecoregional plans. We identify present and likely future threats to marine biological diversity before attempting to identify appropriate strategies for conservation. At more than one hundred marine sites around the world, the Nature Conservancy has used a variety of strategies for marine conservation including habitat restoration of important nursery and spawning areas, removal of invasive species, coastal land acquisition, private conservation of submerged lands, elimination of destructive practices, establishment of protected areas, management of extractive marine resources activities, and reduction of nutrient and toxic inputs to coastal systems. No single strategy works everywhere and at every site, multiple conservation approaches are needed. The selection of appropriate approaches depends on the biological, socioeconomic, and political circumstances at each site.

The National Oceanic and Atmospheric Administration (NOAA) is an important partner to the Conservancy in many aspects of our conservation work:

—We rely upon NOAA's data, research, and monitoring of coastal and marine systems, and have several shared priorities on which we collaborate. For example, NOAA's Coastal Services Center maintains a strong customer-service, partnership-oriented approach to providing needed information and technical assistance to states, local governments, other federal agencies, and the private sector to inform decision-making.

—We rely on NOAA's programs that support site-based conservation—those that fund conservation and restoration activities, and those that provide for management of coastal and marine systems. NOAA's ability to meet its requirements under various resource management statutes could be significantly improved by enhancing the agency's ability to fund on-the-ground conservation needs. Programs such as Coastal and Estuarine Land Conservation, Community-based Restoration, Open Rivers Initiative are excellent examples of NOAA taking a practical, community-oriented approach to conservation and management of coastal and marine resources. These programs should be expanded.

—NOAA's contributions to state and local implementation and educational programs help to ensure that the human capacity exists to address environmental management issues at the necessary scale. We are concerned that NOAA's support for human capacity to implement programs within the agency and at the state and local levels is often the first to go in tight budget environments. The Committee should provide funding for staff capacity to provide technical assist-

ance, efficiently manage grants and programs, and help to measure effectiveness.

Finally, we would like to offer the Committee our recommendations regarding funding levels and guidance regarding implementation of a number of key NOAA programs.

NOAA Habitat Restoration

The Nature Conservancy requests increased funding for habitat conservation and restoration to support fisheries management objectives, protected species recovery, and other coastal and marine management requirements. Through existing programs, NOAA has clearly demonstrated their capability to achieve results by advancing constructive, on-the-ground and in-the-water habitat conservation. Habitat losses have a substantial impact on the health and productivity of marine ecosystems, yet NOAA's ability to work closely with communities around the country to stem or reverse these losses is constrained by the relatively small amount of funding they receive.

We would urge you to consider increasing funding for the following programs in NMFS Office of Habitat and in the Office of Protected Resources:

National Marine Fisheries Service—Office of Habitat, Fisheries Habitat Restoration

Penobscot River Restoration ($10 million in fiscal year 2008).—In a 2004 study, the National Research Council[1] identified removal of dams as a top priority near term action required to recover Atlantic salmon in Maine. Removal of the Veazie and Howland dams and modifications proposed at Howland dam on the mainstem of the Penobscot River—Maine's largest river system—present a remarkable opportunity to recover a species. This project will improve access to almost 1,000 miles of habitat for Atlantic salmon, thousands of miles of habitat for American eel, and hundreds of miles for alewives. Atlantic sturgeon, shortnose sturgeon (both federally listed), tomcod, and smelt will recover lost access to their historic habitat ranges. Additionally, this project will provide benefits to the Penobscot Indian nation, will provide new recreational opportunities, and will come with no net loss of power production from the river, maintaining a clean and secure energy source for Maine's residents.

Community-based Restoration Program ($20 million in fiscal year 2008).—Currently this program, with its exceptional 10-year track record, is able to fund only about 15 percent of the proposals it receives. Additional funds would be well-spent.

Open Rivers Initiative ($10 million in fiscal year 2008).—In addition to the large barriers on rivers like the Penobscot, there are hundreds of thousands of small degraded barriers on rivers and streams across the United States. This Initiative is part of a multi-agency commitment to address this problem. We urge you to ensure that this new program is additive to NOAA's habitat restoration capacity, and doesn't reduce funding available for existing programs.

National Marine Fisheries Service—Office of Protected Resources

Cooperation with the States ($5 million in fiscal year 2008).—Through this program, authorized under Section 6 of the Endangered Species Act, NMFS may provide grants to support conservation actions that contribute to recovery, including management, outreach, research, and monitoring projects that have direct conservation benefits for listed species, recently de-listed species, and candidate species that reside within that State. A comparable program for cooperation with states on ESA activities exists in U.S. Fish and Wildlife Service has been very successful in catalyzing and funding activities that contribution to the recovery of listed species.

With the exception of jointly managed species (Atlantic salmon) activities related to NMFS jurisdiction species are not eligible for funding under the FWS program. NMFS has management responsibility for 56 listed marine species in the United States. While substantial federal funding is directed to Pacific salmon species under their jurisdiction, there are few resources available to support proactive conservation efforts geared toward recovery of the other 30 species for which they have sole or joint management responsibility.

With increased funding under this program, states would have a strong incentive to enter into cooperative agreements with NMFS under Section 6 and NMFS would have tools and resources to support more on the ground conservation efforts to abate threats to listed species (most grants to date have been for research or monitoring activities).

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[1] National Research Council. *Atlantic Salmon in Maine*. National Academies Press. 275 pp. 2004.

This program has received $990,000 each year since fiscal year 2003. On average, approximately 80 percent of appropriated funds have been granted each year with a minimum 25 percent non-federal cost share. Remaining funds are used for program management.

Coastal and Estuarine Land Conservation Program (CELCP)

The Nature Conservancy supports funding CELCP at $80 to $100 million for fiscal year 2008 and looks forward to working with the Committee to guide selection of high priority projects. We recognize that this is a substantial increase of prior year funding levels, but feel that it is warranted given the extraordinary circumstances surrounding the fiscal year 2007 budget and the pent-up demand left over from what we expect to be comparatively low funding levels in fiscal year 2007. We believe that the list of projects developed in fiscal year 2007 by NOAA to identify important, eligible and ready projects was a significant improvement to the program and hope that a similar list will be made available soon to offer guidance for the fiscal year 2008 process. We hope that it will be useful to the Committee as you make decisions regarding the future direction of this important program.

We are concerned that NOAA continues to impose a $3 million per project cap in the guidance for the call for proposals. We are concerned that this cap may be either unnecessarily constraining or may lead to inflated project proposals. States should be encouraged to request what is needed to complete a given project within an appropriate timeframe, and should work with NOAA and the Congress to ensure adequate funding is available within budget constraints.

Finally, we are increasingly concerned about the lack of dedicated staff capacity for CELCP at NOAA. Current practice is to assess a percentage of the project appropriation to cover NOAA staff costs. The problem is that up to a point, the costs of running a program are fixed. NOAA needs a dedicated line of funding to support program administration and management, and should be prohibited from assessing a percentage of project allocations to cover administrative costs.

Coral Reef Conservation Program and Coral Reef Watch

The Conservancy has developed a strong partnership with NOAA's Coral Reef program, and we are delighted with their enthusiastic desire to work together on improving resilience of coral reefs, developing approaches for sustainable financing for coral conservation activities at the local level, and other creative approaches to reducing threats to corals. We would urge you provide $30.5 million for the program in fiscal year 2008, an increase over the Administration request of $25.797 million. The $30.5 million requested would include $1.5 million to support "Local Action Strategies," a unique partnership between NOAA and states and territories to address threats to coral reefs at the local level.

However, we are concerned with the decision made in the fiscal year 2006 conference to cut funding for NESDIS coral monitoring in fiscal year 2006. Funding for Coral Reef Watch was included in bills produced by both chambers and the President requested $737,000 for this modest but effective program known as "Coral Reef Watch." The program has received full funding in fiscal year 2007. In 2005, not only did NESDIS scientists in this program predict a major coral bleaching event in the Caribbean, but these scientists were able to reach out to NMFS, NOS and partners in the region to use the attention generated by the event to help local managers take action to help reefs recover from the devastating effects of bleaching.

Gulf of Mexico Governor's Alliance

The Administration's budget included a request for $5 million to help implement the Gulf of Mexico Governors' Action Plan. The Conservancy urges the Committee to provide at least this amount to leverage action on the commitments made by the Gulf Coast Governors. The Alliance identified five priority issues that are regionally significant and can be effectively addressed through increased collaboration at state, local, and federal levels:

—Improvement in Gulf water quality, with an emphasis on healthy beaches and shellfish beds;
—Restoration and conservation of coastal wetlands;
—Environmental education;
—Identification and characterization of Gulf habitats to inform management decisions; and
—Reductions in nutrient loading.

Pacific Coast Salmon Recovery Fund

The Pacific Coast Salmon Recovery Fund (PCSRF) has funded hundreds of successful on the ground salmon conservation efforts, and we are pleased that NOAA

and the states receiving these funds have greatly improved tracking the process of restoration and management under this important program.

This program is a critical complement to federal salmon recovery and management efforts. It enables the state to initiate restoration of salmon habitat and manage fisheries in areas beyond the reach of the federal government, e.g. on private lands. The PCSRF enables the states to leverage significant amounts of state funding to address the needs of private landowners in complying with the Endangered Species Act, maintaining the economic viability of these lands, while greatly contributing to economic recovery.

We are concerned about the decline in funding for the program, from $89 million in fiscal year 2004 and fiscal year 2005 to $67 million in fiscal year 2006, and $66.8 million in the President's fiscal year 2008 request. The Conservancy strongly supports $100 million for this program. We are also concerned how the funds are allocated across the five states involved in the program. We feel that the conservation activities oriented towards recovery and protection of salmon should be the primary purpose of this program, and therefore urge the committee to consider including report language in this year's appropriation that more explicitly links expenditures of PCSRF funds to recovery actions identified in federal and state salmon recovery and management plans, where applicable.

Thank you for this opportunity to share with the Committee the Conservancy's priorities in NOAA's fiscal year 2008 budget. We would be pleased to provide the Committee with additional information on any of the Conservancy's activities described here or elsewhere. You may contact Erika Feller at 703–841–5374 or via email at efeller@tnc.org, if you have questions on which we might be of assistance.

The Nature Conservancy is an international, nonprofit organization dedicated to the conservation of biological diversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Our on-the-ground and in-the-water conservation work is carried out in all 50 states and in 27 foreign countries and is supported by approximately one million individual members. We have helped conserve nearly 15 million acres of land in the United States and Canada and more than 102 million acres with local partner organizations globally.

The Conservancy owns and manages approximately 1,400 preserves throughout the United States—the largest private system of nature sanctuaries in the world. We recognize, however, that our mission cannot be achieved by core protected areas alone. Therefore, our projects increasingly seek to accommodate compatible human uses to address sustained human well-being.