

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2013**

THURSDAY, MARCH 22, 2012

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

The subcommittee met at 10:03 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Inouye, Feinstein, Pryor, Brown, Hutchison, Murkowski, and Cochran.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF HON. JOHN BRYSON, SECRETARY

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. The Subcommittee on Commerce, Justice, Science, and Related Agencies comes together, and today we will be taking the testimony of the Secretary of Commerce, John Bryson. We expect robust attendance at this hearing, and we note that the ranking member of the full Appropriations Committee, Senator Cochran, is here. And we also will be having votes at 12:30 p.m., so we hope to be able to move this in an expeditious way.

We're meeting today to examine the Commerce Department's fiscal year 2013 budget, and we welcome Secretary Bryson. This is his first testimony before the subcommittee since becoming Secretary in October 2011. He brings valuable skills to his position, strong experience in the private sector, and he's been a strong voice for American manufacturers. We love the slogan, "Build it here. Sell it everywhere." He knows firsthand what American business is facing in today's challenging economy. We look forward to hearing from him about the agency's budget and priorities.

The Commerce Department is the major economic engine for America. The President's request totals \$11 billion for the Department. This includes \$3 billion in patent and trademark fees. Today, I want to examine just a few areas of this robust agency. Number one, the protection of not only American ideals, but America's ideas. It is in the area of intellectual property and the United States Patent and Trademark Office that we have a keen interest. We believe that if you invent it, we should be able to help you pro-

(1)

tect it. We are concerned about the backlog, the expeditious processing of patent claims, and then as a member of both this subcommittee and the Intelligence Committee, I am obsessed with cyber espionage. And that will be another theme that I will ask in my questions, which is the role of the Commerce Department in not only the cyber economy, but how to make sure we're protecting ourselves against the threats in this area, and the important function of the National Institute of Standards and Technology (NIST).

We also are looking at how to protect our citizens, and this goes to whether it's protecting our coast from hurricanes, tornadoes, and others, and we're tremendously interested in what is happening to the National Oceanic and Atmospheric Administration (NOAA), and also particularly to NOAA's weather service.

Then, we have to also look out for the taxpayer. The inspector general, over the history of this subcommittee, has identified persistent problems that need strong oversight. This isn't a blip, but there is a persistent problem in NOAA satellite procurement, and Census; we're not going to have another techno boondoggle like we had last time. And then, of course, the issue of the patent backlog.

I believe the Department of Commerce needs to be cyber-obsessed, creating ways to protect its own .gov systems and protecting those that use our .gov, particularly, again, in the area of cyber espionage.

NIST is doing a fantastic job, and I know it's been capped by the President in this area, as well as playing the leading role now in saying manufacturing is alive in America, and we're going to make sure it's not only alive, but it thrives. So, we're going to ask for more details in that area and on intellectual property.

We are concerned about NOAA's satellites, and ships, and planes, and that we need to be fit for duty. We owe it to the men and women who operate this equipment, and to the scientists and forecasters to make sure we are working with them. We're concerned that when it comes to NOAA's ships and NOAA's planes, they're kind of a little late at the switch to notice what the problems are, ending up in tremendous cost.

We owe it to our people who work at NOAA that they have the best equipment and the best support from their government, so that they can be out there providing, whether it's for mariners, people who live in coastal communities, and so on. We're so proud of what they do. I know, as a Maryland Senator, we can't live without NOAA and its weather warnings, but when you talk with the Senators from Missouri, and now the way the tornado warnings have gone, to a Senator from Hawaii, to another Senator from Alaska, the tsunami warnings, and others—so we do need to hear from you.

The inspector general has identified several major issues, particularly controlling the cost of the 2020 census. Once more, we're seeing that the census cost has doubled. We can't go there again. And I'm just saying that. We really can't go there again. And we'll come back to what I'm going to be asking from you.

I've identified some of the problems at NOAA. We're back to the Joint Polar Satellite System (JPSS), and to make sure that the satellite program is not out of control.

PREPARED STATEMENT

I'm going to ask unanimous consent that my full statement be included in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

Today, we're meeting to examine the Department of Commerce's fiscal year 2013 budget request. We welcome Commerce Secretary John Bryson for joining us today for his first testimony before the subcommittee since becoming Commerce Secretary in October 2011. Secretary Bryson brings valuable skills to his position. He has been a strong voice for American manufacturer, saying we need to "Build it here, sell it everywhere." He knows firsthand what American businesses are facing in today's challenging economy. We look forward to hearing from him about his budget and his priorities.

The Commerce Department is the major economic engine for America. The President's request totals \$11 billion for the Department, including \$3 billion in patent and trademark fees.

Today, I want to examine how these funds will do three things:

- Protect American ideas by safeguarding our intellectual property with patents and trademarks and enforcement of our trade laws;
- Protect our citizens by forecasting and warning about severe weather; and
- Protect taxpayer dollars.

By that, I mean the Secretary of Commerce is the chief spokesperson for American business, but the Secretary is also the chief manager of major management challenges at the Department. Persistent problems need strong oversight. Issues that the Inspector General has identified include:

- National Oceanic and Atmospheric Administration's (NOAA) satellite procurement;
- the next Census; and
- the patent backlog and the stealing of our ideas.

When it comes to protecting our ideas, the Department of Commerce needs to be cyber-obsessed—creating ways to protect its own ".gov" systems while working with the private sector to better protect ".com". The National Institute of Standards and Technology (NIST), Commerce's outstanding science and research agency, is helping the private sector find new ways to solve today's cyber security problems. NIST's budget request of \$860 million includes \$60 million for cyber activities. I want to know how these funds will be used to protect online consumers and the private sector from cyber-attacks.

But NIST is not the only agency standing sentry over America's intellectual property. The United States Patent and Trademark Office (USPTO) protects American ideas and inventions, which are the heart of economic prosperity and jobs. The USPTO has made progress in reducing the patent backlog, but more than 657,000 patents are waiting for approval and it takes 2½ years to grant a patent. I also want to make sure that USPTO's networks are secure American inventors are filing applications electronically. We must make sure the filing process is secure.

When it comes to protecting people, every member of this subcommittee is pro-weather and pro-science. NOAA's satellites, ships, and planes need to be fit for duty. We owe it to the men and women who operate this equipment and to the scientists and forecasters who depend on the data to do their jobs. And most importantly, we owe it to our communities: to the coastal States that depend on accurate hurricane forecasts and to the interior States that depend on timely tornado warnings. I know the President's Government reform plan calls for moving NOAA to the Department of the Interior, but in the meantime, I want to know what you are doing now to keep people and communities safe.

The Inspector General has identified several major issues persistent management problems for the Department. Serious issues continue to challenge the Department, particularly planning and management of the next Census and NOAA weather satellite procurement.

Controlling costs for the 2020 Census is a top oversight concern for both the Inspector General and the Government Accountability Office. Cost overruns become a major problem during the 2010 Census, and already today we see estimates for the 2020 Census ranging from \$22 to \$30 billion. That's more than double 2010 Census costs. I want to know what is being done to reduce costs now.

When Secretary Bryson agreed to be the chief spokesman for America's businesses, he also knew that 60 percent of the Department's budget is for NOAA,

which includes fisheries management, coastal resource protection, and operations of the National Weather Service. An area that I remain very troubled by is NOAA's acquisition of new weather satellites. The budget request for NOAA's new polar satellites—called Joint Polar Satellite Systems (JPSS)—is nearly \$1 billion. JPSS's life-cycle cost—the costs of development and operations—have increased yet again from \$11.9 to \$12.9 billion. This new total cost estimate shows that despite strong warnings from the subcommittee, JPSS is going in the wrong direction. Cost growth is hurting NOAA's core ocean and weather operations. This leads me to question if NOAA should remain responsible for procuring these satellites.

In conclusion, I want to thank all the men and women of the Commerce Department. They are the trade experts, statisticians, patent and trademark examiners, scientists, engineers, and weather forecasters who work hard every day to promote American businesses, protect American ideas and resources and keep our economy moving forward.

Senator MIKULSKI. And Senator Hutchison, I know Senator Inouye and Senator Cochran have joined us. May we defer to them, and then come back to you, and in turn, to our Secretary?

Senator HUTCHISON. I'd be happy to. I'll be here for the duration.

Senator MIKULSKI. I know that there are several hearings going on.

Senator HUTCHISON. Yes.

Senator MIKULSKI. Senator Inouye, did you want to make a statement?

STATEMENT OF SENATOR DANIEL K. INOUE

Senator INOUE. Madam Chair, thank you very much for this opportunity to say a few words about the President's fiscal year 2013 budget relating to the Commerce Department. But, before I begin, Madam Chair, I'd like to join the multitude of admirers and colleagues in congratulating you on becoming the longest-serving woman in our congressional history. I can't quite believe it, but—

Senator MIKULSKI. I can't believe it either.

Senator INOUE. You look too young and cute.

Senator MIKULSKI. That, I can believe.

Senator INOUE. But I've been around a little while, and I want to thank you for the great work you've done here.

Madam Chair, I want to say a few words, but before I proceed I'd like to commend and thank the Secretary for the work he has been doing, and on behalf of my constituents, I thank you for your hands-on service to our people.

I have just one concern, and that concern has been expressed by my chair: NOAA. So if I may, Madam Chair, I'd like to submit my statement and make sure that it's part of the record.

Senator MIKULSKI. Absolutely, Senator. With unanimous consent, your statement is included in the record.

PREPARED STATEMENT

Senator MIKULSKI. And then I know you and your staff have important questions, that they, too, will be submitted to the record, and we'll ask the Secretary to respond within 30 days.

[The statement follows:]

PREPARED STATEMENT OF SENATOR DANIEL K. INOUE

Madam Chairwoman, thank you for the opportunity to say a few words with regard to the President's request for the Department of Commerce's budget for fiscal year 2013. Before I begin, however, let me also join my colleagues and others in congratulating you on making history as the longest-serving woman in congressional

history. I have been around for a few years myself and deeply appreciate the honor and dignity that you have brought to both the House and the Senate through your dedicated service.

Mr. Secretary, welcome and thank you for joining us. I have been reviewing the President's proposed budget and want to applaud you and the President for working to find ways to support our small businesses and decrease our trade deficit even in these perilous budget times. I know this is no easy task. However, this is not why I wanted to come to this hearing today. Rather, I wanted to come in order to make a special point about the agency which comprises more than 60 percent of your Department's discretionary budget and yet seems to merit less attention from year to year. I refer of course to the National Oceanic and Atmospheric Administration (NOAA) which, under the President's budget would receive a little more than \$5.1 billion in fiscal year 2013. To be sure, this is an increase, but as we all know this increase is dedicated almost entirely to needed satellite programs while core agency functions and programs are elsewhere consolidated and cut. In my view, these cuts appear to have been made in a somewhat haphazard fashion with what seems to be a highly unfortunate emphasis on programs that have previously been quite clearly highlighted as congressional priorities. I might suggest that explicitly targeting such programs is not a constructive way to begin a dialog over what I consider to be an agency crucial to our Government's function, our Nation's economic well being, and our safety and security. To begin the annual budget conversation in such a way inevitably sets up a cycle where the Congress and the administration focus on more parochial interests to the detriment of any serious thinking that might be required about refocusing agency missions and priorities in a shrinking budget environment.

You note in your written testimony that the cuts to NOAA were made so that the agency could focus on its "most essential initiatives" and that reductions were made to programs that were found to be redundant and "of lower value". This then is the rubric by which we must judge such actions as the proposed 20 percent cut to the National Tsunami Warning Network and Hazard Mitigation Program. Less than a year after one of the most devastating tsunamis the world has ever seen, the Department of Commerce decided that NOAA's tsunami warning program was, according to standards outlined in your testimony, nonessential, redundant, and of low priority. Given that my State suffered significant damage, though thankfully no loss of life, from the Japanese tsunami, this seems like an incorrect assessment to me. It also gives me pause as to the other proposed cuts to NOAA and I hope that we may continue to have a dialog as to your reasoning.

I would like to add one last point with regards to the administration's proposal for reorganizing the business and trade functions of the executive branch. I sincerely congratulate you and the President on your willingness and desire to think creatively about how we may make Federal activities more efficient while at the same time enhancing the vital services that foster American enterprise. The proposal to reorganize and consolidate the business and trade functions of the Federal Government into a single Department has some value in terms of efficiency, economy, and effectiveness. However, there are still many issues yet to be worked out and some questions yet to be answered.

I am especially concerned with the lack of details regarding the proposed fate of NOAA.

I understand that there is a notional idea to move it the Department of the Interior with a promise that details will be worked out later. I also understand that the likelihood of any of this occurring in the near term is small. Nevertheless, I strongly suggest to you that, as with the budget, it is always better to start these conversations sooner. In this case there is no need to wait for the Congress to act on the President's request for reorganization authority. I and my staff would enthusiastically welcome a conversation with the administration about ways that we may strengthen NOAA while increasing Government efficiency.

Senator INOUE. Thank you very much.

Senator MIKULSKI. Senator Cochran, our ranking member, also a coastal Senator.

STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Madam Chair, thank you very much. Thank you for your leadership of this subcommittee, and in the Senate, as a whole, we appreciate your friendship over the years.

Mr. Secretary, welcome. We're pleased to have you here before us today to discuss the budget request for the administration and these areas under your jurisdiction.

One of the disturbing things, and I noticed right away, is the lack of emphasis on the Gulf of Mexico. And I don't know of anything that's happened in our country in terms of water resources, ecological interests, and importance than the problems in the Gulf of Mexico, and to see NOAA sitting back and waiting for others, I guess, to identify the priorities—we need leadership at this time more than ever. And I will be curious to know what your recommendations and observations are about that issue.

But beyond that, we're glad to have the opportunity to review the budget request of the administration, and we're hoping to work in a positive and constructive way to harness the resources that are needed to deal with the challenges we face under your jurisdiction, in spite of the disappointment that the budget presents to us at the outset.

Senator MIKULSKI. Thank you, Senator Cochran. And your questions, too, will be in the record.

Senator MIKULSKI. Senator Hutchison.

STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Well, thank you, Madam Chairman, and I will echo what Senator Inouye said, and say that you've had a fabulous week. And I'm so happy that Women's History Month, which you couldn't have predicted 30-some years ago, would happen on your anniversary. But it's a wonderful thing that we are celebrating your service as the longest-serving woman in the history of our the Congress and our country. So, I loved being a part of all your festivities, and it probably won't be matched for a long time. In fact, you may break your own record.

Senator MIKULSKI. Thank you.

Senator HUTCHISON. Let me say that I think you're hearing what the concerns are already. NOAA is a big one. Gulf of Mexico. I mean just last week, we had tornadoes, and horrendous weather that kept our Republican Minority leader, Senator McConnell, from being able to be here on Tuesday, because he was not able to get out of DFW airport for about 8 hours. And it's just always there.

The Gulf of Mexico is the site of so many of our hurricanes, and tornadoes, and horrible weather, and yet, we see failures in NOAA. We see the satellite system, which doesn't function right. It's a big part of your budget. But, the people who are concerned with the wet side of Commerce, with fisheries and ocean monitoring, are also very concerned. So, I will want to know what you're doing to address these issues, and what you would do with the increase in spending in that area.

The reorganizing that has been announced to possibly put NOAA in the Department of the Interior, I would like to know your opinion about that, if it goes better there, and what can we see that would be an improvement if it did move, or if not, why not. And the computer hacking is another issue that really has come to the forefront, and protecting the Department's information technology infrastructure certainly has to be a priority. And I guess in the hacking that happened this year, you're still, I'm told, trying to sort

out if any information about the companies that are in your system had compromised information.

The National Network for Manufacturing Innovation is part of the budget. Certainly, we are focused on manufacturing, and innovation and manufacturing should be a priority, and I want to hear more about that. And just the last thing I would mention is the International Trade Administration (ITA). The President made an Executive order that I think was premature, because we haven't had a chance to see what a new ITA would do that the U.S. Trade Representative (USTR) isn't already doing, or should be doing, and do we need another reformed agency to do the work on unfair trade practices, when we do have a setup, I think, at the USTR office.

So, I'd like to, you know, pursue these things, and get your answers, and I guess after we have our opening statements, we'll get a chance to hear what your priorities are.

Thank you.

Senator MIKULSKI. Mr. Secretary.

Secretary BRYSON. Well, thank you.

Senator MIKULSKI. Thank you, I think. We've got a lot of challenges.

SUMMARY STATEMENT OF JOHN BRYSON

Secretary BRYSON. Chairwoman Mikulski, Ranking Member Hutchison, and members of the subcommittee, I am pleased to offer a written statement for the record, and to discuss President Obama's 2013 budget request for the Commerce Department.

I feel the need and really want to join the others in saying that it is a special honor today to testify before the longest-serving female Member in the history of the Congress, and maybe as a father of four daughters, I would say I deeply admire your service to the people of Maryland and our Nation since being elected to the Congress in 1976. So, I join all the others in saying thank you, and congratulations Chairman Mikulski on making history once again.

So, in my first 5 months as Secretary, I've seen many examples of how the Commerce Department supports American business. Just last Friday, I visited Pavilion Furniture. That is a very small manufacturer in Miami who we are helping to start exporting both to the Caribbean and to Asia. The owner, Mike Buzzella, said, "The introductions that the Commerce Department just made for us in Panama and the Pacific Rim are helping to find new ways to grow in a global economy."

This budget, the budget we have before you now, reflects the commitment to helping businesses like Mike's continue to drive competitiveness, innovation, and job creation. It includes \$8 billion in discretionary funding and \$2.3 billion in mandatory funding. Throughout the budget, we have made smart and tough choices that cut costs, while building only on programs that truly do work. Key priorities are in areas where we see growth and promise, such as advanced manufacturing, exporting, and attracting foreign direct investment.

For example, the budget includes \$135 million for R&D in areas like advanced materials and advanced manufacturing processes. These are critical areas where the United States must stay competitive.

We will also continue to support the foundational building blocks of our economy, such as research and science, environmental sustainability, and the public safety. For example, NOAA's budget includes \$1.85 billion for satellites, which provide 93 percent of the input to our Nation's weather prediction models. This directly impacts the daily flow of commerce and the ability of businesses and communities to prepare for disaster.

Also, we have invested in stock assessments, because our fishermen and our fisheries are culturally and economically important to our country and to our competitiveness.

At the same time, we are committed to serving as responsible stewards of taxpayer dollars. We propose eliminating 18 programs, reducing funding for many others, and achieving administrative savings. Altogether, this will save taxpayers more than \$400 million.

PREPARED STATEMENT

Let me just close by saying that as a CEO for nearly 2 decades, I strongly believe that any organization is most effective when it operates with a common vision. Our 12 bureaus are committed to functioning as what we call "One Commerce". Collectively and collaboratively, we will continue to empower American businesses to drive our economy and to build on the nearly 4 million jobs that have been created over just the past 2 years.

Thank you all for your continued support of the Commerce Department. I look forward to your comments, and I'm pleased to answer any questions.

[The statement follows:]

PREPARED STATEMENT OF JOHN BRYSON

INTRODUCTION

Chairman Mikulski, Ranking Member Hutchison, and distinguished members of the subcommittee, I am pleased to join you today to talk about President Obama's budget request for the Department of Commerce for fiscal year 2013. While this is my first testimony before you, I want to start by thanking you for the subcommittee's members' deep appreciation of the talented women and men who work at the Department of Commerce, and for your support of our relentless focus on helping American companies be more innovative at home and competitive around the world.

I must say, it is humbling that my first time testifying in the Senate as the Secretary of Commerce is before the longest-serving female Member in the history of the United States Congress. As the father of four daughters, I thank you. As the newest member of the Cabinet, I humbly recognize what an impressive feat this is and deeply admire your many years of service. Since being elected to Congress in 1976, you have always been an admirable representative of the great State of Maryland and our country. Thank you and congratulations on making history once again, Chairwoman Mikulski.

In today's challenging budget climate, the Commerce Department is committed to responsible stewardship of taxpayer dollars. We've done this by making smart and tough choices to cut costs, while ensuring that we build only on programs that truly work. Thus, the fiscal year 2013 budget request for Commerce is fiscally responsible while promoting entrepreneurship, innovation fueled by investments in science, global competitiveness, and research and development. President Obama's fiscal year 2013 budget for Commerce includes \$8 billion in discretionary funding, which is a 5-percent increase from the fiscal year 2012 enacted level. The budget also requests \$2.3 billion in mandatory funding for new programs.

This budget invests in efforts to help businesses build their products here and sell their products and services everywhere, putting Americans back to work. To do so, we are requesting funding specifically to promote high-priority activities to support advanced manufacturing, exports and foreign direct investment. With these invest-

ments, we will build a 21st century infrastructure; encourage the sustainability of our environment; strengthen science and information; and support national security and public safety. To make that possible, this budget request balances the investments and priorities outlined here with difficult choices—including eliminating 18 programs, resulting in more than \$50 million in savings; reducing other programs by an additional \$336 million; and achieving \$176 million in administrative savings.

As a CEO for nearly two decades, I learned that a company is most effective at delivering services when it operates with one vision and the entire workforce, from the boardroom to the shop floor, are focused on a clearly defined collective goal. I believe the same thing at the Commerce Department. We are the strongest advocates for American businesses when we are more than the sum of our parts—when we are “One Commerce”.

The common thread through all of our work across the bureaus is helping American businesses create jobs. This is as true for National Oceanic and Atmospheric Administration (NOAA) as it is for the International Trade Administration (ITA). As One Commerce, we are working relentlessly to support businesses and communities and to advance the frontiers of innovation, as I detail below.

BUILD IT HERE—SELL IT EVERYWHERE

As you all know, the challenges and opportunities that American businesses face today are global in nature. Since my confirmation in October, I have focused the Commerce Department on becoming more nimble, responsive, and effective for American businesses. As my friend Fred Hochberg and I like to say, “We want government at the speed of business.” To reach this goal, the Department will focus on a simple imperative: In order to create good-paying jobs here at home, we need to help more businesses build their products here and sell them everywhere. To achieve this, we are focusing on:

- Supporting advanced manufacturing;
- Increasing U.S. exports; and
- Attracting more investment in America from all over the world.

Advanced Manufacturing

The President’s fiscal year 2013 budget request for the Department of Commerce recognizes that we must build momentum in our manufacturing sector, particularly advanced manufacturing. By itself, the U.S. manufacturing sector would be the ninth-largest economy in the world. Manufacturing employs 12 million Americans and is a major source of innovation in our economy, with manufacturing companies accounting for 72 percent of all private-sector research and development (R&D) spending. This is why the President’s proposed budget would invest heavily in the manufacturing expertise at our National Institute for Standards and Technology (NIST).

In support of the President’s priority to strengthen advanced manufacturing, the President’s fiscal year 2013 budget for NIST contains:

- \$135 million for advanced manufacturing R&D to target high-potential technologies such as the manufacture of advanced materials and smart manufacturing processes, which will make U.S. manufacturers more competitive; and
- \$21 million for the Advanced Manufacturing Technology Consortia Initiative that will bring together industry, universities, and the Federal Government to invest in highly promising R&D and accelerate the transfer of innovative technologies and products into the hands of American manufacturers.

In addition, the Hollings Manufacturing Extension Partnership within NIST is funded at \$128 million to help businesses save time and money and thereby improve the competitiveness of small- and medium-sized firms in manufacturing.

Partnerships can also strengthen our competitiveness in manufacturing. Gene Sperling, Director of the National Economic Council and Assistant to the President for Economic Policy, and I are co-leading the new White House Office of Manufacturing Policy. We are focused on high-impact ideas, such as the creation of a new National Network for Manufacturing Innovation. The administration proposes to make a one-time \$1 billion mandatory spending investment to catalyze the creation of a network of up to 15 regional institutes to foster innovation and accelerate technological advancements in manufacturing. These regional institutes will allow researchers, companies, and entrepreneurs to solve problems in pre-commercial technologies that will lead to U.S. leadership in tomorrow’s manufactured goods.

Our “One Commerce” approach brings significant resources to bear for the benefit of American manufacturing companies. The Commerce Department’s bureaus—including NIST, ITA, Economic Development Administration (EDA), and U.S. Patent and Trademark Office (USPTO)—are collectively focused on supporting the commercialization of manufacturing technology, bridging the gap between the laboratory

and the market, and maximizing the unique strengths that already exist in particular regions and manufacturing hubs around the United States. This will help us ensure that the next generation of groundbreaking products is not just invented here in America, but is also built here.

Increasing U.S. Exports

We also want to help American companies sell their products and services to the 95 percent of the world's consumers who live beyond our borders. U.S. businesses are not exporting nearly as much as they could. Only about 1 percent of U.S. businesses export, and most only to one country. Many American companies would like to export but are unsure how to start. Small businesses in particular often face big challenges when it comes to getting export financing, building relationships with foreign suppliers, and dealing with unfamiliar foreign rules and regulations. President Obama's National Export Initiative (NEI), led by our Department, is designed to help businesses overcome these hurdles. And, in fact, U.S. companies increased their exports by 17 percent in 2010 and by an additional 14 percent in 2011, putting us substantially on track to meet the challenging goal to double American exports by the end of 2014.

We have leveraged existing resources and enhanced the way we work to help American companies expand their global market share. In 2010 and 2011, the Commerce Department coordinated 77 trade missions to 38 countries with more than 1,000 U.S. companies. We have identified and prioritized work in markets and sectors where American businesses are the most competitive. In addition, we have expanded opportunities in new markets thanks to congressional implementation of the trade agreements with Colombia, Panama, and Korea.

The fiscal year 2013 budget requests a total of \$517 million for our ITA. As with other Commerce Department bureaus, ITA is closely examining its organization to speed up operations in order to focus on higher productivity results for American businesses. This budget request proposes a consolidation of ITA's four business units to three, organizing them by core function to provide more effective and efficient services to U.S. companies and to better focus on priority export markets, trade enforcement, and strategic partnerships while saving \$8 million annually.

ITA's budget also requests an additional \$30 million to strengthen trade promotion by placing Foreign Commercial Service Officers and the equivalent of 90 locally engaged staff in high-growth markets such as China, India, and Brazil. An expansion of these priority markets will enable identification of more export opportunities for U.S. companies, more rapid and timely business counseling, and enhanced commercial diplomacy and advocacy support.

Attracting More Investment

We also must promote investment into the United States. That includes U.S. companies expanding their operations domestically or bringing jobs back to the United States. It also means foreign companies investing here. This administration maintains a deep commitment to ensuring that the United States remains the most open economy in the world. America is already the number-one destination around the world for foreign direct investment, and foreign companies support more than 5 million jobs across the United States. Until the recent launch of SelectUSA, however, there has not been coordinated Federal effort to help either U.S. or non-U.S. businesses navigate the Federal and various State economic environments in order for the private sector to more rapidly and easily make these types of investments in America. The fiscal year 2013 President's budget proposes \$13 million for SelectUSA to aggressively pursue and win new business investment in the United States.

In order to spur job creation, the United States must encourage business investment from all sources, including encouraging companies that have moved jobs offshore to come back to the United States. To support this effort, we have launched a task force dedicated to investment and the in-sourcing of jobs. This task force is leveraging our existing resources to make promoting and facilitating business investment in the United States a natural part of what the Department does, akin to export promotion and facilitation. Further, we are working to create an online calculator that will help companies determine the hidden costs of moving business out of the United States.

Additionally, EDA will play a critical role through strategic grants that build assets in communities to support investment. Moreover, EDA is updating its investment priorities to include the in-sourcing of jobs back to the United States; projects to facilitate in-sourcing will be prioritized for funding within all EDA grant programs. In fiscal year 2012, EDA will offer support to grant applicants who are interested in bringing jobs back to the United States through its next round of Jobs and Innovation Accelerator Challenges—economic development grants that will focus on

America's rural communities and strengthening advanced manufacturing. Those interested in accelerating job creation through in-sourcing will be encouraged to apply.

SUPPORTING U.S. BUSINESSES AND COMMUNITIES

The fiscal year 2013 budget for the Department of Commerce supports American businesses and communities—whether it's working directly with manufacturers to enhance their economic competitiveness or supporting communities through economic development and the delivery of daily weather forecasts and severe storm warnings.

The Department works to strengthen communities, especially in disadvantaged or distressed areas, through private sector job creation. The President's budget provides \$182 million for the EDA's Economic Development Assistance programs to drive 21st century innovation and economic development that leverage regional assets to foster economic growth.

The budget provides \$29 million for the Minority Business Development Agency (MBDA), which, through a network of 39 affiliated Minority Business Centers, supports the ability of minority businesses to grow and thrive in the global economy. We are investing in these centers because they are on the front lines of providing direct services to minority-owned businesses. This approach has worked. Over the last 3 years, our network of MBDA Business Centers has helped minority businesses obtain \$10 billion in contracts and capital while helping to create and save nearly 20,000 jobs. And last year, MBDA registered the best annual performance in its 41-year history.

The Bureau of Industry and Security (BIS) advances U.S. national security, foreign policy, and economic objectives through ensuring an effective export control and treaty compliance system and by promoting continued U.S. strategic technology leadership. The President's fiscal year 2013 budget recognizes, with a request of \$102 million, the important role of BIS to ensure sensitive technologies are not exported to regimes unable to safeguard the technologies from bad actors, weapons proliferators, and terrorists. Within this request, \$6 million is provided to hire 24 additional personnel at Commerce to handle the new workload under the administration's export control reform initiative to advance national security and overall economic competitiveness.

Robust monitoring and enforcement of U.S. rights under international trade agreements, as well as enforcement of domestic trade laws, are crucial components of the administration's strategy to expand exports, ensure fair competition with our foreign trading partners, and grow the economy. ITA is a key partner supporting the new Interagency Trade Enforcement Center (ITEC), which will represent a more aggressive "whole-of-government" approach to addressing unfair trade practices, and will serve as the primary forum within the Federal Government for executive departments and agencies to coordinate enforcement of international and domestic trade rules. This budget requests an increase of \$24 million to the Commerce Department that will support the ITEC and will significantly enhance the administration's capabilities to aggressively challenge unfair trade practices around the world.

The Commerce Department also focuses on generating and providing timely data and analysis for public and private sector decisionmaking. The fiscal year 2013 President's budget requests \$100 million for the Economics and Statistics Administration (including the Bureau of Economic Analysis [BEA]) and \$970 million for the Census Bureau. BEA, which sits within the Economics and Statistics Administration (ESA), provides the tools to identify the drivers of economic growth and fluctuation, as well as measure the long-term health and sustainability of U.S. economic activity. This budget will strengthen BEA's ability to identify industry-specific trends within its GDP statistics.

The fiscal year 2013 budget for Census sustains critical business and household data collection activities, such as the 2012 Economic Census that provides an every-5-year comprehensive view of American businesses and that forms the foundation for all our industry and business statistics. Similarly, the American Community Survey (ACS) is the only source for geographically detailed socio-economic information on a yearly basis. Businesses use ACS information in many ways, such as site selection and market intelligence, which promotes job creation and economic recovery. State and local governments use ACS information to support decisionmaking for key programs and services, such as schools, transportation, and emergency services. The Census Bureau request also invests \$131 million in research and testing for the 2020 Decennial Census. This is a critical investment that is essential to saving money in future years. By devoting sufficient resources to this early state of the lifecycle, the Census Bureau will be able to develop the new approaches required to break the trend of doubling the cost of the decennial census each decade.

This budget also supports U.S. businesses and communities by investing \$5.1 billion, an increase of \$153.9 million or 3.1 percent more than the fiscal year 2012 enacted level, for NOAA's vital work on weather forecasting, fisheries management, and coastal stewardship.

NOAA's critical satellite operations will provide businesses and individuals with the data and information needed to plan for changing weather conditions. These satellites also provide advanced warning of severe storms so that actions can be taken to protect lives and property. The fiscal year 2013 budget invests \$1.8 billion in NOAA satellites, including \$916 million for the NOAA Joint Polar Satellite System (JPSS), and \$802 million for the next generation geostationary satellite, GOES-R. Weather satellites, including JPSS and GOES-R, are critical to our Nation's infrastructure and economy and provide 93 percent of the input to the Nation's weather prediction models. Severe storms in the past year, both tornados and hurricanes, have demonstrated the importance of our weather satellite system to provide advance warning of these disasters. fiscal year 2013 funding will ensure that GOES-R remains on its current schedule to replace the GOES-N series of satellites currently in operation. Full funding is required to avoid any additional schedule slip to JPSS and to minimize the gap in polar satellite coverage between JPSS and the Suomi National Polar-Orbiting Partnership (Suomi-NPP). NOAA and NASA successfully launched the Suomi-NPP in October 2011. JPSS is scheduled to launch in the second quarter of 2017.

NOAA's environmental data and services support commerce throughout the country. NOAA provides weather information that allows for safe and efficient transportation; drought and water data that inform agricultural decisions; space weather warnings needed to protect the national energy grid and worldwide communications from solar storms; and climate information that supports adaptation decisions for business and communities. Nearly 80 percent of U.S. import and export freight is transported through seaports, and by 2020, the value of all freight coming through U.S. ports is projected to increase by more than 40 percent. The fiscal year 2013 President's budget requests \$150 million to support navigational services nationwide, including mapping and charting and real-time observations and forecasts of water levels, tides, and currents. The budget also provides \$972 million for weather, drought, and flood forecasting.

The fiscal year 2013 President's budget for NOAA also provides an increase of \$29.7 million to improve our understanding of climate, with a specific focus on research that underpins our understanding of climate processes. This includes an \$8 million investment in the continued development and use of state-of-the-art Earth system models, which help businesses and communities address climate related issues, including sea level rise and Arctic climate change and \$4.6 million to make progress in critical ocean observations and analysis.

Healthy coastal economies rely on a healthy ocean ecosystem. NOAA's fiscal year 2013 budget will continue to ensure that critical information and tools are available to users and decisionmakers to support the management of our ocean and coastal resources to make certain future generations also have the ability to enjoy and benefit from these resources. Rebuilding our Nation's fisheries is essential to preserving the livelihood of fishermen, the economies of our coastal communities, and a sustainable supply of healthy seafood. The fiscal year 2013 President's budget requests \$880 million for the National Marine Fisheries Service, funding science, management, and conservation of fisheries and protected resources. This includes a requested increase of \$4.3 million to expand stock assessments and \$2.3 million for survey and monitoring projects, which will be targeted at high-priority commercially and recreationally viable fish stocks.

ADVANCING THE FRONTIERS OF INNOVATION

The fiscal year 2013 budget supports key initiatives to help advance our scientific and technological frontiers and build the foundations for a secure future. Innovation is critical to our economy; it generates American jobs today and will drive the jobs of the future. Along with major research universities, businesses are the primary source of new ideas, from concept to commercialization, and the Department of Commerce is leveraging our resources to provide the tools, policies, and technologies that enable U.S. businesses to gain and maintain an advantage in world markets.

Together, NIST and NOAA will invest an additional \$1.3 billion in research and development efforts.

As I mentioned earlier in my testimony, a focal point for the NIST budget request is on investments to support advanced manufacturing. Overall, the fiscal year 2013 President's budget requests \$857 million in discretionary spending for NIST that ad-

dresses challenges to U.S. industry in a number of areas including advanced communications and cybersecurity.

Specifically, we request \$10 million to support research in advanced communications networks to build collaboration with the telecommunications industry to help lay the groundwork for an interoperable public safety communications network that seamlessly delivers voice, data, and video to first responders and other emergency personnel. In addition, cybersecurity remains a priority at NIST with the request of an additional \$8 million for the administration's National Strategy for Trusted Identities in Cyberspace (NSTIC) program. This program supports the development of an online environment—the "Identity Ecosystem"—that improves on the use of passwords and usernames, and allows individuals and organizations to better trust one another, with minimized disclosure of personal information. This work is intended to have broad benefits for applications ranging from consumer financial transactions, to industrial supply chains, to health records, for which it is essential to have information security.

The President's fiscal year 2013 budget requests \$651 million for NOAA research and development. This includes NOAA's atmospheric and ocean, coastal, and Great Lakes research and applied science which are at the forefront of discovery and a key component of advancing the mandates of the America COMPETES Reauthorization Act of 2010. NOAA research is improving the forecasts of severe weather such as winter storms and flash floods, developing next-generation radars with the potential to extend lead times for detecting tornadoes, and operationalizing new marine sensor technologies with economic benefits.

USPTO facilitates the generation of innovative and commercially viable processes and products, while protecting the intellectual property rights of inventors. The Congress helped tremendously in this effort last year with the passage of the America Invents Act, and the fiscal year 2013 budget supports USPTO's authority to spend all of the fees collected to accelerate patent processing and improve patent quality, as established in that law. The request supports continued reductions to pendency and backlogs, with goals of cutting the backlog in half to 329,500 by fiscal year 2015 and total pendency to 18.3 months by fiscal year 2016. This would be a dramatic turn-around from where we were just 3 years ago. In fiscal year 2009, the backlog was nearly 800,000 and pendency was 34.6 months. In fiscal year 2013, USPTO expects to hire an additional 1,500 examiners to support this effort.

EDA will dedicate \$182 million in grants to foster innovation through innovation hubs across the United States, particularly in distressed communities. We know this new model of economic development works. The Jobs Innovation and Accelerator Program launched by EDA last year is estimated to create approximately 4,800 jobs and 300 new businesses, retain 2,400 jobs and train 4,000 people for careers in high-growth industries.

The need to ensure our Nation has state-of-the-art digital infrastructure—to drive economic growth, create jobs, promote innovation, support Federal agencies' missions, and improve public safety—cannot be overstated. This is a core value of President Obama, and one that is reflected in several major initiatives undertaken by the administration and enacted by the Congress. The Department's National Telecommunications and Information Administration (NTIA) has been called upon to make some of the most complex and consequential technology and innovation programs a reality. Most recently, under the Middle Class Tax Relief and Job Creation Act, NTIA will establish "FirstNet", an independent entity that will oversee the creation of a long-needed nationwide, interoperable public safety broadband network. Funded through proceeds of future spectrum auctions, this broadband network represents delivery on a promise made by this administration to America's first responders and the key challenge of network operability noted by the 9/11 Commission.

In all, the President's fiscal year 2013 budget provides \$47 million to NTIA. These funds are needed for NTIA to continue its work in several areas critical to creating jobs, promoting innovation and growing our economy. This includes implementing the President's directive to double the amount of spectrum available for commercial wireless broadband service. It also includes managing and overseeing nearly \$4 billion in Broadband Technology Opportunities Program projects, which are helping to expand broadband access and adoption across the country. These projects are allowing hospitals, libraries and universities, as well as individual citizens, entrepreneurs and small businesses, to succeed and thrive in the digital economy. The fiscal year 2013 President's budget request includes \$27 million for NTIA to continue to oversee these projects to protect against waste, fraud and abuse, and ensure they deliver on their promised benefits—including more than 70,000 miles of broadband networks by the end of fiscal year 2013—on time and on budget. Almost all projects are slated to be completed by the end of fiscal year 2013.

The Department of Commerce is also active on the domestic and international fronts to preserve an open, interconnected global Internet that supports continued innovation and U.S. economic growth. Privacy is a key component of consumer trust in the Internet and of the online retail marketplace that accounts for around \$200 billion in annual economic activity. The President's budget requests approximately \$1 million for NTIA's work on promoting Internet innovation, in particular, by leading the administration's efforts to provide consumers with stronger privacy protections while maintaining the flexibility that companies need to innovate, here and around the globe.

STEWARDSHIP OF TAXPAYER DOLLARS

Just as businesses across the United States must find efficiencies and focus on results, the Federal Government has a responsibility to maximize results and be responsible stewards of taxpayer dollars, especially in difficult economic times. As I stated before, there were many difficult choices made in this budget, cutting programs across the Department. In fact, EDA, MBDA, and departmental management are decreased below their fiscal year 2012 enacted levels. In other bureaus, such as NOAA, sharp cuts were taken to specific programs to focus on the most essential initiatives. Programs were reviewed across the Department, and reductions were focused on specific programs or projects that, while performing important work and generating value, are lower priority because they are either similar to programs in other agencies or not central to the Department's mission.

The Commerce Department is committed to reducing our administrative costs through savings and efficiencies. In doing so, we are not only being financially sound, but we are ensuring we can invest in the important initiatives that help American businesses compete and win.

The fiscal year 2013 President's budget invests in key areas to improve administrative functions throughout the Department. These investments include an increase of \$0.4 million for cybersecurity; \$3.9 million to upgrade the financial management, acquisition, and other administrative systems within the Department; and \$2.2 million to continue to automate our manual human resource processes. Making these investments is key to future savings.

To fund these investments, the Commerce Department has moved aggressively in the past year to reduce our administrative costs. We will meet our goal of saving \$143 million by the end of fiscal year 2012, in areas such as acquisition, fleet operations, human resources, and information technology. This builds upon our fiscal year 2011 savings of approximately \$50 million in administrative costs. Part of those savings resulted from Commerce shutting down approximately 3,000 unused cell phone lines and optimizing rate plans, for an annual savings of \$1.8 million, and issuing a printing policy that calls for less and smarter printing, which will save approximately \$4.2 million annually.

Next year we will achieve substantial additional savings. The fiscal year 2013 President's budget calls on the Department to achieve a total of \$176 million in administrative cost savings, which is already underway by placing additional focus on reducing travel costs, employee IT devices, printing, fleet operations, management contracts, and extraneous promotional items. In addition, the Department has proposed administrative savings in NOAA by merging a small number of programs and reducing its footprint of facilities so that funding can be targeted at the agency's highest priorities.

The Department of Commerce also continues to support the President's BusinessUSA Initiative—a comprehensive customer service plan to better meet the needs of businesses. Furthering the Commerce Connect initiative launched in late 2010, BusinessUSA ensures that businesses looking for assistance from the Federal Government can quickly connect to the services and information relevant to them, regardless of which agency's Web site, call center, or office they go to for help. BusinessUSA would link American businesses and entrepreneurs with Commerce Department and other Federal, State, and local partner resources. These services are provided faster and more comprehensively through a one-stop shop, beginning with a web portal and enhanced call center coordination. This is a key step in a new way for the Federal Government to be an asset to America's businesses—applying information and customer service standards, technology, call centers, and field offices in a manner that provides the most useful, accurate, and timely services and information to businesses.

CONCLUSION

The President's fiscal year 2013 budget request reflects the crucial role that the entire Department of Commerce plays in accelerating job growth, strengthening the

economic recovery, and supporting American businesses all across our country. At the same time, the President's request recognizes the challenging budget climate in which we find ourselves and includes many difficult choices that meet the need for responsible reductions.

By combining crucial investments with fiscal responsibility, the budget sets forth a meaningful plan to stimulate private sector job creation and promote American competitiveness for years to come. With each of our 12 bureaus working together with a focus on helping companies sell their goods and services around the globe, supporting businesses and communities, and advancing the frontiers of innovation, I am confident in our ability to deliver on that commitment.

INTELLECTUAL PROPERTY

Senator MIKULSKI. Mr. Secretary, we're going to go by the 5-minute rule, and I will then, I know, at the end, probably have a couple of wrap-up questions related to management and cost overruns.

The Commerce Department's job is to work with the President, the Congress, and the private sector to really create jobs. And it has been the tradition of the Secretary of Commerce to really be like the President's ambassador to our domestic business community. We have the ambassadors to countries, but here we're one of the most vital private sectors in the world. So, we know that's a big job. And one thing we are concerned about on this subcommittee is certainly creating jobs.

This is now going to take me to the whole issue of the role of the Commerce Department in cyber, and also with our intellectual property. Everybody likes to talk today about American exceptionalism. It really is our intellectual ideas. So, one, the whole idea that we don't want a valley of death, where people do research—how do they get their ideas patented?—because that is the major tool for protecting their intellectual property. It puts the fence up and protects them.

The second issue we hear in both this subcommittee and in the Intelligence Committee that Senator Feinstein chairs is about cyber espionage, where there are those nation states that are out there cruising, and even in the private sector, that are stealing our ideas. Why invent the cure for cancer? Why invent something new that will be Internet-driven, when you can just steal it?

So, my question to you is: What is the role of the Commerce Department in protecting America's intellectual property and making sure we end the backlog and deal with the cyber espionage problem?

Secretary BRYSON. Thank you, Chairman Mikulski. The Commerce Department has a significant role, a very significant role in dealing with the very considerable threats and costs of not having complete and fully protected cybersecurity.

Chairman Mikulski, I want to say how much our people at NIST have valued your support. You've followed this. You've addressed it for a long period of time. And you're coming recently to the recognition—

PATENT APPLICATION BACKLOG

Senator MIKULSKI. I appreciate the nice words. Tell me what you're doing on the backlog problem.

Secretary BRYSON. The backlog problem—

Senator MIKULSKI. The backlog problem at the USPTO.

Secretary BRYSON. Yes. What we're doing is, we've set a standard now. A lot of work is under way. We will reduce the backlogs by 2015 by one-half.

Senator MIKULSKI. And how are you going to do that, and what resources do you need?

Secretary BRYSON. A series of steps, but the most important is in the budget before you now, and that is the funding that would allow us to bring immediately, in the 2013 timeframe, 1,500 new patent examiners to carry that backlog down, and reduce that considerable backlog.

Senator MIKULSKI. But, we've heard that before. How is this going to be different than in the past? Oh, let's bring in more, but then so what. I've now been with several secretaries of Commerce. With all due respect, Sir, they tell me the same thing. We're going to hire more people and hooah, hooah, and it just doesn't make a difference. Either you're not hiring, either you're not keeping, you don't—

Secretary BRYSON. Dave Kappos, in my judgment, as the Director of the USPTO, is doing an outstanding job, extraordinary leadership. The America Invents Act gives us an additional set of tools. But, the hiring of 1,500 additional patent examiners has never taken place before. That is a big addition. They will be highly, highly capable people. Already, people are lining up to have those jobs, and it's an attractive place to work.

Senator MIKULSKI. Well, I think what the subcommittee would like is a detailed management plan including not only the hiring, but how are you going to train them, how are you going to recruit them, what happened to the fast-track idea?

[The information follows:]

PATENT EXAMINER RECRUITMENT, HIRING, TRAINING, AND PRIORITIZED EXAMINATION PROCESS

The Department of Commerce wishes to supplement the response to the question by Chairperson Mikulski regarding actions taken to address United States Patent and Trademark Office (USPTO) patent examiner recruitment, hiring, and training as well as the prioritized examination process

PATENT EXAMINER RECRUITMENT, HIRING, AND TRAINING

USPTO has conducted a significant amount of planning associated with bringing a large new cadre of patent examiners on board and the execution of this effort is in full swing. USPTO has undertaken a diverse approach to inform the public about patent examiner job opportunities, successfully attracting thousands of qualified candidates through extensive recruitment efforts. Recruitment strategies are being expanded in areas such as career fairs; aggressive outreach to veterans and transitioning servicemembers through networking with other Federal agencies and veterans groups; targeted advertising and email blasts to universities, professional organizations and associations; nationwide advertisements and outreach efforts via social media; and, internal agency-wide communications.

USPTO expects the majority of hiring for fiscal year 2012 to occur in the latter half of this fiscal year. In addition, the hiring processes for patent examiners have been streamlined to minimize the time between application, candidate selection, and orientation. Accordingly, USPTO is on track to meet its hiring goal of 1,500 examiners for fiscal year 2012, and will be working aggressively to hire up to an additional 1,500 examiners for fiscal year 2013.

While hiring efforts have been offset in some earlier years by high attrition, Director Kappos and his team have strengthened recruitment, hiring, training, and retention efforts. Patent examiners are now staying at the agency longer and are more productive in working down the patents backlog. Over the last 12 months, the

USPTO patent examiner attrition level was just 3.3 percent compared to more than 8 percent during 2005 through 2007.

Once on board, the USPTO training program emphasizes heavy up front knowledge and skills training as well as ongoing development to produce a highly effective workforce. Through the Patent Training Academy, comprehensive programs are in place for new examiners utilizing a well-established, certified curriculum that includes legal training, systems and software training, and in-depth training on examination practice and procedure. Each new examiner also creates an Individual Development Plan to address training and development needs through the first 2 years of employment.

The Academy was designed to provide the agency the capacity and flexibility necessary to effectively train large numbers of new hires. For instance, entry-level examiners are typically hired into classes of approximately 128 employees. To ensure an individualized training approach, classes are further divided into labs comprised of up to 16 examiners where they are paired with a trainer and a lab assistant.

Careful consideration and review of qualifications is given for each new examiner brought on board. For new examiners without Intellectual Property experience, the USPTO employs a phased training program covering the first 12 months of employment that includes an initial 4 months at the Academy. Examiners hired with experience in intellectual property, spend an initial 20 days at the Academy, but also continue training over their first 12 months of employment that includes an overview of U.S. statutes, rules, procedures, and practices as well as refresher training to strengthen employee-identified areas for further development.

PRIORITIZED EXAMINATION PROCESS

With respect to implementation of process for faster processing of patent applications, the USPTO implemented a Prioritized Examination process (i.e., "Track One") in September, 2011 consistent with new authority provided under the America Invents Act. For utility and plant applications which are accorded prioritized examination after an additional fee is paid, the operational goal of the USPTO is to provide final disposition within 12 months, on average. Track One provides applicants with greater control over when their applications are examined and promotes examination process efficiency. Since inception, USPTO has received more than 3,500 Track One applications; the average time from acceptance to first office action has been 43 days.

Senator MIKULSKI. Could we also now talk about cyber espionage?

Secretary BRYSON. Yes.

CYBER ESPIONAGE

Senator MIKULSKI. Is that a threat, and how are you dealing with it?

Secretary BRYSON. Cyber espionage is a very considerable threat. We're not fully prepared, as a country, to address that.

With regard to the Commerce Department's role, that is NIST, the extraordinary and extraordinarily important work of Pat Gallagher and that team. So, the role there is setting the standards that will apply across not just the Federal Government, not just across the United States, but likely around the world, and that work is under way with an excellent team, and you know that team, you've supported that team. We thank you for that. We believe in it deeply.

Senator MIKULSKI. So, NIST is creating the standards to do what?

Secretary BRYSON. The standards to set what would then be—the standards are the standards that are a level of attainment we have to have for protections. And one of the important things with NIST, as you know, is that then reaches out to the private sector, and we work with the private sector to reach agreement—

Senator MIKULSKI. The standards for technology? Standards for management? What—

Secretary BRYSON. Standards for technology is the driver here.

Senator MIKULSKI. So, in other words, we would build in standards to the technology, where it would only be self-enforcing and self-policing. Is that right?

Secretary BRYSON. Yes. And it would grow into performance standards, with the agreement of the private sector. So, that's the dynamic, as you know, at NIST that is taking place—for years.

Senator MIKULSKI. Right.

Secretary BRYSON. And we would then have performance standards against which we and others around the world would have to operate.

Senator MIKULSKI. Thank you. Senator Hutchison.

GAPS IN WEATHER COVERAGE

Senator HUTCHISON. Well, thank you, Madam Chairman.

There is a growing concern about the management of the NOAA satellites. I think everyone is concerned about this. And the fact that we're having to pour so much money into them and they're not working as well as they should also has hurt the funding of other programs in NOAA, such as the fisheries, ocean monitoring, research, and education. And I'm very concerned about the P-3 hurricane hunters that are also proposed to be eliminated. So, I want to ask a couple of questions.

First of all, the gap in weather coverage that is proposed to occur around 2017 for 24 months, is that something that's being addressed? And what would that kind of gap mean in our weather coverage and capabilities?

Secretary BRYSON. Thank you, Senator. We are putting our highest priority in this budget in the satellites. So, the way to think about this budget is, we are putting all the resources we have to put in to be assured that we put up these satellites, the JPSS satellites, those on the Geostationary Operational Environmental Satellites (GOES). We have put an entirely new management team in place. We have reports at all levels of the Commerce Department, including to me, on performance against goals. On the 2017 target, there is a gap. Our focus is on minimizing that gap. We believe we can succeed in doing that.

SATELLITE PROGRAM

Senator HUTCHISON. Mr. Secretary, with the White House's interest in consolidations, has there been any talk of the satellite program either being moved to the National Aeronautics and Space Administration (NASA) or some kind of collaboration required between Commerce and NASA, so that you have their capabilities to work on this issue?

Secretary BRYSON. There has not been. Senator, we are confident the team, the experience, the preparation done by NOAA and in the Commerce Department puts us in a position to succeed very well in putting these satellites in operation and minimizing the 2017 gap, and taking further the truly excellent GOES program that is in place today.

Senator HUTCHISON. Would you be open to working with NASA and seeing if the expertise that they have would expedite that?

Secretary BRYSON. NASA is a good program. We are sufficiently confident that we are going ahead with what we have with an excellent team of people, broad experience. We know how to do this, and what we are not eager to do is interrupt the program and work we're on now by turning to NASA now.

[The information follows:]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION RELATIONSHIP

The existing National Oceanic and Atmospheric Administration (NOAA)/National Aeronautics and Space Administration (NASA) partnership is successful, and has been successful for more than 40 years. Both NOAA and NASA have worked closely together and have collaborated by leveraging the strengths of each agency to develop NOAA's polar and geostationary satellite series. NASA's contribution resides in space systems acquisition and, in turn, NOAA's contributions are in ground system development, satellite operations, and the development of weather, climate, oceans, and coastal products and services to meet the needs of the operational communities it serves. This positive collaboration and nonduplication of effort was confirmed in October 2009 by an in-depth Government Accountability Office (GAO) review of NASA's Earth science projects, which found no duplication of effort between these climate and weather research missions and other Federal agencies (GAO-10-87R).

Today, under the U.S. civil space program construct, recently reinforced by the National Space Policy, NOAA and NASA have developed and implemented a successful partnership that has delivered technology advances in Earth observation capabilities, whereby NASA conducts leading-edge research in Earth system science, including new technologies to monitor the environment while NOAA responds to demands for easily accessible and timely data and information about Earth and space observations. These technology advances have been transitioned for use operationally to improve weather forecasting, severe storm/hurricane prediction and climate observations.

Senator HUTCHISON. I'll take that as a "No."

HURRICANE HUNTERS

Let me ask you about the hurricane hunters. That has really been a very valuable tool in the gulf coast, well, actually, the Atlantic as well, where they've been able to fly in and get good intelligence on how ferocious the center is, and how wide it is, and all that.

Why are you supporting the elimination of that program, the three hunters?

Secretary BRYSON. Senator, we do not support the elimination of that program. Well, let me take it a little further. In this budget, we are confident that the so-called hurricane hunters, the three of them, with the very important support that we provide them in maintenance will serve this year very, very well, the fiscal 2013 year.

What we're doing also at the same time is looking, for the fiscal year 2014 budget, at a series of possible steps we might take, and that's in the works now, looking at conceivable alternatives to the P-3 planes we have. We believe we're in a good position to be well protected for this year, but technology improves and advances, and there are conceivable alternatives, and we'll bring to this subcommittee the judgments we reach with respect to that, and the possibility that we will bring forth in fiscal year 2014 an alternative program.

Senator HUTCHISON. Meaning other airplanes?

Secretary BRYSON. Conceivably, yes.

Senator HUTCHISON. Okay. Because my information says that you've really only got one that's operational right now. Is that not correct?

Secretary BRYSON. That's not correct. We have three. They have their periods of maintenance each year. They've worked very well in the past, as you suggested. We are confident they will work well through 2013.

Senator HUTCHISON. Okay. I really hope that we can see when hurricane season comes that those three are operational, because there's a conflict of our information, and that's very important when we get into the really bad hurricanes.

Thank you.

Senator MIKULSKI. I want to join with the Senator here, because there is confusion, and we are deeply concerned, and we know, particularly our gulf Senators, but all of us rely on those hurricane hunters. You have three planes. Three Orion planes. All planes need to be refurbished by 2016 to make them fly. Is that correct?

Secretary BRYSON. That may be. I can't confirm that, but it sounds like a reasonable estimate.

[The information follows:]

STATUS OF THE HURRICANE SURVEILLANCE AIRCRAFT (HURRICANE HUNTERS)

National Oceanic and Atmospheric Administration (NOAA) typically schedules maintenance to ensure aircraft are available for hurricane season, but the Service Life Assessment Program by Lockheed Martin, completed in June 2011, recommended new short-term maintenance and inspections for NOAA's P-3s that required NOAA to induct one aircraft into Special Structural Inspection during the 2012 hurricane season in order to remain airworthy.

This means that during fiscal year 2012, only 1 of the 2 P-3s (N42 and N43) currently used for hurricane surveillance will be operational at any specific time during the year due to scheduled maintenance. If unscheduled maintenance is required, that may leave no available P-3s, which would impact hurricane research, but would not significantly impact the current operational hurricane forecasting capabilities of the National Hurricane Center.

Doppler data from the P-3s support the National Weather Service/National Centers for Environmental Prediction Environmental Modeling Center's (EMC) development of the Hurricane Weather Research and Forecast System (HWRF), the first operational model designed to make use of high-density inner core observations. Use of inner-core observations has the potential to improve the prediction of hurricane track and intensity forecasting. In order to utilize the airborne Doppler data for the HWRF model initialization, EMC requires sustained sampling of the hurricane core at 12-hour intervals over a period of at least 36 hours (three back-to-back-to-back missions, 12-hours apart) when tropical cyclones threaten the United States (e.g., Hurricane Irene's extended threat to the eastern seaboard).

Due to the availability of only one P-3 to support collection of airborne Doppler radar data during the fiscal year 2012 hurricane season, a mitigation strategy has been developed that will use two flight crews for the single P-3. This will minimize the impact on the research plan for at least three back-to-back-to-back 12-hour missions. While this mitigation strategy will meet the EMC's requirement, the primary risk is if the single P-3 cannot fly, due to equipment failure or unscheduled maintenance or if one or more of the three back-to-back-to-back 12-hour missions is cancelled there will be a loss of the data collected.

BACKGROUND ON NOAA P-3S

NOAA hurricane hunter planes are used for both hurricane research and operational hurricane forecasting. Two of NOAA's P-3 planes are used primarily for hurricane research. The Gulfstream jet (G-IV) is used for operational hurricane forecasting. In addition, per the National Hurricane Operations Plan, the Air Force

maintains 10 WC-130 planes to support NOAA hurricane reconnaissance requirements, providing approximately 800 flight hours per year in this capacity.

N42 completed Special Structural Inspection in May 2012 and is currently available for day-to-day operations.

N43 will undergo Special Structural Inspection and Phased Depot Maintenance from May 2012 through February 2013, after which it will be available for day-to-day operations.

N44, which has not previously been used for hurricane research or operational forecasting, has reached End of Service Life and is currently not operational.

The G-IV (N49) is currently operational and will be inducted into a Service Life Extension, engine overhaul, in October 2012 for approximately 5 months.

The NOAA fiscal year 2012 Aircraft Allocation Plan is available here: http://www.oma.noaa.gov/12_airservices_allocation.html

In fiscal year 2013, two P-3s (N42, N43) and the G-IV (N49) will be operational during hurricane season. Office of Marine and Aviation Operations will be able to meet current hurricane research and reconnaissance requirements at the requested funding level.

Senator MIKULSKI. But, you need to know this.

Secretary BRYSON. Well, the reason we're focused on 2014 is to be in a position where we're entirely ready to make replacements in advance of that 2016—

Senator MIKULSKI. Well, let me keep going here. The cost to refurbish each plane is \$20 million, because, essentially, it's not like new carburetors, or, you know, let's clean up the leather seats here. These are planes that have to fly into a hurricane. So, what they need is new wings. This is big, and it is serious.

Now, as I understand it, NOAA did not tell the Congress that all of the planes need extensive work, and that a second P-13 plane is due for scheduled maintenance this spring, and that there's concern that you're just going to have one plane fit for duty to fly into a hurricane. And, you know, this subcommittee is obsessed with the safety of people we ask to go into harms way, and whether it's our astronauts in space or our pilots into a hurricane. So, do you understand Senator Hutchison's question?

Secretary BRYSON. I do. Yes.

Senator MIKULSKI. So, Sir, we really ask you to go back to the drawing board and come back to the subcommittee. We need to know what planes, what sequencing, and what money. Am I correct? Is that the thrust of it? Is that the trepidation that you feel, Senator Hutchison?

Senator HUTCHISON. The information that I have is what you have, that one is completely out of commission while it is getting new wings, and one hasn't had the annual maintenance, and it's not reliable, leaving just one that is. And if we've got two hurricanes going or in different places, this could be a very necessary function, and maybe I think what the chairman and I are saying is that it doesn't appear to be the priority in the Department of Commerce that we think it should be.

Secretary BRYSON. Thank you, Senator. Let me say that we do not and would not take lightly the safety of people with respect to these planes. We are highly confident that we will come back to you, absolutely. We're highly confident, for example, that these planes will work satisfactorily entirely through this upcoming hurricane season.

Senator MIKULSKI. But that's not what we're worried about. What we're concerned about is what planes need to be fixed when. We need a sequencing plan. We need a money plan to match what

needs to be done. We need to have the sequences, the timing, and we need to know what's available when.

Secretary BRYSON. And we will do just that. And we will bring to you our planning with respect to 2014.

Senator MIKULSKI. Before the hurricane season.

Secretary BRYSON. For example, the C30 looks like a conceivable candidate, but we're doing this in a very, very disciplined way. But, if you would like us to have the people at NOAA that are working on this now come to see you, the sooner we can work this through, we can do that as well.

Senator MIKULSKI. I'm going to turn now to Senator Pryor.

Senator PRYOR. Thank you, Madam Chair. And thank you, Mr. Secretary, for being here. I see that you have Jim Stowers there, looking over your right shoulder. He's helped me in many capacities over the years. Jim, it's good to see you.

ECONOMIC DEVELOPMENT ADMINISTRATION

Let me start with science parks and regional innovation centers. I know that the fiscal year 2013 budget requests money for that. Has the Economic Development Administration (EDA) made any science park planning grants, or provided any science park construction loan guarantees?

Secretary BRYSON. Yes. EDA has done that. We know that you've been a strong, strong supporter of science parks. We really believe in these science parks. EDA has made grants: for example, a \$95,000 planning grant to the Missouri Innovation Park; funding for infrastructure improvements at the Sandia Science Park Laboratory, in Albuquerque, New Mexico. So, we're believers in these science parks, and EDA, I think, is a leader in going out around the country to do just what you underscore here, and more should be done.

Senator PRYOR. Yes. I appreciate that. And I do think that they're key to our economic future. But, I also noticed that the subsidy rate this year is higher than last year. In effect, it works like an interest rate. Do you have an explanation for that? I believe this year it's 18.06 percent. Last year, it was 15.5 percent.

Secretary BRYSON. Here's what I understand, and that is that at the recommendation of the Office of Management and Budget, there is no pre-established subsidy rate for science park loan guarantees. So our preliminary analysis indicates a low volume of potential applications in this area, and this is because science parks are affiliated with research institutions that can access credit at income tax rates, and loan guarantees by the Federal Government are taxable. So, what the Federal Government can do, it's somewhat affected by alternatives for the science parks. We're eager to be supportive in any way we reasonably can. It's going to be a fixed subsidy rate.

Senator PRYOR. All right. I think the way the law works requires the science parks to put up 20 percent of the money, and it seems like that would be a pretty good safe investment. So, I would think the interest rate would be lower than that. But, we can talk about that in a different context.

Senator Blunt and I have filed the Export Promotion Act of 2012. I don't know if you're familiar with it, but I would encourage you

to take a look at it, and hopefully help generate some support for it. What we're trying to do, quite frankly, is what the President wants us to do which is continue to focus on exports and help the U.S. economy. We think that our approach is fairly common sense, and it doesn't cost much money.

Let me ask about something else that the President mentioned. In his State of the Union Address, he talked about community colleges, and connecting the training for jobs with available jobs and sales. We've had a lot of success with that in Arkansas, using our 2-year colleges mostly, and some 4-year institutions, but mostly our 2-year colleges, to connect very closely with economic development, and manufacturers, and other employers in various areas around the State. It's worked very, very well. It's a classic public-private partnership. And if you haven't already, I'd hope that you would look at that model.

Senator Wicker and I, as a result, introduced the Win Jobs Act that follows that Arkansas model. I think it's consistent with what the White House is talking about in this area. Maybe a little different approach, but I think the goals are certainly the same. So, I'd hope you'll take a look at that.

SEQUESTRATION

I'm almost out of time here, but I do have a question that you probably don't really want to focus on too much, but I think it's important that the subcommittee have an answer on this. Have you made any contingency plans for a possible sequestration? If sequestration does, in fact, happen, how will that impact your day-to-day operations, how would that impact your budget, and what plans are you making in the event this happens?

Secretary BRYSON. Senator, do I have time to respond to you?

Senator PRYOR. Yes.

Secretary BRYSON. So, I'll take the sequestration first, then, if we have time, something quickly on—let me simply say I'd like to learn more of your proposal, so maybe we'll put that aside. But, I'd like to follow-up on that.

With regard to sequestration, the President has taken a view that I share strongly, and that is sequestration would simply be a very bad thing for our country. And the cost of having sequestration go forward, rather than having you, as Members of Congress, move to a sounder way of going forward, is what we stand on. We believe in that, and we have invested no time at the Commerce Department trying to think through what would we do in the event sequestration went forward.

We think it's such a bad thing for the country to just have sequestration roll out that we believe that it's probable, and we would, of course, do anything we can, but this is so much in your hands, to have a better approach to dealing with our Nation's budget.

Senator PRYOR. Thank you.

Senator MIKULSKI. Thinking that it's a bad idea doesn't give a plan for a contingency. We all think it's a bad idea. So, we've agreed on that. But, I think the point that Senator Pryor raises at all of the CJS hearings, and it's a very valuable question, is: Have

you thought about a contingency plan, and what the impact that would be on the agency?

Wasn't that your question? Do you have a contingency plan?

Secretary BRYSON. We do not have a contingency plan. We've looked very roughly at what the numbers look like, and they would be severe cuts.

Senator MIKULSKI. And do you have an idea of what the impact would be because of sequester?

Secretary BRYSON. We would go to doing what we've done in this budget and try ruthlessly to keep the most important programs and to cut everything else we had to cut. It would be a very bad result. We do not have a full plan.

Senator MIKULSKI. On behalf of Senator Pryor, and myself, and really Senator Hutchison, and all of us, we need to know the consequences. So, if we could have kind of a snapshot of what you think they would be, and what areas cuts would be most likely to occur, and the impact.

Senator Cochran, as our ranking guru on the Appropriations Committee.

Senator COCHRAN. Thank you, Madam Chairman.

GULF OF MEXICO FISHERIES

Mr. Secretary, I'm interested in knowing your recommendations for funding research to try to determine what steps needs to be taken by the private sector or government agencies to help restore good health in the Gulf of Mexico, following the disastrous weather challenges that we faced in the last year or two.

Secretary BRYSON. Well, the important thing in protecting public safety is the work that NOAA does in identification of warning systems. So, we have warning systems. Across the board you will see that we have cut programs, other than satellite program, so what we've done is eliminated from the programs things that weren't essential to preserve, for example, in this case, the key warning systems that make everyone aware of, for example, tornadoes, and other tsunamis, the things that would really affect people intensely. So, we go forth with that, even under circumstances of tough times, tough choices. We are committed to doing our part to reduce taxpayer dollars to the extent we possibly can in all the programs of the Commerce Department.

Senator COCHRAN. There's been a lot of public concern expressed about the effects on the Gulf of Mexico from the BP Oil spill that occurred in the Gulf of Mexico. To what extent has the Department reached any conclusions about what the threats are to the continued vitality to fisheries and to the general environment in the Gulf of Mexico as a result of that oil spill?

Secretary BRYSON. Yes. NOAA has been deeply engaged in that. I've been fairly meaningfully engaged in it myself, in part, because, I think to the credit of British Petroleum, they would like to achieve a resolution of the outstanding claims and litigations here, and that's where I've worked with them on it. And what we hope to do is have a resolution that will be in agreement, that will encompass the impacted States there, and put these resources to work in moving rapidly to the protection of the ecosystem of the gulf there.

Senator COCHRAN. You hear a lot of things that are said in a negative way about earmarks. Are there any earmarks in this proposal from the administration that we need to know about?

Secretary BRYSON. No. No. This is a matter of—

Senator COCHRAN. What about your salary? Isn't that an earmark?

Secretary BRYSON. I don't know if I've thought of my salary as an earmark.

Senator COCHRAN. Why not?

Secretary BRYSON. But I will tell you the—

Senator COCHRAN. What's the difference in your salary and grants to grantees who are conducting research on the effects of the oil spill and other concerns that our Nation has in the Gulf of Mexico? Should it not be subjected to the same kind of scrutiny and questioning as something that is submitted for consideration in the budget by a Member of Congress?

Secretary BRYSON. So, we still do make grants in the gulf now. We have to have tough choices when we do that, but we'll go forward with that. There's no question about that. But, I'm not sure I'm answering your question very well, Senator. Maybe if you put it to me again, because I may be missing something here.

Senator COCHRAN. Well, thank you very much. We'll revisit that later. I'll let others ask questions and we will come back to that later in the hearing.

Senator HUTCHISON. I think you're defending the appropriations process.

Senator MIKULSKI. We kind of liked that line of questioning, actually.

Senator Brown.

STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Madam Chair. Secretary, welcome. Thank you for your candor. Folks, on that last question, I don't know what the right answer was either, but I appreciate Senator Cochran phrasing it the way that he did.

Senator MIKULSKI. It wasn't personal, Mr. Secretary.

Senator PRYOR. It certainly wasn't.

Secretary BRYSON. Thank you.

Senator BROWN. We only have one time for one question. I have one comment and question. I have to preside at 11 o'clock.

TRADE ENFORCEMENT

I want to talk to you about manufacturing. For 12 years, from 1997 to 2009, we had a decline every year in my State and nationally in manufacturing jobs, and the number of manufacturing plants around the country. You know that we have, almost every month since more or less the middle of 2010, seen—earlier than that, actually—an increase in manufacturing jobs, not to the level we want to be at, not even close. Workers, especially in my State, have faced firsthand the problem with our trade laws that require enormous injury from unfairly traded foreign products before any response by our Government. And the slowness of that and the arduousness of the process has made fighting back on behalf of our manufacturers and their workers especially difficult.

For example, a coated paper case was filed. Relief was originally rejected, because the injury was existent, but not deep enough. Three years later, the industry and union re-filed. Because thousands of jobs were lost, because of unfair trade practices, relief was granted, but it really was too late to help this industry. And that's been sort of emblematic of what we've seen.

The Department has brought authority to initiate trade enforcement cases. Last week, I helped lead an effort supported by more than 180 House and Senate Members, calling for a full examination of China's policies and practices in the auto parts sector that have flooded our Nation. At the time of permanent normal trade relations (PNTR), well, after PNTR, a decade ago, we had about a \$1 billion bilateral trade deficit with China in auto parts. Today, it's grown 800 percent. It's around \$10 billion. I'm glad you are working on the Interagency Trade Enforcement Center (ITEC). That's especially important.

My question is this. In face of the reluctance, sometimes, of industries to bring trade cases, the union less reluctant, the industry more reluctant, because of potential and very real Chinese retaliation, from retaliation from their government, when can we expect an answer on whether you will and how you will take up the auto parts question? What other key sectors, in addition to auto parts, do you think we should be moving on when it comes to trade enforcement? What do we do to make our trade laws more responsive to the numerous issues with China's export subsidies?

Thank you, Madam Chairman.

Secretary BRYSON. So, first, with respect to the auto parts, the question we have with regard to the auto parts is—the laws are such that we, the Commerce Department, can ourselves initiate a case. The problem with that is the success of those cases has been relatively minor, because we have to have the data from the industry that allows the case to be made. So, on the auto parts, to my knowledge, none of the companies have come forth, and you're suggesting—

Senator BROWN. If I can interrupt, and I apologize, Madam Chair. Correct. But that's why a strong encouraging statement from you, public or private, to them, that you're serious, would go a long way. And these companies, it's a little bit of a cat and mouse game. The companies don't step forward, they're afraid of retaliation. Their history with Commerce, especially in the Bush years, but even in the Obama years and the Clinton years, frankly, maybe equally—they've not been encouraged, and we need you to step up and let them know that yes, you want to work with them. And I don't know if that message is clear yet. Perhaps it is, and I don't know it.

Secretary BRYSON. I think it is pretty clear that what has been done at the Commerce Department is extraordinarily different than what has been done in the preceding periods of time. So, take last year alone, 2011, with respect to China we increased by 50 percent the number of initiations of investigations over the prior year. So, over the 3 years, we've moved substantially ahead of what had previously been done.

What we've done in the last few days, as perhaps you've seen, is a series of additional steps. This is a very, very intense, very de-

manding undertaking, and we are focused, absolutely, on serving our Nation with enforcement of the trade laws.

Now we have the complementary White House office called ITEC, with which we cooperated. In fact, our budget includes significant resources. The budget before you now, it will enable us, among other things, to detail a number of people to ITEC, and the advantage of ITEC is more effectively bringing the entire Federal Government behind these exercises. So, this is incredibly, acutely important, and we will do everything we can in that respect to move these enforcement cases forward and to conclusions.

And finally, I'll just say I want to especially thank you and the Congress on the *GPX* (*GPX International Tire Corporation v. United States*) decision, because on that we had 24 key cases that we had acted to final conclusions on, with countervailing duties, and an enormous amount at stake, 33 of the States in the country affected, tens of thousands of workers affected, and the court took that away from us. You put it back in place forever. It makes a great deal of difference for us.

Senator BROWN. Thank you. And Madam Chair, I would add, hopefully, 20 seconds. The *GPX* case, I think, shows the Commerce Department, and the President, and the country that the Congress will move quickly and bipartisanly on enforcement of trade laws. We know that was the right way to go. There was little or no opposition here. We moved it quickly. The President signed it. We're grateful for that.

Thank you.

Senator MIKULSKI. Thank you.

Senator Murkowski.

STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Madam Chair. Mr. Secretary, welcome. It's going to be no surprise to you this morning, I'm going to talk about fish. When we talked prior to your nomination, I told you that this was my priority within the Commerce Department, and I wanted to make it your priority.

Secretary BRYSON. Yes.

FISHERY MANAGEMENT

Senator MURKOWSKI. And I will tell you, I'm a little bit disappointed, as I've looked through your statement that you have provided the subcommittee here today, out of 12 pages, pretty much single-spaced, we've got one paragraph here on fish. So, I want to give you an opportunity to elaborate, if I may.

The effort to develop new catch-share programs within NOAA is moving forward. There's been some, I think, substantial amount of funding that is dedicated to that, and I understand that part of what NOAA's attempting to do is to really do the outreach, engage in an educational effort. I think that that's important. Our experience in Alaska, where we've been living with it, and been successful with it, is that the outreach is important. We also recognize that it's important that all the fishery management decisions are well thought out, affected by the public process, and that the Regional Fisheries Management Councils are very critical to this education effort, to this outreach effort.

So, I'm a little bit concerned about how you will be able, successfully, to do what you're hoping to do with the outreach efforts to develop a new catch-share program, when you are decreasing pretty dramatically, a 14-percent cut to the Regional Fishery Management Councils. So, I'd like you to address that aspect of the NOAA budget and the fisheries, and also to provide for me some understanding here. It is critical that we make sure that we've got adequate funding for our stock assessments. I know that the chairman is concerned about this as well. We need to have that science. We need to know that it's science that is guiding these management decisions for us. And we, again, have been doing, I think, a pretty good job up north in making sure that we're operating off science based in good solid data.

The request within the budget does include an increase for overall stock assessment, where much of those funds, I understand, are going to be used to develop new fisheries assessments. And I know in your written statement you say that the expanded stock assessments will be targeted at high-priority commercially and recreational viable fish stocks. I'm not entirely certain what that means.

What I need to convey to you is the concern that I'm hearing from folks up north that the surveys and the stock assessments that have been under way in the Bering Sea or the Gulf of Alaska are going to be reduced or impacted negatively as you focus your efforts in other areas, where perhaps you have less adequate or less rigorous data. If we don't have stock assessments conducted frequently and with reliability, then what happens is the total allowable catch levels will necessarily need to be reduced, because you've got to adjust for increased uncertainty. That then costs millions in revenues to harvesters, processors, and communities that really rely on this.

So, it's kind of a two-pronged question here. Focus a little bit on the Regional Fishery Management Council and the role in the education and outreach that you're trying to do with the catch-share programs. And can you give me some level of assurance that the current level of stock assessment surveys that is under way is not going to be downgraded or reduced under this proposed budget.

Secretary BRYSON. Yes. I can give you that assurance. We are very focused on the role the Regional Fishery Management Councils play. We have cut some costs there, but in ways that we do not believe undermine their work at all, and with respect to the concern that there might be a reallocation of dollars away, for example, from Alaska to other regions in the country, no, under the law we can't, and, of course, wouldn't do that. So, the proportional effect of having less money in the aggregate going into fishery management councils, it's just pro rata across the United States.

The key emphasis beyond that is that we have, for example, in Alaska, a really excellent Fishery Management Council. We are continuing to provide the funding for the science on how to take this further. So, funding, and you've touched on this, for the national catch-share program, will support use of this key fishery management tool, definitely including in Alaska, and you've touched on the impacts on the reduced stock assessment surveys. I understand the importance of science in managing these things

in Alaska and elsewhere, and across the United States we're investing increases of \$4.3 million to increase stock assessments; \$2.3 million for surveys and monitoring; and \$2.9 million for observers.

So, again, the fundamental situation that we have here is, these are tough times, we're making tough choices, we're seeking to protect the taxpayer dollar and use it to the greatest benefit, and so we're building on the science. We're cutting back, but we're going forward with what we think carries forth the work of a long period of time of getting to a stronger position dealing with the fisheries.

Senator MURKOWSKI. Well, I appreciate your statement and the reassurance that we're not going to see a downgrade in these very important stock assessments, and the survey, and the data collection. I think you can understand my concern.

As I look at a budget where very difficult decisions had to be made, I appreciate that, but where you see new programs then coming forward with a national ocean policy—we were successful last budget cycle in making sure that funding did not move forward for the Coastal Marine Spatial Planning Initiative. Now is not the time to be putting new programs onto the books, when we're effectively shortchanging the very, very important efforts that must be made when it comes to understanding and managing our very important fisheries and the fish stocks. And I know that the chairman works with me on this to help make sure we're doing the right thing.

Thank you.

Secretary BRYSON. Thank you, Senator.

Senator MIKULSKI. We face the same issues, whether it's our rockfish population or crabs. We do need accurate assessments. And unless the regulatory environment kicks in, it always has an impact on your fishermen, my watermen. Nobody's very happy at the answers, but we have to know that we're on solid water.

Thank you.

This concludes the first round of questions. I'm going to ask Senator Cochran if he has any additional questions or would like to submit them for the record.

GULF OF MEXICO FISHERIES

Senator COCHRAN. Madam Chairman, thank you. I would like to ask another question relating to the Gulf of Mexico.

I think we need to identify, if we can, in cooperation with the Department, the research priorities that affect the Gulf of Mexico. The impression that I've gotten in reviewing this budget request is that it's a very low priority, in view of the Department, and that concerns me. It is a vital and important fisheries resource for not just the Gulf States, but for the United States, generally speaking. It is a very important area ecologically, just as important as any other body of water that is adjacent to or a part of the United States' primary interest for fisheries and related activities.

In that connection, the research programs that we have funded in the past are designed to help keep up with challenges to the ecological integrity of the Gulf of Mexico. And it just seems to me that it's taken a backseat to a lot of other programs by the administration. That's a concern that I'm raising, and I hope that you will be able to take another look at some of the priorities of the Depart-

ment, and see if there can be a more equitable balance between our interests in the gulf and elsewhere along our ocean borders.

Secretary BRYSON. Senator, we really are committed to distribution of our funding, our science, our capabilities across the entire coastal regions of the United States, and we do care deeply about the gulf.

Senator COCHRAN. Well, we want to see you put your money where your mouth is. That's kind of the old way they'd say that at home.

Secretary BRYSON. And I understand that, and we will do that. And I would just—we are in this situation that we believe we're doing what is necessary, by reducing anything we can reduce that isn't absolutely essential in our core programs, and going forth with our key fisheries programs. So we support fisheries and we support fishermen, and that's a big priority for us. And that is very much in this program.

It's the things that don't have those direct impacts that we've cut back some on, and that's not in the Gulf or anywhere else in a particular way. That's across the United States as a way to try to be the way businesses must be, and that is really, really effective, in the dollars that they have and prioritizing them.

Senator COCHRAN. Thank you.

Senator MIKULSKI. Senator Hutchison.

STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Yes. I want to make a statement and then ask one question.

Just to reinforce what my colleagues Senator Mikulski and Senator Cochran have just said: In NOAA's own National Marine Fisheries Service report, on its Web site, it says that there are 121 up-to-date stock assessments for the 528 stocks of fish or stock complexes under NOAA management. So 121 out of 528 is showing, I think, the concerns that we're raising.

One of those that my constituents have been hoping for is the Red Drum. The Gulf of Mexico Fishery Management Council is struggling with so little data, because the Red Drum, for instance, hasn't had an assessment in 20 years, and remains closed as a result of outdated science, despite the fact that they believe the fishery may be rebounding.

So, these are some of the additional facts that I would put on the table to show you why I think many of our fishermen and our industries throughout just don't have confidence in the science that's being done in NOAA on fishery data and information.

So, I do think it's a priority that we need to address, because the commerce of our country can be enhanced if we can increase the export of marine life. So, that's my statement to add to theirs.

DEPARTMENT OF COMMERCE RESTRUCTURING: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

My last question, though, is the one I mentioned in my opening statement about the President's plan, or looking at putting National Oceanic and Atmospheric Administration (NOAA) into the Department of the Interior, and I wanted your comments for the record before we finish this hearing.

Secretary BRYSON. Yes. I'd be happy to address that. So, the President's proposal for making a more efficient economic Department, creating a Department in a restructuring that would bring together all the entities in the Federal Government that are focused on economics, business, and data collection on how the economy works, all the things that are at the Commerce Department, and other places in the Federal Government, to me, that makes sense, but there has been no further work done on that, because in the President's eye and all of our eyes, the first question will be, is that a proposal that the Congress acts on. If the Congress were to act on that, then we'd go to work putting before you what we think the best way to manage these resources will be under that priority, and the President has thrown out the idea of NOAA transferring to the Department of the Interior. There's no further details on that, and there's no further work that's been done on it, but that is a possibility.

But, the first question really will be, is the Congress ready to and will the Congress want to offer the President the opportunity to bring forth a plan that would, under this proposal, be an up or down vote in the Congress, as is true through the Depression, as you know, and all the way to President Reagan, but not since.

Senator HUTCHISON. So, you're not saying you're against looking at it, if that makes sense for efficiencies.

Secretary BRYSON. Yes. I think that it—and again, I analogize almost everything. We're now speaking in the Commerce Department as an arm of the Federal Government that is seeking to operate at the speed of business, and we are trying to make decisions, and we're trying to preserve taxpayer dollars, and use them to the greatest result possible. And I regard that restructuring of the Department in this respect could enhance productivity. Yes.

Senator HUTCHISON. Thank you.

Senator MIKULSKI. We'll see what the authorizers do. It's a complicated topic.

Secretary BRYSON. It is.

Senator MIKULSKI. You know, NOAA headquarters is in the State of Maryland, and some of its most significant assets are there—the NOAA satellite office, which does so much for the weather. And I invite colleagues to come with me to see this incredible operation. And then the NOAA weather office.

We wonder where the NOAA agency will go, and will it stay in Commerce. Now, there's a whole rumor that it could become an independent agency, and people think, oh, gee, this will be swell. It's not going to be an independent agency. It's either going to stay here or it's going to go, through due diligence of the Congress working with the President's suggestion, or recommendation, to Interior, but it will not be an independent agency.

Secretary BRYSON. Yes. And if I could just make one comment.

Senator MIKULSKI. Well, we don't want NOAA cut loose.

Secretary BRYSON. Yes.

Senator MIKULSKI. We think NOAA really needs a lot of management, which is now going to go to my question.

Secretary BRYSON. Makes complete sense. Yes.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
MANAGEMENT

Senator MIKULSKI. Because, first of all, we know that the Commerce Department has—for the members of this subcommittee and the Congress, it is a major jobs agency.

First of all, what you see here, we're coastal Senators, so we are NOAA focused, and within NOAA, it's everything from weather warnings, that you've heard, from Hawaii, to Alaska, to the Gulf, to the Bay, and the fisheries issues. So, many people come under the Commerce, Justice, Science, and Related Agencies Subcommittee, because of NOAA and the coastal significance.

The coast is part of our heritage, part of our identity, but it's also a big part of our economy. What happens on a coast drives our economy. And for the great States that are surrounded by or so hard hit by water, like Alaska, it's important. So, we are looking at NOAA.

What we're concerned about is the persistent problems at NOAA, and there are persistent management problems. Senator Hutchison raised the satellite issue and the other issues related to the weather department. She articulated, essentially, my questions, so I'm not going to duplicate them. But, we are concerned that satellites make up 37 percent of the overall NOAA budget. We are concerned that the satellite costs are starting to erode other activities at NOAA.

Now, in the fiscal year 2012 bill, I directed NOAA to update the life-cycle cost for satellite programs. But, Mr. Secretary, you're a business man. You said you're operating at the speed of business. Well, we don't think that reform is operating at the speed of business. We need you, at the Secretary's level, to really use whoever you will designate to be a hands-on manager of these costs that are exploding at NOAA, because of the satellites. We need our satellites.

This subcommittee went big time on-line to fund the JPSS. And we knew it was important. We were concerned about our colleagues in the most driven part of our Nation, that they need the JPSS for weather. It's part of our treaty obligation for weather. But, my God, when we're now at 37 percent, and every day we turn around, it's a new satellite cost, and gee, we hadn't thought of it.

So, can I ask you, really, to make this one of your top management priorities? You are absolutely promoting our exports, working in international markets. We're glad you're going to India. It's a great democracy and a great sense of working together. But, we also need you to be looking at NOAA. So, what can I get from you to make sure that this doesn't continue, that NOAA doesn't seem to take this in the spirit that we do, and that then also goes to these airplanes that Senator Hutchison raised. I'm sure you are concerned about safety. We're concerned about safety and functionality as well. So, we need a hands-on sense of reform at the top management level at NOAA here in its satellites, in its planes, and its ships.

Secretary BRYSON. I commit to you that I will give it that priority. Yes.

CENSUS MANAGEMENT

Senator MIKULSKI. Do I kind of represent the sentiments of the subcommittee here on this? So, know that we really respect the people who are working there at NOAA to be able to do this.

This then also does go to the issues related at the Census Bureau. You know, the census happened, but barely. Now, I'm not faulting the people who work for the Census Bureau, but, again, I worked with Secretary Guttierrez, then Secretary Locke, and now you, Sir, and once again, now, we're hearing, "Oh. The census [cost] might double." Well, in the day of new technology, new ways of communicating with people, at the speed of business, we should be reducing costs on the census. And we need you, again, to assign a management person, because our problems with the census is everything comes in at the last minute, and if you don't fund it, we won't be able to do the census. It's 2012. We're working on the fiscal year 2013 appropriations. We've got to really bring the Census Bureau into a discipline here.

Secretary BRYSON. Yes. Thank you, Senator. And I strongly commit to you that I will give that very high priority, and I do give it very high priority. And the key thing in this budget is they have the resources to do this work right now for 2013 that will make it possible so that we can assuredly tell you that it will be lower cost per household and a complete census in 2020 than there has been in the 2010 census.

Senator MIKULSKI. That's very good to hear, and we're really going to count on you.

One of the areas where we know that there would be bipartisan consensus is we don't want a sequester either. Now, we might disagree on a line item or an agency here or there, but we know a sequester is not in the interest of the country over the long haul.

The way that we're going to be able to deal with that, and again, there's bipartisan consensus, is how can we be more frugal now? And that means getting value for our dollar. So, where there are these persistent problems year after year, Secretary after Secretary, President after President, we need to really begin, we need to really now take a real steadfast attempt to bring these things that are always out of control, always coming over budget, under really a far greater fiscal discipline, so that we can approach this in a more frugal way, get value for our dollar. We need those satellites. We need our weather. We need our NOAA. We need our Census Bureau. But, we need them to take these issues very seriously, or we could end up into a situation where the Nation suffers and we suffer as well.

So, let me conclude this hearing. Sorry, Senator. Did you have another question?

Senator MURKOWSKI. One very brief one, if I may.

Senator MIKULSKI. Yes.

Senator MURKOWSKI. I will be very quick, but it is a very important issue.

ARCTIC OUTER CONTINENTAL SHELF

Mr. Secretary, I don't know whether you were briefed by Dr. Lubchenco last week. I had an opportunity to meet with her about

a Draft Environmental Impact Statement (DEIS) that has come out of her agency, and this relates to the Arctic Outer Continental Shelf (OCS). And as you probably know, there is a great deal of interagency coordination—you've got the National Ocean Policy, you've got Regional Ocean Partnerships, you've got David Hayes' interagency taskforce—and yet, National Marine Fisheries Service (NMFS) produced a DEIS this year that is in direct conflict with Department of the Interior's National Environmental Protection Act work. And this DEIS could significantly alter the framework of what is, hopefully, anticipated there in the Arctic, in terms of the numbers of operators that may be able to be in place, some of the geographic and time restraints. It is significant. And this was not the product of any interagency coordination.

The team that produced it essentially said that it was done because the Department of the Interior didn't look the way that NMFS thought that it should look, even though it's Interior that has the authority over the OCS and the leases that have been sold with the expectation that their owners are going to be able to get some use out of them. So, I asked why this disconnect, and unfortunately, I did not receive an answer on that, certainly not a clear answer.

But, this DEIS is simply too big a deal for your Department to not be able to answer some basic and pretty fundamental questions about its very existence. And until there's an understanding as to who is the lead here, and what the interagency process is supposed to be, I would ask you, Mr. Secretary, to pull that DEIS and go back to the drawing board. And if this is something that you can tell me that you have not been involved in, I would ask that you look into it and be engaged on that.

Again, this could significantly impact the operation of this expansion that we are hoping to embark on this summer.

Secretary BRYSON. Senator, I have not been engaged in that. I will get back to you with respect to it. I will look into it promptly. [The information follows:]

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON THE ARCTIC—OUTER CONTINENTAL
SHELF

The National Oceanic and Atmospheric Administration (NOAA) is responsible for implementing the provisions of the Marine Mammal Protection Act (MMPA). Under the MMPA, it is illegal to “take”¹ a marine mammal without a permit or exception. One such exemption can be obtained by U.S. citizens conducting activities (other than commercial fishing) within a specified geographic region that may incidentally take marine mammals pursuant to section 101(a)(5) of the MMPA. Those exemptions are known as Incidental Take Authorizations.

The Department of the Interior (DOI) has jurisdiction over authorizing offshore oil and gas activities on the Outer Continental Shelf (OCS). If an oil and gas industry operator determines that their activity may “take” marine mammals, they need an MMPA Incidental Take Authorization from NOAA. Section 101(a)(5) of the MMPA directs the Secretary of Commerce (with authority delegated to NOAA National Marine Fisheries Service) to issue such authorizations if certain findings are made.

Prior to issuance of an Incidental Take Authorization, NOAA must evaluate the potential impacts to the environment pursuant to the National Environmental Policy Act (NEPA). Although DOI has recently completed large-scale NEPA analyses regarding oil and gas activities on the Alaskan OCS, those documents did not fully

¹ Under the MMPA, take means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill any marine mammal.

address NOAA's action of issuing MMPA Incidental Take Authorizations for the take of marine mammals incidental to conducting oil and gas exploration activities in the Alaskan OCS. Therefore, in order to meet our statutory and regulatory requirements, NOAA determined it was appropriate to prepare an Environmental Impact Statement (EIS) evaluating issuance of MMPA Incidental Take Authorizations.

NOAA has coordinated throughout this process with DOI's Bureau of Ocean Energy Management (BOEM). NOAA and BOEM signed a Memorandum of Understanding in February 2010 regarding the level of involvement and coordination that would occur throughout the development of the Environmental Impact Statement. The Federal Register Notice of Intent initiating this EIS process noted that BOEM would be a cooperating agency, as defined by NEPA. The two agencies have worked collaboratively throughout the development of the document, and BOEM staff prepared sections of the document where they had subject-matter expertise. The two agencies worked together to develop the numbers of anticipated activities that may reasonably occur over a 5-year period. The activity levels analyzed in the Draft EIS do not serve as a "cap" on industry activity. Rather, they were based on what the agencies predicted is reasonably likely to occur versus an outer bound of what one anticipates might occur.

Since the March 22 hearing, Dr. Lubchenco has met with Deputy Secretary Hayes to discuss this EIS and the role of the Alaska Interagency Working Group in its development. Leadership from NOAA and BOEM met in early May to discuss the path forward, and BOEM agreed to re-evaluate the level of activity assessed in the EIS. The two agencies will continue to work collaboratively on this effort to ensure an accurate assessment of reasonably likely oil and gas exploration activity in the Alaskan OCS. Once finalized, this document will assist NOAA in making timely decisions regarding the issuance of MMPA Incidental Take Authorizations to the oil and gas industry in the U.S. Arctic Ocean.

NOAA has also worked collaboratively with the Environmental Protection Agency regarding issues related to air and water quality and the potential impacts to those resources from the proposed actions of oil and gas exploration and the issuance of MMPA Incidental Take Authorizations when developing this EIS.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURKOWSKI. Okay. I would appreciate a very prompt response and would look forward to that.

Thank you, Madam Chairman, for the additional couple minutes.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

SEQUESTRATION

Question. Under the Budget Control Act of 2011, funding for virtually all Federal programs will face a possible across-the-board cut in January 2013 if the Congress doesn't enact a plan before then to reduce the national debt by \$1.2 trillion. According to Congressional Budget Office (CBO) estimates, this would result in a cut of 7.8 percent to all nonsecurity programs.

What impacts would an across-the-board cut of 7.8 percent have on the Commerce Department? What are the consequences, both in terms of dollars and people served? Can you give us specific examples? Is there anything else that the Commerce Department can cut beyond what is proposed in the fiscal year 2013 request? How would public safety be impacted by a cut to National Oceanic and Atmospheric Administration (NOAA), particularly the agency's ability to accurately forecast weather? Do you have a plan for the Commerce Department to implement these cuts if the Congress doesn't enact an alternative plan?

Answer. The administration believes that a sequestration can and should be avoided. According to the CBO, the sequester could cut overall domestic spending by about 8 percent. The Department anticipates a negative impact on our mission to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship informed by world-class scientific research and information. The Department would have to reduce its efforts to support regional innovation strategies that foster job creation. Fewer small- and medium-sized businesses, and minority enterprises would be assisted in their efforts to export products and services. Some investments in research and advanced manu-

facturing technologies would be eliminated. Research efforts to bring the 2020 Census in at a lower cost per household would be hindered. Also, the cut would curtail the Department's ability to address foreign trade barriers and ensure market access cases are resolved successfully.

A cut of this magnitude would likely require furloughs or the elimination of positions and reduce NOAA's ability to fully meet its mission. This type of reduction would also diminish the Department's ability to make necessary information technology (IT) modernizations and improvements in our IT security posture to appropriately address the current cyber environment. The Department would have to eliminate some key statistical series and surveys that provide important information in the decisionmaking processes of businesses and Federal, State, and local governments. In addition, it would reduce funding to develop next-generation weather satellites which are critical to maintaining the Nation's weather forecasting capabilities.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration Satellites

Question. Satellites acquisitions make up 37 percent of NOAA's budget in fiscal year 2013 and have started to erode funding for other operations at NOAA. That is why I directed NOAA in 2012 to provide updated life-cycle costs for all satellite programs.

The fiscal year 2013 budget request for Joint Polar Satellite Systems (JPSS) is \$916 million and includes an updated life-cycle cost for the program. The total cost increased by \$1 billion from \$11.9 billion to \$12.9 billion. NOAA is also cutting more weather sensors to keep costs down, going from 13 total sensors for both satellites to just 7. This new total cost estimate shows JPSS going in the wrong direction.

Please explain the current gap in the weather coverage and how NOAA will keep it from growing?

Answer. The methodology that NOAA has used to calculate the gap is based on a probabilistic methodology that is used for operational satellites. As such, the basis of the gap is focused on the ability to continue to provide data, without interruption, to support weather forecast models. It is difficult to say with absolute certainty when the projected gap may occur, and any estimates on the duration of the gap are based on probability analysis using assumptions about the lifespan of current satellites. Assuming that Suomi National Polar-Orbiting Partnership (NPP) ceases to operate at the end of its projected life in 2016 and JPSS-1 becomes fully operational in 2018 (after undergoing calibration and validation activities) following launch in the second quarter of fiscal year 2017, NOAA estimates that the potential data gap in the afternoon orbit could be up to 18 to 24 months.

In reality, Suomi NPP could last longer or shorter than what the current probability analysis suggests, which would impact the duration of the gap.

Ultimately, NOAA's best chance to minimize any gap is to maintain the second quarter of fiscal year 2017 launch date of the JPSS-1 satellite. Loss of data in the afternoon orbit will degrade NOAA's weather forecast skill at day 3 and beyond, providing the Nation less-accurate information about significant weather events than would otherwise be available.

Question. Funding for NOAA's core ocean and weather operations is suffering while procurement budgets balloon and satellite capabilities decrease. Why should NOAA remain the lead acquisition agency for these satellites?

Answer. The administration is still developing a response to the Senate's proposal to move weather satellite acquisition from NOAA to National Aeronautics and Space Administration. As you know, this is a complicated issue which the Congress has been addressing for years. We are analyzing the possible impacts the organizational change could have on the satellite missions, as well as on satellite budgets and schedules.

CUTS TO NATIONAL WEATHER SERVICE WORKFORCE

NOAA's budget request reduces the National Weather Service's (NWS) IT staff by 80 percent, affecting 122 employees:

- cuts 98 computer technician positions in local field offices; and
- consolidates remaining 24 positions into six regional offices

IT staff have proven to be valuable parts of the local weather forecast teams. Every local weather field office across America will be affected by these cuts.

We experienced the most devastating weather on record in 2011. 2012 is already shaping up to be just as bad. According to NWS, the recent February 28 to March 2 severe storm outbreak spawned 230 tornadoes across 14 States killing 54 people. Without NOAA's warnings, more lives would have been lost.

Question. Dr. Lubchenco has stated that reducing computer tech staffing will not affect the quality of services, warnings, and forecasts. What does she mean by this?

Answer. As a result of technological advances and efficiencies to remote communications, centralized Regional Information Technology Collaboration Units (RITCUs) would work in partnership with Weather Forecast Offices (WFOs) and the established Network Control Facility in Silver Spring to provide the same or an improved level of support as provided today to each WFO. WFOs would continue the same service delivery in the future as they do now, with no impact to mission or performance. RITCUs will be fully capable of addressing any software issue within their area of responsibility. The Advanced Weather Interactive Processing System (AWIPS) Network Control Facility (NCF) will continue as a secondary source of support capable of diagnosing and resolving most problems. Between the RITCU and AWIPS NCF, most problems will be resolved within an average of 5–10 minutes. In addition, robust, long-standing service backup capabilities allow an adjacent office to assume warning and forecast responsibility almost immediately. If the system goes down during severe weather and cannot be remedied remotely in short order, service backup would be implemented. To provide for continuity of operations in the field, long-standing and extensively tested service backup capabilities allow an adjacent WFO to assume the warning and forecast responsibility of a pre-determined, neighboring WFO almost immediately to ensure no service degradation to the public. Testing of backup plans is conducted at least annually in accordance with the NWS operations policy.

Question. NOAA ramped up its weather computer workforce in 2000 to help with a new computer network. NOAA is currently updating that system and has requested \$12 million in 2013 to prepare for more weather data from newer satellites. Why are these IT techs no longer valuable now?

Answer. AWIPS is the backbone of forecast capabilities at WFOs. When AWIPS was first deployed, this technology was not well defined, nor was there technical expertise within local forecast offices to manage the additional IT requirements. To meet these challenges, the—Information Technology Officer (ITO) position was created in 2001 to provide onsite configuration and upgrade support for AWIPS. Over the past decade, advances in NWS IT have allowed NWS to make significant technological advances and efficiencies into its remote support capabilities making these positions unnecessary. Currently, each WFO has one ITO, typically working day shifts on weekdays.

CENSUS

2020 Census

Question. Controlling costs for the 2020 Decennial Census remains a top oversight concern. Both the Commerce Inspector General and Government Accountability Office track the 2020 Census as a high-risk challenge for the Department.

Cost overruns were a problem for the 2010 Decennial Census, totaling more than \$12 billion. That is 20 percent more expensive than original estimate of \$11 billion, and double the cost of 2000 Census of \$6.5 billion. This subcommittee had to make tough choices each year to continue funding the 2010 Census.

Last year, the projected cost of the 2020 Census ranged between \$22 billion and \$30 billion—more than double the cost of the 2010 Decennial Census. The fiscal year 2012 Commerce, Justice, Science, and Related Agencies bill included language calling for curbed costs.

How is the Census Bureau changing the way the agency is planning for the 2020 Decennial Census—particularly with driving down “nonresponse followup” costs which is the most expensive part of the Census process? How is the Census Bureau avoiding techno-boondoggles such as the 2010 Census hand-held computer debacle? Why do you anticipate the 2020 Census costing twice as much as the 2010 Census?

Answer. The Census Bureau recognizes that the rising cost of the decennial census in recent decades cannot be sustained, and we must make changes to the design of the decennial census to increase efficiency and control costs while maintaining the quality of the data. Accordingly, we have embarked on a research and testing program focused on major innovations to the design of the census oriented around three major cost drivers of the 2010 Census:

- substantial investments in major, national updating of the address frame just prior to enumeration;
- the lack of full public participation in the self-response phase of the census, requiring the hiring of a large field staff for nonresponse followup; and
- the failure or challenges with linking major acquisitions, the schedule, and the budget. Major innovations in three key areas of the design of the 2020 Census can control costs relative to the 2010 Census design.

The first key area is conducting a Targeted Address Canvassing operation as a result of improving address coverage and map feature updates as part of the fiscal year 2011 Geographic Support System (GSS) Initiative. The possibilities for maintaining our address list and maps range from a full address canvassing operation (similar to what we did for the 2010 Census, where we walked almost every street in America to verify and capture information about every housing unit with the correct geography), to targeted address canvassing, to not having to do address canvassing at all. The 2020 Census research and test work in conjunction with the GSS Initiative will be critical to understanding the extent to which we can reduce the amount of address canvassing.

The second key area is Multiple Mode Response Options, which allows for the public to respond to the census via multiple modes, such as mail, telephone, Internet, face-to-face interview, and other electronic response options that may emerge to ensure that diverse subgroups of the population, including those that speak languages other than English, have every opportunity to submit their information. This also includes redesigning the most expensive component of the census, the non-response followup operation, where we enumerate households that do not initially provide their information to us. The Census Bureau will explore using existing data sources like the American Community Survey and administrative records to obtain data about those households that do not otherwise respond to the census. Using administrative records for a substantial number of nonrespondents could result in substantially smaller field and labor infrastructure, thereby saving billions of dollars. We can also save money by modernizing the IT and field support infrastructure.

The third key area is investment program management and systems engineering efforts early in the decade. Based on lessons learned, there were areas of program management that have potential for improvement. To achieve the goals of the 2020 Census, sufficient investments in planning and research are being made early. In addition, the program's budget, schedule, and scope are being integrated, and an iterative process is being put in place that will allow flexibility in planning and design. To the extent possible, we will make decisions based on the evidence from our research. The goal of this extensive up-front effort is to hold down costs later in the decade without compromising quality.

The bottom line is that the more we can innovate, the more we can contain costs without sacrificing the high-quality census that the country requires. The Census Bureau is tasked with producing the most accurate data possible in every census, including the 2020 Census. However, obtaining a complete and accurate census every 10 years becomes more complex and difficult with each successive cycle. For the 2020 Census, a larger, more diverse population will be more difficult and expensive to count. While we can reduce costs per household considerably by utilizing advances in technology and innovations in the design of the decennial census as described in these documents, there is a point at which reducing costs could lead to a significant reduction in the quality of census data. The 2020 research and testing program will help us gain a better understanding of the extent to which we can contain costs without sacrificing coverage and data quality.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S HURRICANE HUNTER PLANES

This year, NOAA's ability to fly into hurricanes for storm forecasts has been severely cut as one of the agency's three P-3 Orion planes used for hurricane reconnaissance will be grounded indefinitely:

- NOAA has three P-3 Orion planes.
- All planes need to be refurbished before 2016 to make them safe to fly.
- The cost to refurbish each plane is \$20 million.
- NOAA did not request funding to refurbish the grounded plane.
- NOAA did not tell the Congress that all of the planes need extensive work.
- A second P-3 plane is due for scheduled maintenance this spring.
- NOAA with just have one plane and no back-up.

It is common for one plane to be grounded for maintenance, but to permanently lose a capability without any budget path forward is unacceptable.

Question. Why is NOAA not requesting proper maintenance funds for NOAA's Hurricane Hunters and what is their plan forward?

Answer. NOAA would like to clarify that the two P-3s (N42, N43) are hurricane reconnaissance and research platforms. One P-3 (N44) has reached its End of Service Life (EOSL) and will be grounded. However, this aircraft was not used for hurricane reconnaissance or research. In that regard, NOAA is not losing capability.

NOAA's P-3 planes have adequate funding for routine maintenance. All standard maintenance for NOAA aircraft is included within the Aviation Operation's budget. One of the three planes, the N44, which has not previously been used for hurricane

research or operational forecasting, has reached its EOSL due to existing conditions of the wings and NOAA will make no further investments in the aircraft. The Service Life Assessment Program (SLAPs) showed that the remaining P-3s, the N42 and N43, will reach EOSL in fiscal year 2020 and fiscal year 2019 with Special Structural Inspections. Investment in new wing sets for the N42 and N43 is not covered under the standard maintenance program, and has not yet been decided, as this is related to NOAA's current effort to systematically look at all observing systems and NOAA's requirements.

NOAA typically schedules maintenance to ensure aircraft are available for hurricane season, but the SLAP by Lockheed Martin, completed in June 2011, recommended new short-term maintenance and inspections for NOAA's P-3s that required NOAA to induct one aircraft into Special Structural Inspection during the 2012 hurricane season in order to remain airworthy.

This means that during fiscal year 2012, only one of the two P-3s (N42, N43) currently used for hurricane reconnaissance and research will be operational at any specific time during the year due to scheduled maintenance. If unscheduled maintenance is required, that may leave no available P-3s, which would impact hurricane research, but would not significantly impact the current operational hurricane reconnaissance and forecasting capabilities of the National Hurricane Center.

Question. NOAA partners with a U.S. Air Force reserve unit who also fly into hurricanes using more modern C-130 planes. NOAA's and USAF's important flight missions are different, but complementary. Has NOAA looked at procuring more modern planes like C-130 rather than re-winging its older planes?

Answer. NOAA's Observing System Council (NOSC) is systematically looking at all observing systems and NOAA's requirements. The NOSC is chaired by the Assistant Secretary for Environmental Observations and Predictions, with the Assistant Administrator of NWS and National Environmental Satellite, Data, and Information Service (NESDIS) as the vice-chairs. Each Line Office is represented by a Senior Executive. Under the NOSC, an observing system committee will propose the optimum observing systems configuration necessary to meet NOAA's missions. NOAA has also begun to evaluate individual systems against these observing requirements and determine the effective observing suite across NOAA's diverse missions. NOAA is now comparing the results of this initial effort with other information we have gathered on observing system priorities to come up with a robust, interactive, responsive decision support tool for observing system integrated portfolio management.

UNITED STATES PATENT AND TRADEMARK OFFICE

Protecting Intellectual Property

Question. The backlog of unreviewed patents has decreased 7 percent since last year, but more than 657,000 patents are still waiting approval. The average waiting time to for a patent has decreased too, but it still takes more than 30 months for United States Patent and Trademark Office (USPTO) to make a decision. USPTO's goal is 18 months by 2016.

USPTO's budget is based on the amount of fees collected each year.

USPTO's fiscal year 2013 estimated fees will be \$3 billion, \$273 million more revenue than fiscal year 2012.

I understand that USPTO plans to use this increased revenue to tackle the backlog by hiring 1,500 new examiners and opening three new satellite offices.

But USPTO will also spend \$521 million on its IT portfolio, including:

- Creating an end-to-end electronic patent process where applications are submitted, handled, and processed all electronically; and
- Adding "cloud" computing to create a virtual patent system.

Question. How will USPTO's new IT infrastructure decrease the backlog so that more American ideas are patent-protected quicker?

Answer. The new IT infrastructure will improve the network, data center, and communication tools both for the patent applicant and patent examiners. This improved infrastructure will increase reliability, speed, and accuracy in communication and automation solutions, which will in turn increase efficiency and quality. The end-to-end electronic patent processing will be text-based, which will allow for computer automation and increased quality. The system will analyze data from documents received or prepared, and validate that information against rules or existing data. Cloud implementation of the data center will allow the USPTO to scale and meet seasonal demands on the systems in a cost-effective manner. This will increase our capacity to meet patent applicant and patent examiner expectations of a highly available system.

Question. USPTO is a repository of American ingenuity. What is USPTO doing to protect America's intellectual property? How confident are you in USPTO's cybersecurity plan, especially will cloud computing coming online?

Answer. USPTO is in compliance with the e-Government Act of 2002, which included the Federal Information Security Management Act. Currently, all USPTO IT systems that are in production have been authorized to operate in accordance with all Federal and NIST guidelines (i.e., FIPS 199, FIPS 200, NIST 800-37, Rev 1, NIST 800-53, Rev 3, and NIST 800-53a, Rev 1). As part of the continuous monitoring process, all USPTO information systems are assessed and reviewed each year to ensure that security controls implemented in each are:

- working as intended;
- have been implemented correctly; and
- are producing the desired outcome with respect to meeting the confidentiality, integrity, and availability requirements for the information system in its operational environment.

Changes to information systems are monitored closely and assessed for their security impact to ensure that proposed changes do not adversely affect the security posture of the information system.

The CIO Command Center (C3)-combined with both the Network Operations Center and the Security Operations Center-continuously monitors all USPTO systems. Compliance and vulnerability scans, including penetration tests, are performed to ensure that IT devices have been configured in accordance with secure baselines, and that systems patching is current. After the scans are analyzed, plans of action and milestones are created to manage any findings. USPTO conducts quarterly scans and maintenance scans on server and network infrastructure devices. Security scanning tools are utilized to scan databases and web URLs. Real time monitoring tools are put in place to monitor and collect security events and application logs of systems.

USPTO has improved the security of its webmail by enhancing access requirements to a two-factor authentication to minimize the risk of identity theft. These factors are:

- Something the user knows (e.g., password);
- Something the user has (e.g., a security token); and
- By providing this enhanced level of security, user authentication will positively identify customers before they interact with mission-critical data and applications.

USPTO generally supports the use of commercially available cloud technology when appropriate. For instance, the USPTO leveraged a commercial cloud to host a copy of the publicly available trademark data and documents (<http://tsdr.uspto.gov/>). However, since commercial cloud providers cannot ensure security standards comparable to those maintained at USPTO, certain USPTO data, such as pre-publication patent applications, would present an unacceptable risk of compromise if hosted in a public cloud. In addition, USPTO must remain the authoritative source of agency data to ensure the accuracy and integrity of that data. Only the USPTO can provide those assurances at this time.

USPTO supports the leveraging of cloud technologies and is implementing in-house cloud-based solutions to take advantage of the capabilities while ensuring the security of our data. USPTO has started implementing its Next Generation applications (Fee Processing Next Generation, Trademark Next Generation) using web services instead of traditional three-tier web technologies in an effort to make its core applications cloud ready. Additionally, USPTO physical infrastructure is currently being refreshed and replaced with devices with virtual technologies to ensure that these applications can be moved into a cloud environment when they are ready to be deployed. Before applications can move to cloud, they must undergo resiliency testing to ensure that they can fully utilize the benefits of cloud computing (i.e., throughput, reliability, and elasticity).

To help make the USPTO more efficient and meet daily challenges in this area, the USPTO has aligned its organization into a streamlined cybersecurity division by combining security operations, C3, and security audit and compliance groups under one umbrella office.

Question. As the patent review backlog decreases, the amount of patent appeal cases will likely grow. How does USPTO anticipate dealing with this potentially new backlog?

Answer. The Board of Patent Appeals and Interferences (BPAI) backlog of ex parte appeals currently stands at greater than 26,000 appeals and continues to grow. In order to address the backlog, while at the same time addressing new proceedings that come to the Board under the America Invents Act, the Board is working to hire 100 new Administrative Patent Judges (APJ) in fiscal year 2012, and

is planning to hire another 61 APJs using fiscal year 2013 resources. The USPTO will continue to monitor BPAI's workload to determine if additional hiring is necessary in the out-years.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Government Reorganization

Question. Why do you wish to move National Oceanic and Atmospheric Administration (NOAA) to the Department of the Interior? What specific programmatic gain would be accomplished? What does the administration view as the risks associated with such a move?

Answer. The Department of the Interior and NOAA manage most of the Federal Government's natural resources; a consolidation would strengthen the Federal Government's stewardship and conservation efforts. Merging the two would improve coordination of complementary programs for the conservation of natural resources, strengthen ecosystem-based management and science, enhance services to coastal communities, improve utilization of assets and facilities, and eliminate unnecessary administrative costs. NOAA would continue to provide critical weather, climate, marine, and coastal services to the Federal Government, States, businesses, and coastal communities within the Department of the Interior. There could be risks associated with the consolidation, for example, if programs are not well-integrated (leading to fewer efficiencies than expected) or there is uncertainty on the part of staff and other stakeholders who are not accustomed to the new organizational arrangement. However, because we view an effective transition as essential to the success of the reorganization, we would work hard to minimize these risks with careful transition planning, communications, and management. Exactly how they would be integrated will be the subject of considerable consultations with the Congress, agency staff and other stakeholders to ensure that the result is a stronger, more effective department that protects and enhances NOAA's core functions.

Question. Why has the possibility of NOAA as an independent agency not been considered?

Answer. The possibility of NOAA as an independent agency was one of the options that received serious consideration in the reorganization effort. However, the review concluded that merging NOAA with the Department of the Interior would be a better option as it would create the possibility for more synergies and efficiencies, thereby enhancing conservation and stewardship programs.

Question. Does the administration believe that a NOAA organic act would be beneficial? If so why has there been no administration proposal in this regard?

Answer. A NOAA organic act would provide a foundation of authorities to conduct the activities needed to meet the agency's missions. There are dozens of single laws authorizing NOAA's activities, but no central authority defines the mission and general functions of the agency. Having this authority in a single primary statute would codify NOAA's programs and activities in a consolidated manner which could be useful.

TSUNAMI HAZARD MITIGATION PROGRAM

Question. Can you provide a specific description of the capacity that will be lost due to the cuts proposed to NOAA's Tsunami Hazard Mitigation Program (NTHMP)?

Answer. NOAA places its ability to warn and advise the American public on the threat of tsunamis as its highest priority within the NTHMP. Tsunami Warning Centers' operations in Hawaii and Alaska are not compromised or degraded with the proposed reductions.

The proposed reductions will eliminate grants to the NTHMP. The NTHMP is a consortium of State partners that use NOAA tsunami program funding to support local community education and mitigation activities. These activities include inundation mapping to develop evacuation plans, routes, and signage; education and awareness campaigns; provision of education materials; and training for the public and local officials.

Despite the reduction in grants funding, NOAA would continue to support the NTHMP by:

- setting standards of accuracy for NTHMP-developed inundation models;
- promoting community outreach and education networks to ensure community tsunami readiness through funding from the TsunamiReady™ program;

- promoting the adoption of tsunami warning and mitigation measures by Federal, State, tribal and local governments, and nongovernment entities;
- conducting tsunami research; and
- operating the U.S. Tsunami Forecasting and Warning Program.

Question. I understand that the proposed cuts are to be taken mostly from activities designed to support education and community capacity building. How does NOAA propose to replace these efforts, and if not, why is this considered to be a low-priority activity?

Answer. NOAA places its ability to warn and advise the American public on the threat of tsunamis as its highest priority within the NTHMP. Tsunami Warning Center operations in Hawaii and Alaska are not compromised or degraded with the proposed reductions.

Education and outreach activities continue to be a priority for NOAA. NOAA is committed to continuing support and funding for the TsunamiReady™ program. The TsunamiReady™ program promotes tsunami hazard preparedness as an active collaboration among Federal, State, and local emergency management agencies, the public, and the NOAA tsunami warning system. Warning Coordination Meteorologists in each NOAA National Weather Service (NWS) coastal office are dedicated to working closely with local emergency management to develop capabilities and assist in planning infrastructure that will allow communities to become TsunamiReady™. NWS will prioritize efforts to concentrate on those coastal communities at highest-risk for destructive or life-threatening tsunamis.

MARINE DEBRIS PROGRAM

Question. I understand that the Congress has previously provided a directive to NOAA regarding the consolidation of its various habitat programs but I do not believe that we ever considered NOAA's Marine Debris Program (MDP) to fall under this category. Can you explain why you have chosen to move it and include it with restoration programs when its primary mission is hazard response?

Answer. NOAA is proposing to move the MDP to the NOAA Restoration Center to streamline grants programs. Since 2007, approximately \$1 million of the MDP's annual budget has been administered by the NOAA Restoration Center through the Community-based Restoration Marine Debris Removal Grants. The NOAA Restoration Center implements on-the-ground habitat restoration projects for many different programs within NOAA.

The Marine Debris Research, Prevention and Reduction Act of 2006 established the NOAA MDP to focus on mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources and navigation safety. Since the establishment of the program, NOAA has funded research as well as removal activities that threaten living marine resources or are in response to hazards.

It is not expected that the consolidation of the MDP into NOAA fisheries would change the core functions, mission, or results of the program, as stated in the mandate referenced above. The program would still advance the act's goals, and NOAA would capitalize on this shared priority to create efficiencies through the streamlining of grants operations resulting in improved services for our stakeholders and greater impact on the ground.

Question. Can you provide me with a comparison of the efficiencies provided by the MDP's current location in the Office of Response and Restoration as to those that might be gained with its proposed move to the Office of Habitat Management and Restoration?

Answer. Since 2007, approximately \$1 million of the MDP's annual budget has been administered by the NOAA Restoration Center through the Community-based Restoration Marine Debris Removal Grants. NOAA anticipates savings by streamlining grants administration and technical services provided with the goal of maximizing extramural funding provided. With this proposed move, the MDP will still be able to leverage the scientific expertise and capacity of the Office of Response and Restoration from within the Office of Habitat Management and Restoration, while achieving administrative cost savings as described above.

Question. How does NOAA plan to spend the additional \$1 million which the Congress appropriated to the MDP in fiscal year 2012? Will the funds be available for grants to State and local entities?

Answer. In the fiscal year 2012 congressionally approved spend plan, the NOAA MDP was funded at \$4,618,000, an increase of \$718,000 more than fiscal year 2011. NOAA is undertaking the following actions using these additional funds, as well as a portion of its base funds:

Debris Survey and Removal at Midway Island.—The NOAA MDP provided funding for survey and removal teams of NOAA's National Marine Fisheries Service (NMFS) Coral Reef Ecosystem Division to conduct marine debris surveys and debris removal at Midway Island. There have been no confirmed reports of debris from the 2011 tsunami arriving at Midway to date, but initial ocean modeling indicated that the Northwestern Hawaiian Islands, particularly at Midway Island and Kure Atoll, were one of the first United States locations where a significant amount of marine debris from the Japan tsunami may have made landfall. Even though debris linked directly to the tsunami was not detected at Midway, the effort removed 26 tons of accumulated debris in this ecologically important and fragile area. Debris removal, whether from the tsunami or other sources, reduces risk of entanglement, ingestion, and other impacts to endangered and other species of concern.

Drifter Buoys.—NOAA is working with partners transiting the North Pacific to deploy drifter buoys either in concentrations of marine debris or other strategic areas of interest to help NOAA better understand how the debris is moving.

At-Sea Detection.—NOAA is conducting field trials and surveys using unmanned aircraft systems (UAS) to help detect Japan tsunami marine debris at-sea in open North Pacific waters in areas of potential marine debris concentrations that have been identified through modeling. Data from the UAS surveys will improve marine debris modeling efforts and will be part of a larger NOAA UAS program.

Shoreline Monitoring in Alaska, California, Hawaii, Oregon, and Washington.—NOAA, working with State and local partners from government agencies, nongovernmental organizations, and academia are acquiring baseline shoreline debris information at more than 101 sites in the five affected States. Most of the marine debris generated by the Japan tsunami is indistinguishable from the normal marine debris that washes ashore every day in Hawaii, Alaska, and on the west coast. Results of the monitoring will help indicate when and where Japan tsunami marine debris is making landfall. NOAA will also use part of the additional funds to enter information on tsunami debris into an online database that will both store the data and disseminate them to response agencies at all levels of government and to the public.

Alaska Monitoring.—Prior to the March 2011 Japan tsunami, NOAA's NMFS established shoreline monitoring sites within the Gulf of Alaska to collect data on marine debris that poses entanglement risks. These data have been providing a baseline to help detect the landfall of Japan tsunami marine debris in Alaska. The additional funds extend the existing time-series of monitoring data and help gather vital information from more than 60 sites in the Gulf of Alaska using the existing methodology and spot application of NOAA MDP shoreline monitoring protocols.

Contingency Planning.—Contingency planning to ensure there are rapid response protocols in place requires significant coordination at local, State, and Federal levels. NOAA has been conducting workshops on the Japan tsunami marine debris issue with partner agencies and organizations to provide a common foundation of understanding about the debris and to facilitate development of response contingency plans. Plans developed will be particularly valuable for response to any large or hazardous items that might make landfall on U.S. coastlines. The workshops facilitated further engagement of State and local resource management and response agencies, as well as nongovernmental organizations concerned about marine debris issues.

Japan Tsunami Marine Debris Data Visualization.—NOAA's MDP expects a significant increase of tsunami marine debris sighting data to be reported and collected over the next several months as a result of increased monitoring efforts. This project makes these data available to our response agency partners and the public through maps, graphics, and other visualizations of debris in the water and on shorelines. NOAA is cataloguing all debris sightings on NOAA's Environmental Response Management Application (ERMA) and is sharing ERMA-derived products with the public and response agency partners. ERMA was a successful vehicle for making data available to the public during the Deepwater Horizon oil spill response.

In July 2012, NOAA initiated action, using its authorities under the Marine Debris Research, Prevention, and Reduction Act, to provide \$50,000 to each of the five Pacific States to aid in their marine debris removal activities. NOAA expects to award the funds in mid-August.

HABITAT PROGRAMS

Question. Can you explain what the funding in the new “Habitat Management and Restoration” line will go toward?

Answer. Funding in the new Habitat Management and Restoration line will support:

Sustainable Habitat Management.—Habitat management and protection activities for sustaining and enhancing commercial and recreational fisheries to:

- Conduct consultations with Federal agencies and constituents nationwide to protect essential fish habitat in order to support commercial and recreational fisheries and vibrant coastal communities.
- Ensure fish passage at federally licensed hydroelectric dams that block access to valuable spawning habitat.
- Advance research on the role of different habitats in supporting sustainable fisheries and recovering listed species, with benefits to the communities and economies that depend on them.
- Implement the Deep Sea Coral Research and Technology Program to identify and map locations of deep sea coral, analyze new scientific information, and apply that knowledge in fishery management plans.

Fisheries Habitat Restoration.—Habitat restoration activities to:

- Plan and construct habitat restoration projects for restoring coastal and marine resources injured by oil spills, releases of hazardous substances, or vessel groundings.
- Implement and support targeted restoration projects for sustaining managed fisheries and recovering listed species through technical expertise (planning, engineering, design, monitoring, etc.) with limited financial resources for project construction.
- Implement the Marine Debris and Estuary Restoration Programs, including activities to research, prevent, and reduce the impacts of marine debris.

Question. Given that habitat restoration creates jobs and supports fisheries, why have you proposed to severely cut the Community-based Restoration Program in fiscal year 2013?

Answer. Within the fiscal year 2013 President’s budget, NOAA has prioritized the support of restoration activities for the Natural Resource Damage Assessment process, as mandated by the Oil Pollution Act and the Comprehensive Environmental Response, Compensation and Liability Act, over grants. Restoration activities compensate the public for lost trust resources that result from oil and other hazardous waste spills. Under these statutes, NOAA is responsible for addressing injury to natural resources, and acts on behalf of the public to protect and restore coastal and marine resources and their services. Jobs are also supported with this type of restoration work. This effort will take place in addition to consultative work and efforts to work with communities.

Question. Why was the Coastal and Estuarine Land Conservation Program (CELCP) eliminated?

Answer. Funding for the CELCP was eliminated due to the fact that the base level of funding severely limits the size and number of conservation projects that could be approved and the existence of other Federal agencies with existing land conservation programs.

NAVIGATION RESPONSE TEAMS

Question. How will the proposed elimination of NOAA’s Navigation Response Teams (NRT) affect NOAA’s ability to fulfill its legal nautical charting mandate and respond to man-made and natural disasters?

Answer. NOAA will pursue an agreement with Federal Emergency Management Agency to ensure that technical assistance to assess navigational hazards is available during Presidentially declared disasters. In 2011, the six NRTs spent a total of 25 days responding to emergencies. However, NRTs also currently work to identify local survey requirements, and as these efforts benefit the ports and surrounding communities, they can be conducted using non-Federal funding. Finally, NOAA would need to perform inshore validation of its nautical charting products and other navigation tools through contracted surveys and user feedback.

Question. How will the absence of these NRTs extend response times and increase economic losses of the closed ports?

Answer. Because the response to this question requires a comparison of unknowns to an existing program, NOAA cannot speak to whether this proposal would lead to extended response times and increased economic losses of closed ports.

NOAA SHIP *KA'IMIMOANA*

The fiscal year 2012 President's budget included a request for \$11.6 million for major repair periods (MRPs) for the NOAA ships *Ka'imimoana* and *Miller Freeman*. Recognizing the valuable nature of the missions served by these two vessels, the Congress acceded to this request and provided \$11.1 million in the fiscal year 2012 appropriation for these purposes under the Fleet Capital Improvements budget line. Subsequently, however, the Department of Commerce cut all but \$1 million of these funds in the fiscal year 2012 NOAA spend plan to provide savings for undistributed cuts made elsewhere in the budget. NOAA has since indicated that the lack of available MRP funds in fiscal year 2012 will require that both the *Ka'imimoana* and the *Miller Freeman* be decommissioned for safety's sake.

Question. Why did the Department decide that the *Ka'imimoana* refit, and thus the *Ka'imimoana* itself, was not needed?

Answer. In the fiscal year 2012 President's budget, NOAA requested a one-time \$11.6 million increase to support the highest-priority repairs aboard the NOAA ships *Ka'imimoana* and *Miller Freeman*. The final negotiated fiscal year 2012 Spend Plan resulted in \$1 million for fleet repairs, due to competing mission needs within the total appropriation. As a result, the *Miller Freeman* will be decommissioned. On June 18, the NOAA Fleet Council met and voted to place the NOAA ship *Ka'imimoana* in warm layup status at the conclusion of the current field season (which just ended), as the vessel can no longer operate without required extensive repairs to ensure safe operations and extend the service life of the vessel. The MRP funding for fiscal year 2012 was not included in the final, approved spend plan, and instead of decommissioning the vessel at this time, the Council's directive to place it in warm layup status will allow us to maintain the vessel until the MRP funds may be allocated, or other actions taken.

Question. Was there a change in the physical status of the *Ka'imimoana* between the time of the President's fiscal year 2012 budget submission to the Congress and the submission of the fiscal year 2012 spend plan that led to the elimination of the MRP?

Answer. No, there was not a change in the physical status of *Ka'imimoana* during that time. The *Ka'imimoana* will continue to operate during fiscal year 2012 as outlined in the Fleet Allocation Plan. The ship would not have entered the MRP until early fiscal year 2013 as outlined in the President's fiscal year 2012 budget submission.

Question. The *Ka'imimoana*'s primary mission is to service the Tropical Atmosphere Ocean (TAO) buoy array which provides the Nation invaluable information regarding the status of the El Niño Southern Oscillation and its potential for impacts on our weather. How does NOAA plan to conduct fulfill the service needs of the TAO Array without the *Ka'imimoana*?

Answer. The NOAA Fleet Council is examining the best means to ensure continuity of the TAO Array and will develop a fiscal year 2013 Fleet Allocation Plan by September 2012 that meets TAO mission requirements. Currently, 12 of the 67 TAO/TRITON buoys are maintained by Japan and NOAA is evaluating the feasibility of conducting the *Ka'imimoana* mission supporting the TAO project with either in house support (potentially the NOAA ship *Ronald H. Brown*), the use of outside charter in collaborations with our partners in South Korea, or a combination of both.

Question. If contract services are proposed, were necessary funds requested in the fiscal year 2013 budget? Please provide a detailed explanation of the short- and long-term budget effects, and any change in operational capacity, which may accrue from using contract services as opposed to a NOAA vessel as part of your answer.

Answer. Yes, the fiscal year 2013 Operations, Research, and Facilities budget includes funding to support TAO continuity operations, through either NOAA vessel or charter. The Fleet Council is examining the best means to ensure continuity of the TAO Array and will develop a fiscal year 2013 Fleet Allocation Plan that meets TAO mission requirements. Long-term budget effects will be determined by the Fleet Plan and NOAA Observing System Council (NOSC) observing systems review. NOAA is currently identifying and prioritizing existing requirements and observing systems capabilities for the Fleet for a Fleet Plan that will determine the optimum configurations for meeting priority mission requirements and utilization of all observing platforms.

Question. If savings were needed in fiscal year 2012 but no net long-term benefit would accrue from decommissioning the *Ka'imimoana*, why not defer its MRP to fiscal year 2013 and move the proposed MRP for the *Thomas Jefferson* to fiscal year 2014?

Answer. NOAA will place the *Ka'imimoana* in an inactive status beginning in July 2012 due to concerns over the material condition of critical mission and ship board systems including deck machinery, tanks, and piping. Deferring the MRP to fiscal year 2013 would have required NOAA to idle the ship for more than 12 months until early fiscal year 2014 during which time further deterioration would occur increasing medium-term risks.

Question. What other missions were served by the *Ka'imimoana* and how will their needs be met?

Answer. The *Ka'imimoana's* primary mission is support of TAO. Other ocean observation and research missions are completed concurrently. Like TAO mission support, these requirements would need to be chartered.

INTERNATIONAL TRADE ADMINISTRATION

Task Force on Travel and Competitiveness

Question. On January 19, 2012, President Obama issued Executive Order 13597, which is meant to, ". . . to improve visa and foreign visitor processing and travel promotion in order to create jobs and spur economic growth in the United States." Among other things, the Executive order calls for the establishment of the Task Force on Travel and Competitiveness, co-chaired by the Secretaries of Commerce and the Interior, and including heads of the Departments of State, the Treasury, Agriculture, Labor, Transportation, and Homeland Security; Army Corps of Engineers; Office of the United States Trade Representative; Export-Import Bank; and other agencies invited to participate by the Task Force Co-Chairs. The Task Force is supposed to work on developing a National Travel and Tourism Strategy with recommendations for new policies and initiatives to promote domestic and international travel opportunities throughout the United States with the goal of increasing the United States market share of worldwide travel.

Question. Can you please give an update on what the Task Force has done, and is working on?

Answer. The Task Force on Travel and Competitiveness has been actively working to implement the Executive order. To date, the Task Force has met with the Tourism Policy Council to discuss the development of the National Travel and Tourism Strategy called for in the Executive order. Subsequent to that discussion, the Task Force has met three times to hone the Strategy in light of inputs from numerous Federal agencies and substantial public comments received from the travel and tourism industry and other stakeholders in response to a Federal Register notice. In addition, the Secretary of Commerce requested, and received, input from the U.S. Travel and Tourism Advisory Board that has also been considered in the development of the Strategy. The Task Force is on schedule to deliver its recommendations to the President within the 90-day timeframe called for in the Executive order.

In March 2010, the Congress passed, and President Obama signed into law, the Travel Promotion Act (Public Law 111-145), creating a nonprofit corporation, Brand USA, to market the United States as an international travel destination.

Question. In March 2010, the Congress passed, and President Obama signed into law, the Travel Promotion Act (Public Law 111-145), creating a nonprofit corporation, BrandUSA, to market the United States as an international travel destination. Does the Task Force work with BrandUSA, if so, how? Also, how do you ensure that the efforts of the Task Force and BrandUSA are not duplicative?

Answer. Under the Executive order, the Task Force shall coordinate with the Corporation for Travel Promotion (dba Brand USA) through the Secretary of Commerce. The Department of Commerce works closely with Brand USA and has taken Brand USA's plans into account in the development of the National Travel and Tourism Strategy. In addition, representatives of Brand USA met with Secretary Bryson and Secretary Salazar, the Chairs of the Task Force on Travel and Competitiveness.

The Task Force on Travel and Competitiveness and Brand USA perform separate functions that are not duplicative. The Task Force was formed for the sole purpose of developing a National Travel and Tourism Strategy. The strategy is focused on what the government can and should do to increase travel and tourism to and within the United States. Brand USA is a private sector organization charged with marketing the United States as a travel destination to international audiences. These efforts are complementary and avoid duplication. It is the intention of the Task Force that the National Travel and Tourism Strategy provide for the effective coordination of Federal agencies with Brand USA to support Brand USA's mission to increase international travel to the United States and communicate relevant U.S. policy.

REGIONAL FISHERY MANAGEMENT COUNCILS

Question. How will the proposed cuts to funding for Regional Fishery Management Councils (RFMCs) and Commissions affect these organizations?

Answer. NOAA greatly values the work of the RFMCs and Commissions. These bodies—which include commercial and recreational industry, Federal agencies, the conservation community, and State fishery managers—are critical for making sound fishery management decisions. Between fiscal year 2008 and fiscal year 2010, the Councils received a significant increase to ensure Annual Catch Limits were implemented in accordance with the 2006 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. Now that Annual Catch Limits have been implemented, NMFS does not expect that the Councils will require the same amount of resources.

NOAA's focus for fiscal year 2013 is maintaining and improving our science programs as the basis for sound, science-based management actions taken by these bodies. The Councils and Commissions will distribute funds to ensure the implementation of adaptive management measures in the highest-priority fisheries, building on the 2011 milestone of implementing Annual Catch Limits in federally managed fisheries.

A reduction in funding for the Councils in fiscal year 2013 will not reduce the transparency of the fishery management process nor limit public involvement. Further, Council activity will still be open to the public. While there may be changes in the frequency of the meetings held, there will be no change to the transparency of Council decisions.

 QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

UNITED STATES PATENT AND TRADEMARK OFFICE

Question. The United States Patent and Trademark Office (USPTO) has made great progress in the last few years to reduce the backlog of patent applications and issue higher-quality patents. While USPTO is working through this backlog, it is also in the process of implementing the Leahy-Smith America Invents Act, Public Law 112-29, which was signed by President Obama on September 16, 2011. USPTO needs full access to the fees it collects to continue its progress and reward inventors of true inventions with high-quality patents.

Do you agree that ensuring the USPTO has full access to its fees is essential to the effective functioning of the USPTO?

Answer. Yes, full access to fees is critical to help the USPTO achieve strategic goals and performance objectives, and to manage resources effectively. USPTO is committed to effective resource and performance planning linked carefully to operations. Planning and operations can be undermined significantly without full access to the revenue the USPTO collects.

Question. How does an effective functioning USPTO, and patent and trademark system in general, benefit the United States economy?

Answer. Innovation continues to be a principal driver of economic growth and job creation in the United States, and a strong patent and trademark system helps deliver that innovation to the marketplace. USPTO plays a critical role in serving America's innovators, and granting the patents and registering the trademarks they need to secure investment capital, build companies, and bring new products and services to the marketplace. Adequate funding allows the USPTO to ensure that innovators are getting high-quality examination in a timely manner. Economic evidence shows that patent applications that take too long to be examined and patents that are issued with overly broad claims, introduce unnecessary uncertainty into the marketplace. USPTO's patent grants and registration of trademarks directly contribute to strengthening our economy, create jobs, and help move us toward the President's goal of winning the future by out-innovating our competitors.

Question. Will the proposed appropriations language for the USPTO ensure that USPTO can access its fees through the Patent and Trademark Fee Reserve Fund if the USPTO collects more than what the budget currently anticipates?

Answer. Existing and proposed appropriations language is beneficial in enabling USPTO to access all fees through the Patent and Trademark Reserve Fund. USPTO would be required to submit a spend plan the Senate and House appropriation committees prior to accessing resources from the Fund.

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Salmon Biological Opinion

Question. The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) issued a biological opinion on the salmon in 2009 which required the State of California to restrict water flows in California's Sacramento River Delta in order to protect the salmon. Since then, the biological opinion has been criticized by the National Academy of Sciences, and U.S. District Court Judge Wanger issued a ruling that the National Marine Fisheries Service (NMFS) had not provided adequate justifications to support the biological opinion.

Protecting endangered and threatened species is important, but so too are the farms and the communities in California's Central Valley that depend upon reliable water deliveries to produce the billions of dollars of crops that feed the Nation. It is my understanding that the revised biological opinion will not be completed until February 2016. The uncertainty this creates for agricultural and urban communities south of the Delta is a real concern.

It has been 6 months since Judge Wanger issued his decision on the biological opinion. What has NOAA done since then to meet the Court's mandates?

Answer. After Judge Wanger issued his decision on NOAA's 2009 biological opinion, NMFS worked with the U.S. Bureau of Reclamation (BOR), the California Department of Water Resources, public water agencies, and nongovernmental organizations to develop a timeline toward the completion of a new biological opinion. All involved parties agreed that NMFS will deliver the final biological opinion by February 2016, and the schedule was submitted and accepted by the Court. The Court rendered its final decision on the schedule in December 2011, agreeing with the submitted timeline, giving NOAA until October 2014 to complete a draft opinion and until February 2016 to complete a final opinion.

NMFS has made the completion of the biological opinion project a high priority and has already begun analyzing the remand issues and integrating new science into the new biological opinion. We are gathering and analyzing new data and information that has become available since the issuance of the 2009 biological opinion. We have coordinated with BOR, U.S. Fish and Wildlife Service, California Department of Water Resources, California Department of Fish and Game, and University of California at Davis on data collection.

Question. Can you explain why it will take NOAA 4 years to complete a new biological opinion and what is entailed in the process?

Answer. This is one of the most complex and challenging Endangered Species Act consultations that NMFS has ever conducted. The geographic scope is very broad, the number of species affected is large, and the planning horizon is long (21 years). The judge recognized this complexity and ordered the new biological opinion to be completed by early 2016, with a draft issued by October 2014. NMFS has begun work on the new opinion and continues to await completion of the salmon life-cycle analyses and will analyze 4 years of new data on salmon and the operating system to incorporate into the new biological opinion.

The various tasks that must be completed by 2016 include effects analysis, integration and synthesis of effects, development of new or revised reasonable and prudent alternative actions, four-factor analysis, the NOAA Fisheries Southwest Fisheries Science Center's (SWFSC) life-cycle model, development of an incidental take statement, issuance of a draft biological opinion and reasonable and prudent alternative, external and peer review, incorporation of review comments, and issuance of final biological opinion by February 2016.

Question. What, if anything, can be done to reduce the amount of time it will take to complete the new biological opinions?

Answer. NMFS is working diligently to complete the new biological opinion. We continue to adapt the existing opinion in the interim, where possible by looking for ways to maximize both water reliability and species protections. For example, in January 2012, the Department of Justice filed with the court a stipulated agreement among NOAA, the Department of the Interior (DOI), the State of California, and several water contractors for spring 2012 water operations to enable increased water supply reliability, while upholding species protections. Furthermore, there are numerous tasks that must be completed by other agencies for NMFS to complete the biological opinion.

Question. What new scientific research does NOAA intend to conduct or rely upon to develop the new biological opinion and does the President's budget fully fund these efforts?

Answer. A salmon life-cycle model will be a central scientific component underlying the new biological opinion. This relies on completing new acoustic tag studies in the Sacramento and San Joaquin Rivers. NMFS intends to apply the model to evaluate how water operations or proposed reasonable and prudent alternatives might affect listed species and/or water supply under various scenarios. NMFS continues to use and incorporate the best available science in the development of the biological opinion.

Central Valley salmon continue to be a high priority in the fiscal year 2013 budget request. To complete all the necessary work on this complex endeavor, we need to leverage both internal and external expertise and resources. We are currently in discussions with BOR about potential avenues for funding aspects of the life-cycle model. NMFS has already begun work on this key component of the new opinion.

I understand that NOAA has recently begun implementing an adaptive management strategy that sets pumping permissions and restrictions based off of real-time data on salmon movements at the confluence of the San Joaquin and Old Rivers correlated with Old & Middle River flows.

Question. In terms of water deliveries to south of Delta farmers, what benefits do you anticipate this strategy may provide?

Answer. In January 2012, NMFS worked with the State of California, several water contractors, and DOI to develop a joint stipulation for spring 2012 water operations in the Central Valley, available at http://swr.nmfs.noaa.gov/ocap/2012_stipulation.htm. The agreement allowed us to refine some of the more controversial aspects of the biological opinion for spring 2012 that we believe will benefit both recovering salmon and water users, and enable us to keep working on the new opinion. The agreement will provide greater flexibility and predictability to management of Central Valley water operations by enabling us to exercise real-time management where possible, thereby potentially having less of an impact to water supply.

Question. Does the fiscal year 2013 budget request allow you to continue funding this project and other adaptive management strategies elsewhere on the system?

Answer. Central Valley salmon continue to be a high priority in the fiscal year 2013 budget request. To complete all the necessary work on this complex endeavor, we need to leverage both internal and external expertise and resources. We are currently in discussions with BOR about potential avenues for funding aspects of the life-cycle model. NMFS has already begun work on this key component of the new opinion.

While we will continue to operate within limited resources, we will prioritize implementation of this agreement. We will continue to explore new science that would enable greater reliability with respect to water supply, while ensuring the risk of extinction does not increase, and the potential for recovery is not impeded.

Question. While the new biological opinion is being developed, are there any other additional projects or administrative steps NOAA believes could be taken that could provide salmon and water supply benefits?

Answer. NOAA's opinion includes an annual adaptive management mechanism devoted to exploring new science and analyzing lessons learned from the previous year's implementation of the opinion. We are always exploring new data and alternative strategies to increase water supply reliability while ensuring the risk of extinction does not increase and the potential for recovery is not impeded.

PACIFIC SALMON PROTECTED SPECIES RESEARCH AND MANAGEMENT FUNDING

Question. It is my understanding that one project that is critical to developing a new salmon biological opinion is a new life-cycle modeling research program. This research is expected to take 3 years to complete at an annual cost of \$2 million which would need to be funded by NOAA's Pacific Salmon Endangered Species Act account. However, the President's budget for this account is essentially the same as last year (approximately \$58 million, with a \$300,000 decrease).

Does the President's budget proposal provide sufficient funding for NOAA's proposed salmon life-cycle modeling project and any other research necessary to complete the new biological opinion?

Answer. Central Valley salmon continue to be a high priority in the fiscal year 2013 budget request. To complete all the necessary work on this complex endeavor, we need to leverage both internal and external expertise and resources. NOAA has already begun work on this key component of the new opinion.

NMFS is working on a pilot life-cycle model leveraging our Pacific Salmon funding with a grant from BOR. We continue to work with them to identify the required funds in the BOR budget for full implementation.

The pilot life-cycle model work has made clear that additional field studies would be useful. NMFS, in collaboration with the University of California at Davis, has done some pilot work on this issue, and has obtained extramural support for additional studies over the next 3 years. Additional areas of research for the longer term include telemetry studies that can quantify patterns of salmon movement and survival in relation to operation of the water project facilities, studies of predators (their distribution, abundance, and activity) and the movement and survival of very young salmon that are too small to tag with existing technology.

NOAA has prepared a research plan that would fully address the questions surrounding management of water and salmon in the Central Valley.

PACIFIC COASTAL SALMON RECOVERY FUND

Question. Funding for the Pacific Coastal Salmon Recovery Fund continues to decline. In fiscal year 2011 it was funded at \$80 million. In fiscal year 2012 it received \$65 million. The President's budget request for fiscal year 2013 is \$50 million.

Given that salmon populations along the Pacific coast are still recovering from the 2006–2008 fisheries collapse, do you think that continued decreases in funding for the Salmon Recovery Fund is justified?

Answer. The long-term stability of the Pacific Coastal Salmon Recovery Fund since fiscal year 2000 has been a huge asset to NOAA's State and tribal salmon recovery efforts. The average annual appropriation level since the program's inception has been approximately \$78 million. While the fiscal year 2012 funding level and the fiscal year 2013 President's budget do represent a relative decline, the Pacific Coastal Salmon Recovery Fund will continue to be an indispensable resource in support of salmon recovery and sustainable fisheries. The declining funding levels reflect the current fiscal climate rather than program performance. In response to declining funding levels, NOAA is increasing the program's focus on those projects identified in Endangered Species Act (ESA) recovery plans that are most likely to provide the greatest biological benefit to the species and their habitat.

Question. Is there any concrete data you can offer in terms of recovery of the salmon fishing industry along the Pacific coast that can give us assurance that the Salmon Recovery Fund is working as intended to help restore the health of that industry?

Answer. The abundance of Sacramento and Klamath Rivers Chinook salmon stocks has increased dramatically in 2012, providing much improved harvest opportunities over recent years. These stock improvements and the resulting benefits to the Pacific coast fishing industry are most likely attributable to favorable ocean conditions. Pacific Coastal Salmon Recovery Fund investments are focused on the protection and restoration of the freshwater habitats that are necessary to sustain salmon populations through future downturns in marine survival conditions. A significant portion of the Fund is directed at recovery of ESA-listed salmon and steelhead which are not the direct target of commercial fisheries. Since the inception of the Fund in fiscal year 2000, more than 10,200 projects have been completed, protecting and restoring nearly 880,000 acres of habitat and restoring access to more than 5,300 miles of habitat program-wide.

The management of coastal Chinook salmon fisheries off southern Oregon and California is currently constrained by the availability of stock-specific monitoring information. For example, data on the nonlisted Klamath River Chinook salmon population is used as a surrogate for the California Coastal Chinook salmon stock (which is listed as threatened under ESA) to inform limitations on ocean fisheries. Focused resources, such as the Pacific Coastal Salmon Recovery Fund, are critical to improving the monitoring information available to guide fisheries management and to allow for increased utilization of nonlisted salmon runs when sufficiently abundant.

CONSOLIDATION OF OFFICES

Question. On January 13 of this year, the White House proposed a plan to shrink the size of the Federal Government by, in part, merging existing agencies. For the Department of Commerce, the administration proposed, among other things, to consolidate NOAA into DOI.

How do you think this proposed merger would affect the retention of qualified personnel and their expertise?

Answer. The President's first priority is first to obtain reorganization authority. If the Congress grants him that authority, the administration would consult with Members of Congress, the relevant congressional committees, agencies, and stakeholders as it prepares a detailed reorganization proposal to submit to the Congress. Retaining qualified personnel with expertise will be a priority in the development

and implementation of that proposal. Given that the core missions of NOAA would continue in any event, we believe we would retain our highly qualified staff.

Question. Do you think that this proposed merger would result in the loss of senior management and create confusion and delays in making decisions?

Answer. The goal of the proposed reorganization is to streamline and enhance decisionmaking and operations. We would plan carefully for the transitions associated with organizational changes in order to ensure that there be no delays in making decisions. Among other things, we would establish a senior team with strong leadership and agency representation that would establish a detailed action plan for integrating the agencies and programs to ensure a thoughtful process and no loss of functionality. No decisions have been made about organizational details, as we intend to seek the views of the Congress, agency staff, and other stakeholders on how a merger of NOAA and DOI could best improve communication and coordination of natural resource management programs.

Question. How do you think NOAA's operational and research focus—climate, oceans, fisheries, and weather—will be affected if they are folded into DOI, which has been traditionally focused on land management, nonmarine species, and oil and gas?

Answer. DOI and NOAA manage most of the Federal Government's natural resources; a consolidation would strengthen the Federal Government's stewardship and conservation efforts. Merging the two would improve coordination of complementary programs for the conservation of natural resources, strengthen ecosystem-based management and science, enhance services to coastal communities, improve utilization of assets and facilities, and eliminate unnecessary administrative costs. NOAA would continue to provide critical weather, climate, marine, and coastal services to the Federal Government, States, businesses, and coastal communities within DOI. Exactly how they would be integrated will be the subject of considerable discussion with the Congress, agency staff, and other stakeholders to ensure that the result is a stronger, more effective department that protects and enhances NOAA's core functions.

It is my understanding that in addition to the proposed consolidation of NOAA into DOI, the administration is also proposing to consolidate NMFS' southwest and northwest offices into a single west coast regional office. While I understand the need to reduce spending, I am concerned that these changes may impact NOAA's ability to address fishery issues critical to the delivery of water supplies in California and our fishing industry.

Question. What assurances can you provide me that the proposed regional office consolidation will not result in a reduction in senior program staff that would diminish services or the timely execution of regulatory reviews or scientific support?

Answer. The fiscal year 2013 budget request includes a reduction of \$3.109 million and 20 full-time equivalents (FTE) for the reconfiguration of NMFS' southwest and northwest regional offices into a single west coast regional office. The regional offices are being proposed for reconfiguration because of the narrow range of functions between the two, the higher degree of overlap in the work conducted, and the fact that the both support one Fishery Management Council. This reconfiguration would prioritize mission-critical work to protect the west coast's living marine resources, and core work on protected species consultations would be maintained; however, NMFS's ability to work in a proactive fashion with constituents could be constrained.

Additional action being taken within the west coast consolidation include, closing the Pacific Grove Laboratory; that staff would be co-located with the main science divisions in Santa Cruz and La Jolla, California, resulting in a \$0.641 million reduction and three FTE. This closure reduces facility operating costs of the SWFSC reducing the facilities footprint. This relocation would allow for greater integration of SWFSC's oceanographic expertise with its biological missions in fisheries, marine mammal, and turtle science. As an organizational unit, the Environmental Research Division that is leaving the Pacific Grove Lab would remain intact after the closure.

COASTAL PROTECTIONS

Question. Coastal protection and restoration programs are vital for coastal communities and States. These programs help protect natural coastal resources, sustain commercial and recreational fishing activities, support habitat protection and restoration, augment tourism, and sustain and create jobs. Local communities depend on these activities for their personal, educational, and economic well-being. They are also cost-effective because they leverage cooperative agreements with non-Federal partners to complete projects. However, a number of coastal protection programs are facing cuts in the proposed fiscal year 2013 budget. For example, community-based

restoration will decrease by \$10 million; marine debris and estuary restoration programs will decrease by \$1.2 million.

With decreased funding, how do you propose to sustain protections for our coastal communities and economies?

Answer. Although NOAA has made difficult choices in fiscal year 2013 in the face of top line budgetary pressures, NOAA continues to make targeted investments in key coastal programs. NOAA is requesting a program increase of \$1.2 million for the Tides and Current Data program, which will allow the program to fully maintain and inspect its network of National Water Level Observation Network (NWLON) stations. Data from these stations are critical to safe navigation and maritime commerce activities which are essential to coastal communities and economies. NOAA is also requesting an additional \$500,000 for Regional Ocean Partnership Grants, which supports a targeted competitive grant program to advance regional approaches to addressing changes to ocean and coastal natural resources. In addition NOAA is requesting a program increase of \$2 million to enhance its forecasts of harmful algal blooms, which can have profound effects on public health, fisheries, tourism, and other coastal economic activity.

In areas where NOAA is requesting program decreases, NOAA is seeking new ways to prioritize essential programs, increase efficiency, and leverage partnerships with other Federal agencies, State and local governments, the private sector, and the nonprofit community. The fiscal year 2013 request includes a \$10.1 million decrease for the Community-based Restoration Program. At the reduced level of funding, the Restoration Center will maintain its core operations and restoration capabilities to support mandated restoration activities related to Natural Resource Damage Assessment, Oil Pollution Act, and Comprehensive Environmental Response, Compensation, and Liability Act. Under these statutes, NOAA is responsible for addressing injury to natural resources, and acts on behalf of the public to protect and restore coastal and marine resources and their services.

Funding for Community-based restoration partnership grants will be used for targeted projects, and NOAA will continue to provide technical expertise and leadership to States, tribes, and local communities implementing fishery and coastal habitat restoration projects, within the guiding principles of NOAA's Habitat Blueprint. For example, NOAA experts will provide support for cooperative programs including NOAA's Gulf Coast Recovery, Coral Reef Conservation, and Protected Species Programs; EPA's Great Lakes Restoration Initiative and other large ecosystem partnerships; and the U.S. Army Corps of Engineers' interagency coordination of coastal wetland protection, restoration, and research in Louisiana.

Question. NOAA's modeling shows that marine debris from Japan's devastating 2011 tsunami may reach the Pacific coast in 2013. With decreased funding, will NOAA be able to properly mitigate the effects of that debris on coastal communities?

Answer. In fiscal year 2012, NOAA is leading efforts to respond to debris from the Japan tsunami. Working with international, Federal, State, and local partners, the NOAA Marine Debris Program is collecting data on debris quantity, modeling debris movement, assessing potential impacts, and planning for efforts to mitigate potential harm to coastal communities and natural resources. NOAA has been able to leverage its emergency response expertise to coordinate interagency monitoring efforts, enhance modeling, develop decision-support tools, and conduct response planning.

In fiscal year 2012 NOAA is directly supporting specially trained and highly skilled debris survey teams in their efforts to conduct marine debris monitoring surveys. These operations serve as an early assessment of the nature and quantity of debris making landfall from the Japan tsunami. These activities are also critical to establishing baselines for debris observations in Alaska, California, Hawaii, Oregon, and Washington so that specific effects attributable the tsunami can be documented. NOAA is also developing a marine debris response contingency plan and providing support for developing graphical representations of scientific forecasts of debris movement to better inform responders and improve public understanding of the problem. NOAA is not requesting dedicated funding for these activities related to the Japan tsunami in 2013. NOAA will continue to evaluate whether additional funds are required in the outyears.

Question. What is NOAA doing to prepare the Pacific coast for the possibility of a damaging tsunami? What is still needed to be done in order to protect our coastal communities, industries, and infrastructures?

Answer. Since 2005, in the wake of the Indian Ocean tsunami that took 240,000 lives, NOAA has continuously implemented a multi-year effort to strengthen the Nation's capacity to provide early warnings of tsunamis and to enhance coastal commu-

nities' preparedness. Both types of activities are necessary to mitigate the risks to coastal communities and economies from tsunami events.

The first step toward tsunami preparedness is the ability to provide early warning upon a tsunamigenic event. In fiscal year 2006, NOAA expanded staffing at the Pacific Tsunami Warning and West Coast/Alaska Tsunami Warning Centers to ensure 24-hour operations. Warnings are delivered to communities at potential risk within 5 minutes of detection of a seismic event with potential to generate a tsunami. To monitor tsunamic events and further refine its advisories and warnings, NOAA has deployed and operates a network of 39 Deep-ocean Assessment and Reporting of Tsunamis (DART®) stations, 32 of which are stations in the Pacific, 4 of which are stations in the Caribbean, and 3 of which are in other areas of the Atlantic Ocean.

To further enhance warning guidance, NOAA Tsunami Warning Centers receive real-time, high-frequency water data from NOAA's network of 210 long-term coastal tide gauges on all U.S. coasts. With this information, Warning Centers are able to confirm the nearshore contact of a tsunami, quantify its impact, and validate models used for improving future warnings. The real-time data are also used by other emergency responders to validate the accuracy of the tsunami warnings arrival time and to make subsequent safety of life and property decisions. Real-time water level data from all NOAA National Ocean Service tide stations, known as NWLON, are made accessible for users by request.

NOAA supports many training, education, and public awareness activities for tsunami preparedness. Through an ongoing partnership with the Federal Emergency Management Agency (FEMA) National Disaster Preparedness Training Center, NOAA is engaged in delivering FEMA-certified training on Tsunami Awareness. In addition, NOAA has developed an education and outreach program in conjunction with the National Tsunami Hazard Mitigation Program (NTHMP). This education and outreach program includes NOAA's TsunamiReady™ program, which thus far has recognized 71 of 272 at-risk communities on the Pacific (west) coast. NOAA continues tsunami inundation mapping, modeling, and forecast efforts for communities at risk, advancing next-generation models for currents, and transition these research efforts into operations.

In addition, NOAA supports development of decision support tools related to tsunami preparedness. For example, through the Coastal Geospatial Services Contract, NOAA works with the private sector to acquire and process high-resolution elevation data for coastlines. These data provide the foundation for accurate estimates of tsunami inundation and are the basis for local evacuation zones and tsunami response and mitigation activities. NOAA distributes this data, along with other technical resources, through the NOAA Coastal Service Center's Digital Coast Web site (www.csc.noaa.gov/DigitalCoast). NOAA also partners with state and local jurisdictions to assist in the distribution of tsunami evacuation maps through the Internet and mobile devices. For example, the online Hawaii Tsunami Information Service and its companion application for mobile phones reached more than 100,000 residents and visitors in Hawaii during the hours following the March 11, 2011 Japan earthquake and tsunami.

TSUNAMI PREPAREDNESS

Question. Secretary Bryson, on March 14, 2012 NOAA posted a page to its Web site entitled, "Japan's 'harbor wave': The tsunami 1 year later". The page makes an unequivocal statement: "NOAA predictions saved U.S. lives and property". I share this belief because on March 11, 2011, NOAA's DART® program transmitted timely information to California and the rest of the Pacific coast. And local emergency responders used this information and their NOAA-funded training to quickly and efficiently evacuate low-lying coastal areas.

The system worked well, but next time we may only have minutes, not hours, to respond to a tsunami threat. That's why I question the proposed cut of more than \$4.5 million to the NOAA tsunami preparedness and early warning system. The reduction to the buoy network is particularly concerning—it will mean decreased data availability a system that only operates at 72-percent efficiency.

Secretary Bryson, if the proposed cut for the DART® program is approved, how will it impact NOAA's ability to pinpoint the location of approaching tidal surges? What impact would the cut have on determining the precise time a surge would come ashore?

Answer. Initial tsunami warnings are based on seismic data alone, which determines the magnitude and location of an earthquake. Therefore, data availability from a DART® station will not impact the issuance of tsunami warnings.

After seismic data is used to issue a warning, data is then received from DART® stations as a tsunami affects the buoys. Data from affected stations are used to con-

firm the existence or absence of a tsunami in a specific area, determine the potential size of the tsunami, and further refine the area and temporal extent of any warnings. The redundancy built into the DART® network and alternative sources of data (such as foreign buoys and sea-level gauge data) mitigate the impacts of reduced availability of DART® data. In addition, National Weather Service (NWS) has recently signed an agreement in principle with Australia in which they will share operations and maintenance responsibility for some NOAA-operated DART®. While the details of the agreement are still being worked out, we anticipate this sharing will mitigate the impact of lower funding levels for DART® operations and maintenance.

Question. The budget also proposes reducing funding for NTHMP. Will this result in fewer cities receiving mitigation grants? Or will the program simply provide less funding to each eligible entity?

Answer. NOAA places its ability to warn and advise the American public on the threat of tsunamis as its highest priority within the NTHMP. The Tsunami Warning Centers' operations in Hawaii and Alaska are not compromised or degraded with the proposed reductions.

The proposed reductions will eliminate grants to the NTHMP. The NTHMP is a consortium of State partners that use NOAA tsunami program funding to support local community education and mitigation activities. These activities include inundation mapping to develop evacuation plans, routes, and signage; education and awareness campaigns; provision of education materials; and training for the public and local officials.

Despite the reduction in grants funding, NOAA would continue to support the NTHMP by: setting standards of accuracy for NTHMP-developed inundation models; promoting community outreach and education networks to ensure community tsunami readiness through funding from the TsunamiReady™ program; promoting the adoption of tsunami warning and mitigation measures by Federal, State, tribal, and local governments and non-Government entities; conducting tsunami research; and operating the U.S. Tsunami Forecasting and Warning Program.

Question. The United States Geological Survey estimates that there is a 99.7-percent chance that a magnitude 6.7 or greater earthquake will strike in California in the next 30 years. What is the likelihood that this event would trigger a tsunami on the west coast?

Answer. Most California earthquakes are onshore, and therefore unlikely to generate a tsunami. However, without knowing the earthquake type, location and magnitude, NOAA is not able to estimate the probability of a tsunami.

Question. If a seismic event occurs near-shore and it triggers a tidal surge, will your data be more or less reliable than tidal events that are triggered across the Pacific ocean (such as the March 11, 2011 tidal wave)?

Answer. Regardless of location of the tsunamigenic earthquake, the NOAA Tsunami Warning Centers assess the threat and issue a tsunami warning within 5 minutes. The reliability of data from any seismic event is dependent upon the density of the seismic sensors in the area of the earthquake. For example, if an earthquake occurred in the middle of the Pacific Ocean, it would take longer to assess the characteristics of that event due to the low density of seismic sensors. The west coast, on the other hand, has a very dense system of seismic networks that would allow for a more rapid assessment of any earthquake.

INTERNATIONAL TRADE ADMINISTRATION

Solar Panel Trade Dispute With China

Question. The Department of Commerce just released a preliminary determination that the Chinese Government is illegally subsidizing Chinese solar manufacturers, and recommended tariffs ranging from 2.9 to 4.7 percent. Soon, the Department will release another preliminary determination about alleged dumping of those solar panels on U.S. shores, which may raise tariffs further. Unfair and illegal trade practices are clearly harmful to the U.S. solar industry, but I have also heard concerns from some solar companies that retaliatory tariffs could start a trade war, drive up prices, discourage customer demand, and stifle a growing industry here at home.

What are you going to do to ensure that in the process of enforcing fair trade practices, the domestic U.S. solar industry would not be adversely affected by the Commerce Department's decisions?

Answer. The U.S. antidumping and countervailing duty laws, as enacted by the Congress, provide very detailed rules and procedures for the investigation of these unfair trade complaints. In administering the laws, the Department follows these rules and procedures to the letter. The laws do not permit the Department to take

into account the impact on other industries in determining whether and the extent to which the imports under investigation may be dumped or subsidized.

The Obama administration is fully committed to enforcing our trade laws and to addressing unfair trade practices in accordance with our statutes, regulations, and obligations in order to help ensure that U.S. firms and workers have the opportunity to compete on a level playing field.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Internet Corporation for Assigned Names and Numbers

Question. Secretary Bryson, as we have discussed before, there is great concern about Internet Corporation for Assigned Names and Number's (ICANN) proposal to open wide top-level domain names, expanding them from the present well-known .com, .org, and the others, to virtually anything. I was pleased that Commerce wrote to ICANN raising a number of specific concerns and suggestions about this proposal. I was also pleased with ICANN's response to this letter, where they showed a commitment to addressing these concerns. However, the rubber has not yet hit the road on this. ICANN is in the middle of accepting applications for new top-level domain names, so it has yet to put many of its commitments into practice.

It is important, therefore, that the Commerce Department maintain strong oversight over ICANN. The principal leverage that Commerce has with ICANN is the "IANA", or Internet Assigned Numbers Authority, agreement which Commerce has with ICANN to run the system for associating domain names with Internet Protocol numbers, and which expires at the end of this month. Therefore, I was very pleased to see that Commerce last week did not renew this contract, but instead granted a temporary 6-month extension of the existing contract, while ICANN addresses certain issues.

Can you elaborate on the reasons why Commerce only granted a short-term, temporary extension?

Answer. In anticipation of the impending expiration of the IANA functions contract, National Telecommunications and Information Administration (NTIA), via two public notices in February and June 2011, consulted on how best to enhance the performance of the IANA functions. Based on the input received from stakeholders around the world, NTIA added new requirements to the IANA functions' statement of work, including the need for structural separation of policymaking from implementation, a robust companywide conflict of interest policy, provisions reflecting heightened respect for local country laws, and a series of consultation and reporting requirements to increase transparency and accountability to the international community.

On November 10, 2011, the Department of Commerce issued a Request for Proposal (RFP) for a new IANA functions contract. The Department received no proposals that met the requirements requested by the global community, and, therefore, it cancelled the RFP. The Department intends to reissue the RFP in the coming weeks so that the requirements of the global Internet community can be served. To ensure the continued stability and security of the domain name system (DNS) during this period, NTIA issued a short-term extension of the contract.

Question. I would suggest to you that continuing to limit the duration of this contract is an excellent way to ensure that ICANN follows through on its commitments to address the concerns of law enforcement, trademark holders, and others with the new "generic Top Level Domain" program and other ICANN operations.

Answer. Thank you very much for your input. I share your interest in ensuring that ICANN follows through on its commitments.

FEDERAL BUREAU OF INVESTIGATION INPUT

Question. Along these lines, I understand that the Federal Bureau of Investigation (FBI) made a number of recommendations to Commerce for provisions to include in the IANA agreement to help them in their efforts to combat child pornography, fraud, and other types of cybercrime—but Commerce did not include most or all of these recommendations.

Why didn't you include the FBI's recommendations?

Answer. The statement of work for the IANA functions contract was developed through a deliberative and iterative interagency process informed by two public notices in February and June 2011 about how best to enhance the performance of the IANA functions.

Question. Can I have your commitment that you will work with the FBI to include as many of their recommendations as possible?

Answer. NTIA has a long history of collaborating with all U.S. law enforcement agencies and continues to actively work with all Federal Government agencies

through an interagency DNS Issues working group, which includes the FBI, to ensure that law enforcement concerns are being addressed. NTIA continues to take steps to address law enforcement concerns by working to strengthen the Registry and Registrar Accreditation Agreements, supporting enhancing ICANN's contract compliance, and encouraging implementation of the recommendations of the WHOIS Review team.

QUESTION SUBMITTED BY SENATOR JACK REED

HENRY B. BIGELOW HOMEPORT

Question. At a time of tight funding and rising fuel costs, the National Oceanic and Atmospheric Administration (NOAA) fleet faces major funding challenges. Amid these challenges, NOAA is attempting to determine the permanent homeport for Fisheries Survey Vessel *Henry B. Bigelow*, which has been located at Naval Station Newport in Rhode Island on a "temporary" basis since it was commissioned in 2006.

For more than 6 years, NOAA has been wrestling with the decision on the *Henry B. Bigelow's* permanent homeport because of the costs of relocating to Woods Hole, which would require major dredging and infrastructure work to accommodate the *Henry B. Bigelow*. Those costs would be in excess of \$20 million, according to NOAA's 2008 Facility Modernization Plan.

More than a year ago, I wrote to Under Secretary Jane Lubchenco to suggest potential cost-saving options for permanently homeporting the *Henry B. Bigelow* in Rhode Island. Indeed, an independent evaluation conducted for NOAA by SRI International in 2006 evaluated Naval Station Newport and the Port of Davisville (Quonset). That analysis rated Newport higher than Woods Hole, and it was completed before improvements were made at the Port of Davisville to accommodate the *Oceanos Explorer*. Those improvements would have improved the Port of Davisville's already competitive score.

Although I have discussed this issue with Dr. Lubchenco on several occasions, my letter has not been answered, and I fear less-costly alternatives to Woods Hole are being overlooked. While I understand that NOAA and the Department are still evaluating options, I would like to know when I can expect a reply to my letter. Given the impacts on the NOAA fleet, I would also appreciate an explanation of the potential costs.

Answer. We appreciate the Senator's interest in this issue and the letter to Dr. Lubchenco expressing his views about the *Henry B. Bigelow* homeport. NOAA's response to the Senator's letter is in the final stages of clearance within the agency and we expect to transmit it to the Senator's office as soon as possible. Furthermore, we have completed an analysis of the options for the *Henry B. Bigelow's* homeport. Our analysis has been transmitted to the Department for further review. We will share the content of the analysis as soon as we are able.

NOAA's fleet plays an essential role in supporting NOAA mission accomplishment. The stationing of NOAA's vessels is based on mission and operational requirements to support the science mission. In the past, when a vessel is replaced, NOAA has stationed the new vessel at the same station as the one being replaced. In the case of *Henry B. Bigelow*, the previous vessel was stationed at the Woods Hole Northeast Fisheries Science Center in Woods Hole, Massachusetts. In this instance, the *Henry B. Bigelow* is larger than the vessel it replaced, which would require additional investment in improvements to the Woods Hole pier and harbor. Since the *Henry B. Bigelow* was commissioned, it has been stationed at the Naval Station Newport, with the option of tying up at the commercial Port of Davisville when necessary for loading.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. As part of this year's budget, National Oceanic and Atmospheric Administration (NOAA) has proposed closing its laboratory at Sandy Hook, New Jersey. This lab is unique—it is located near major urban areas, helping scientists develop approaches to managing fisheries in impaired water bodies. It has lasting partnerships with local universities and fishermen. And it has a 50-year record of scientific achievement.

Can any other single NOAA location provide this combination of qualities?

Answer. The NOAA laboratory at Sandy Hook is an excellent research facility with unique capabilities. The laboratory's flow-through seawater system, large-capacity experimental tanks, and ocean acidification research facility provide an ex-

ceptional environment for behavioral ecology, habitat, and early life history research.

However, it has one of the highest costs per square foot for high-density occupied spaces within the continental United States—at \$36.30/sq ft. Additionally, the 20-year lease for the Sandy Hook Facility expires in December 2013. While NOAA recognizes and understands that the Sandy Hook lab conducts important research on recreational fish species and serves as an outreach lab to recreational fishermen it must balance this with the need to reduce costs.

Question. Regulators help keep our food safe, and ensure we have clean air to breathe. They also make sure that businesses that break the rules don't get an unfair advantage. The Office of Management and Budget (OMB) reports that regulations over the last decade produced as much as \$700 billion in benefits at a cost of less than \$70 billion.

Do you agree with OMB finding that regulations yield benefits well in excess of their costs?

Answer. Although NOAA has not done comprehensive analysis such as that done by the OMB, our experience is that the benefits to coastal communities and the environment resulting from collaborative work through the regional fishery management councils and the dedication of resources to managing and sustaining fisheries, for instance, exceed the costs to the Government.

Question. The United States Patent and Trademark Office (USPTO) is evaluating locations for at least two new satellite offices. U.S. patent activity is an important factor in the USPTO's selection process. In 2010, the New Jersey/New York region was second in patent applications. New Jersey by itself was sixth, and New Jersey excels in many other categories the USPTO is considering.

How does New Jersey compare to other locations as a candidate for a satellite office?

Answer. In assessing potential satellite office locations, USPTO assessed more than 50 metropolitan areas against a variety of criteria. As mandated by the Leahy-Smith America Invents Act (AIA), cities were evaluated according to the ability of the USPTO to perform applicant outreach in the area; the ability to both recruit and retain qualified employees within the regional labor market; and, the potential economic impact of establishing a USPTO satellite office in the region. The AIA also required that the USPTO consider geographic diversity among its satellite office locations when selecting future sites. In addition, each location was evaluated on the basis of operating cost and other factors.

Given the considered factors, data for the New Jersey/New York region did not at this time present the best comparative case as a whole despite high performance within some factor categories.

QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

New England Groundfish Monitoring

Question. Maine's groundfish industry is facing a great deal of uncertainty as it continues to move to a new management system and in the face of new reports showing that the Gulf of Maine and Georges Bank cod stocks may not be as healthy as previously thought, a position at odds with the assessments of many working fishermen.

National Oceanic and Atmospheric Administration (NOAA) announcement late last year that it would fund the full cost of observers in fishing year 2012 for the New England groundfish fishery was welcome news. Looking ahead to next year, I am concerned that the industry will still not be in the financial position to pay for the high cost of monitoring on the east coast. I understand that these monitoring programs not only provide assurance that catch limits are not exceeded, but also provide accurate catch data that is essential to good stock assessments. The budget requests \$28 million for the National Catch Share Program. How much does NOAA estimate the total cost of monitoring coverage will be for the New England groundfish fishery in fiscal year 2013? How much has NOAA budgeted for in fiscal year 2013 to cover those costs? Given all of the uncertainty facing the New England groundfish industry, has NOAA looked at whether the fleet will be in an economic position to begin shouldering the costs of monitoring in 2013 and 2014? And given that NOAA uses this monitoring data to feed into its stock assessments, which is appropriately a Federal function, is it fair to ask the fleet to cover the entire cost of at-sea monitoring in future years?

Answer. NOAA agrees that at-sea monitoring data is critical to accurate stock assessments and the effective functioning of the Sector program. NOAA will continue to work with the New England groundfish fishery on the appropriate mix of industry and Federal funds to support this function. NOAA works similarly with other federally managed fisheries where industry is or will be paying all of the at-sea monitoring costs, including several Alaska fisheries, Pacific Groundfish, and Atlantic scallops.

National Marine Fisheries Service (NMFS) collects two types of data on the New England groundfish fishery through at-sea monitors and observers. At-sea monitors count fish and collect less detailed data on catch and bycatch (discards) and are utilized to monitor the fishery to track quota. Observers collect more detailed data related to catch such as age and length of targeted and discarded species, bycatch, and additional data such as, biological samples. All information collected is used in stock assessments and to understand the fisheries interaction with protected resources.

At-sea monitors are funded primarily through the National Catch Share Program budget line, with additional funds from the Observer/Training budget line. Observers are solely supported through the Observer/Training budget line.

NOAA estimates that the total 2013 cost of observer/at-sea monitor coverage in the Northeast to be \$17.9 million. The fiscal year 2013 President's request for NOAA includes approximately 50 percent of the costs for at-sea monitors, or \$2.2 million, and the total cost for observers, \$13.9 million, which provides a total of \$16.1 million of the estimated \$17.9 million for observer and at-sea monitor coverage required (Table 1). This request takes into consideration recent developments, in particular the Gulf of Maine cod stock assessment. The remaining costs of at-sea monitors, approximately \$2.2 million, are expected to be paid by the industry beginning in May 2013.

NOAA recognizes the potential economic implications, in particular for small operators, of transitioning the costs of at-sea monitors to industry. Therefore, we continue to analyze the fishery, including economic information, and if circumstances warrant we will adjust as needed. NOAA continues to work with the New England Fishery Management Council and industry to consider alternative effective monitoring techniques, such as electronic monitoring (including an ongoing electronic monitoring pilot project) that could also be more cost-effective.

TABLE 1. FISCAL YEAR 2013 FUNDING REQUEST FOR OBSERVER/AT-SEA MONITOR COVERAGE IN NORTHEAST FISHERIES

[In millions of dollars]

Region/fishery	Fiscal year 2013 PPA	Fiscal year 2013 request
NE Multi-species fishery (at-sea monitors and observers)	National Catch Share Program (at-sea monitors)	2.2
	Observers/training	13.9
TOTAL	16.1

POTENTIAL LISTING OF RIVER HERRING AS THREATENED UNDER THE ENDANGERED SPECIES ACT

Question. Late last year, NOAA fisheries announced that it had determined that a petition to list alewife and blueback herring, collectively known as river herring, under the Endangered Species Act (ESA) merited further review and the agency would consider whether listing these species would be appropriate. Given the potential impacts that even a threatened listing could have on our nation's fishing communities, I hope you will urge NOAA fisheries to carefully consider effective management plans already in place, such as the programs in my home State of Maine.

River herring are an important source of bait for Maine fishermen who already adhere to restrictions mandated by the Maine Department of Marine Resources (DMR). The Maine DMR's river herring management plan has proven effective in increasing river herring populations through habitat restoration and improvements, fish passage construction, stocking and transfer programs, and catch limits.

My question is twofold: in your status review of the species, how are you working with State agencies that have a greater familiarity with the species than the Federal Government? And, what can be done by working proactively with States, par-

ticularly States that already have successful management programs in place, to avoid a listing under the ESA?

Answer. The Atlantic States Marine Fisheries Commission has been working with representatives from each of the east coast States on a stock assessment for river herring for approximately the last 3 years. This stock assessment is a thorough compilation of the best available data on river herring and therefore, will be extremely useful in making a listing decision. In order to identify any gaps between the information contained within the stock assessment report and information that is needed to make a listing determination under the ESA, NMFS staff attended the stock assessment committee meeting in January 2012, at which the group finalized the data inputs for the report. The following are topics that must be addressed in an ESA listing decision that were not fully addressed in the stock assessment:

- stock structure/identification of distinct population segments;
- impacts of climate change on the continued existence of both species;
- status of Canadian stocks; and
- extinction risk.

Based on these existing gaps, NMFS has been working with Atlantic States Marine Fisheries Commission to plan individual workshops to address three of these data gaps (we are working with the Canadian Department of Fisheries and Oceans to obtain data on the status of these species in Canada). With the Atlantic States Marine Fisheries Commission's input and assistance, NMFS has identified experts for each of these topic areas, and we will be convening these workshops during this summer to help inform the status review and subsequent listing determination. Announcements of these workshops will be posted on our Web site. Reports from the stock structure and extinction risk analysis workshops will be peer reviewed by experts from the Center for Independent Experts and we will be seeking nominations for qualified peer reviewers for the climate change workshop report later this spring.

NMFS has solicited information from the State agencies and the public that is relevant to the listing decision and the status review team is considering this information in the ongoing status review. We are also seeking input from State-recognized experts on the species and the management issues surrounding their status and recovery and will be inviting the States to send representatives to each of the workshops. The information from the workshops will be posted on our Web site providing the States and the general public with an additional opportunity to see the materials that are in the record, which will form the basis of a listing or no listing decision. The States and the public will also be provided with the opportunity to supplement the record with data and materials from people whom they recognize as experts during the peer review process of the workshop reports.

NMFS has also been working with representatives from the State of Maine on restoring access to important spawning areas for both species in the State as part of our efforts to restore and recover Atlantic salmon and other members of the anadromous species complex. This includes focusing on restoration of access to important alewife spawning habitats in the St. Croix River. NMFS has also been working on restoring access in many other rivers in other States along the east coast, and has provided input and guidance for fish passage in many river systems under the Fish and Wildlife Coordination Act. All of these proactive measures to restore and recover these species will be considered in the Policy for the Evaluation of Conservation Efforts analysis in the listing determination.

STATE-FEDERAL PARTNERSHIPS

Question. NOAA's fiscal year 2013 budget proposes to cut or eliminate some key programs that support important State and Federal partnerships. In particular, the proposals to eliminate funding for Interjurisdictional Fisheries Grants and reduce by 14 percent funding for the Atlantic Coastal Act are particularly worrisome to States. This funding helps support State efforts to restore and sustainably manage their marine fisheries, and reducing this funding could have severe ramifications for monitoring of the Nation's fisheries by the States. In Maine, we are particularly concerned about the potential impacts to monitoring of our lobster, Atlantic herring, and Northern shrimp stocks. How does NOAA propose to maintain and improve the basic scientific data collection programs needed for stock assessments of these stocks while at the same time cutting funding for these programs?

Answer. NMFS agrees that the role of the Interstate Commissions in fostering partnerships and incorporating the needs of fishing communities and industry, recreational, Federal, and State interests into fishery management decisions is critical.

Appropriated funding for the Interjurisdictional Fisheries Act grants has declined over the past 2 years. As a result, the benefits of the program relative to the admin-

istrative costs on both NOAA and the States to apply for, manage and report on the awards are no longer effective. The Interjurisdictional Fisheries Act grant funding is specified by statutory formula and would require a legislative fix. In applying the statutory formula to the amount of appropriations supporting Interjurisdictional Fisheries Act grants under the fiscal year 2012 conference mark, 18 of the 38 grants would have been for less than \$6,000. NMFS determined that this funding was insufficient to justify the grant program, and therefore decided to zero out the grant program as part of the undistributed reduction included in the conference agreement. This reduction was included in the fiscal year 2012 spend plan approved by the Congress in January 2012. The fiscal year 2013 President's budget maintained this decision. NMFS does not expect its fiscal year 2013 appropriation to increase to a level at which this program could be effectively managed.

NOAA continues to work with its partners to find efficiencies to maintain the quality and effectiveness of our data quality and monitoring. NMFS will continue its current level of effort to collect data from its surveys, sampling, and dealer data collection that support the Atlantic States Marine Fisheries Commission's technical committees. NMFS' scientists serve on the Atlantic States Marine Fisheries Commission's committees that develop and apply population modeling for the assessment. As an example, for the NMFS Northeast bottom trawl, survey data, at-sea and in-port biological sampling data, and landings from federally permitted dealers are routinely used by the Atlantic States Marine Fisheries Commission.

Also, in 2012–2013, NMFS is piloting a project to collect more samples from observed commercial lobster trips in Statistical Areas 515 and 513, in the Gulf of Maine. The focus is on characterizing groundfish discards and reasons for lobster discard. There are about 10 vessels that operate in this component of the fishery. This is intended to augment data on offshore lobsters for both lobster and groundfish management and assessment purposes. NOAA will continue to work with our partners to find other efficiencies to maintain the high level of quality data and analysis despite reductions in Federal and State budgets.

INTERNATIONAL TRADE ADMINISTRATION

Softwood Lumber Agreement—Monitoring

Question. Recently, the United States and Canada agreed to extend the softwood lumber agreement to October 2015. The agreement has generally benefited Maine's forestry industry, but it has not been an easy path due to Canada's numerous violations under the trade agreement. The delicate balance of realizing adequate value of the agreement for U.S. industry has only been achieved due to the monitoring and enforcement work of the last two administrations. The Commerce Department plays an important role in the U.S. Government's efforts to monitor Canada's compliance with the agreement. This work must continue. Failure to adequately monitor and enforce this trade agreement places at risk jobs in communities that can least afford to lose them. Do you believe that you have the adequate resources to continue the Department's critical role in monitoring the Softwood Lumber Agreement? Will you commit to continue to make this monitoring a priority for the Department?

Answer. The U.S. trade relationship with our neighbors is an absolute priority and Canada is our number one trading partner.

The Softwood Lumber Agreement (SLA) is evidence of the United States and Canada's commitment to working together to resolve long-standing trade disputes. As you know, the SLA was recently extended for 2 more years and is now effective until October 12, 2015.

The administration is committed to strong enforcement of its rights under these agreements. To date, in concert with the Office of the United States Trade Representative (USTR) and the Department of Justice (DOJ), we have been involved in three arbitrations under the SLA. The arbitration panel found in favor of the United States on many of the issues raised in the first two disputes, and just recently completed the third arbitration hearing.

Commerce's International Trade Administration has targeted \$99.6 million to enforcement in the fiscal year 2012 budget, and the Administration has requested a significant increase in the fiscal year 2013 budget for trade enforcement activities, including the Interagency Trade Enforcement Center (ITEC).¹ Commerce will continue to work closely with USTR to ensure that U.S. rights under the SLA are vigorously enforced and defended.

¹ FY 2012 figure from ITA FY2013 Budget in Brief, Objective 12.

QUESTION SUBMITTED BY SENATOR LINDSEY GRAHAM

INTERNATIONAL TRADE ADMINISTRATION

Question. I wrote to your Department earlier this year regarding the International Trade Administration's (ITA) U.S. Commercial Service (CS). While I look forward to your response, I understand the Department of Commerce intends to eliminate CS staff in developing economies. While I fully understand the budgetary constraints all U.S. Government agencies currently face, I worry such action is premature and would weaken opportunities for U.S. companies.

Under the President's fiscal year 2013 budget, which commercial service professionals would be eliminated? How much would it cost to ensure no current CS professionals are eliminated? How much would it cost for the CS to operate at full capacity?

Answer. Over the last decade ITA U.S. and Foreign Commercial Service (US&FCS) has been reshaped by tight budgets, which have resulted in hiring freezes and other ad hoc measures to reduce costs. US&FCS responded by undertaking a strategic review of its resources using expected budget levels and looking at where and how those resources were deployed. These calculations were based on deploying approximately 169 officers and 742 locally engaged staff (LES) in 70 countries worldwide, representing 94 percent of the worldwide market for U.S. exports. Based on this information and coupled with administration priorities such as the National Export Initiative, US&FCS placed each country in Tier I, II, or III categories. Tier I represents countries such as China, India, and Brazil with the greatest current opportunity to maximize United States exports and the greatest demand for our services.

In order to reposition resources to top tier countries US&FCS sought and received approval from the Office of Management and Budget and our Congressional Appropriations Committees to close 17 offices internationally in fiscal year 2012. The list included closing the sole US&FCS offices in seven countries (Algeria, Ecuador, Kazakhstan, Libya, Senegal, Switzerland, and Venezuela); nine constituent posts (Melbourne, Australia; Vancouver, Canada; Wuhan, China; Alexandria, Egypt; Florence, Italy; Sapporo, Japan; Nagoya, Japan; Tijuana, Mexico; and Vladivostok, Russia), and the African Development Bank (ADB) office. We are also reducing staff in some markets where we are not closing offices, mostly in mature, developed markets. Essentially, we are under-resourced in priority markets and must therefore address those needs before we can consider resourcing third tier markets.

It is important to recall two elements of our history. First, US&FCS was created in 1980 to service U.S. business needs in our most commercially important export markets. This represented slightly more than 60 markets at that time. The intent was for US&FCS to focus on those markets judged to be the most important for expanding exports and advancing U.S. commercial interests. However, over time the US&FCS grew to have offices in 80 countries. A continuous review of our footprint and a common understanding and agreement on the identification of these priority markets for U.S. business remains fundamental to offering a successful US&FCS program. Given that we cannot be in every market, our partnership with the trade promotion program that the State Department offers in foreign markets in which US&FCS does not have a physical presence is of vital importance if we are to remain at the center of a whole-of-government effort to deliver a seamless global program. At present, we have partnership post arrangements with 57 State Department posts.

The President's fiscal year 2013 budget proposes an increase of \$30.3 million to place additional Foreign Commercial Service Officers and LES in high-growth, priority markets, including those developing economies that offer the greatest opportunity. US&FCS is working to determine the best placement of additional staff should increased funding materialize, and will evaluate its overseas presence and make appropriate adjustments to its footprint as markets and the demand for services require. On the contrary, should funding remain flat, US&FCS will look to further reposition resources from third and possibly second tier countries into the top tier. Absent the closing of additional posts due to market conditions or budget constraints, any decrease in staff would be accomplished through attrition.

QUESTION SUBMITTED BY SENATOR THAD COCHRAN

MARINE MAMMAL STRANDING—GULF OF MEXICO

Question. When marine mammals strand themselves in the northern Gulf of Mexico and cannot be returned to the ocean, the National Marine Fisheries Service

(NMFS) decides where to place these animals for their long-term care. Despite the fact that several dolphins have stranded themselves in the northern gulf, NMFS has chosen to send these animals to facilities that are not involved or participate in the stranding response in the area. Organizations such as Institute for Marine Mammal Studies (IMMS) assisting National Oceanic and Atmospheric Administration (NOAA) in the stranding response should be preferred in the allocation of these non-releasable stranded animals as these facilities spend a lot of time, effort, and resources in assisting NOAA. Why is that the case?

Answer. One of the primary goals of NMFS is the successful rehabilitation of stranded marine mammals and their release back to the wild. On occasion, we (along with the attending veterinarian) determine that rehabilitated animals should not be released for medical or behavioral reasons and they must be placed in permanent captivity. We place nonreleasable dolphins in public display facilities through an equitable and transparent consideration of the capabilities of interested facilities in meeting the specific animal's needs.

Participation in the Marine Mammal Health and Stranding Response Program is not a criterion considered in the placement of animals. Nonreleasable animals are often placed with entities that do not participate in the rescue and rehabilitation of that species. For example, IMMS is on the national placement list to receive non-releasable California sea lions, which is not a species found in the Gulf of Mexico.

We have routinely alerted IMMS about each nonreleasable dolphin since it received its public display license in December 2009. In 2011, four young bottlenose dolphins were determined to be nonreleasable to the wild. One of these animals was placed at the facility where it was being rehabilitated because they could provide for the social and developmental needs of this animal. The IMMS expressed an interest in possessing each of the three remaining animals. We determined that they did not have the appropriate number and social composition of dolphins in its custody to integrate these young individuals, compared to other facilities where they were ultimately placed.

We strive to ensure that nonreleasable dolphins are placed in appropriate social groups based on the animal's age and sex, and its social, health, and behavioral condition. This is especially critical for young animals in need of foster care from adult females with maternal experience. A copy of our detailed policy for placing non-releasable marine mammals into permanent captivity is available through the following web link: <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/02-308-02.pdf>.

SUBCOMMITTEE RECESS

Senator MIKULSKI. Mr. Secretary, this concludes our hearing. We thank you for your testimony. We look forward to your ongoing cooperation. We, too, want to do business in the subcommittee at the speed of business.

We also, while we've been insistent about certain performance standards and expectations, we really do want to let the people who work at Commerce know, whether they're doing trade agreements, enforcing trade, working on those incredible standards that take ideas into products that we need to thank the 40,000-plus people who work hard every day to create jobs, and sustain jobs, and keep our country safe. So, let's all work together, so that we can be a more frugal Government, and have some smart funding initiatives.

This subcommittee stands in recess until next Wednesday, at 2 p.m., when we're going to take the hearing of the NASA administrator.

[Whereupon, at 11:25 a.m., Thursday, March 22, the hearing was concluded, and the subcommittee recessed, to reconvene at 2 p.m. on Wednesday, March 28.]