

OVERSIGHT OF THE OBAMA ADMINISTRATION'S QUESTIONABLE APPLICATION OF SEQUESTRATION TO THE SECURE RURAL SCHOOLS PROGRAM AND THE COSTS TO STATES, LOCAL ECONOMIES, AND RURAL SCHOOL CHILDREN

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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**OVERSIGHT HEARING ON OVERSIGHT OF THE
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AND RURAL SCHOOL CHILDREN**

**Tuesday, January 14, 2014
U.S. House of Representatives
Committee on Natural Resources
Washington, DC**

The committee met, pursuant to notice, at 10:04 a.m., in room 1324, Longworth House Office Building, Hon. Doc Hastings [Chairman of the Committee] presiding.

Present: Representatives Hastings, Gohmert, Bishop, Broun, McClintock, Thompson, Lummis, Benishek, Duncan, Tipton, Gosar, Labrador, Southerland, Mullin, Daines, LaMalfa, Smith, DeFazio, Holt, Horsford, Huffman, Lowenthal, Garcia, and Clark.

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

And the Chair notes the presence of a quorum, which under rule 3(e) is two members, and we have exceeded that.

The Committee on Natural Resources meets today to hear testimony on the Obama administration's questionable application of sequestration to the Secure Rural Schools program and the costs to States, local economies, rural schools and children.

I do want to, before we start, recognize our newest member to the committee, the gentlelady from Massachusetts, who was elected to take the place of the Ranking Member, who now I know people in Massachusetts lovingly call Senator Markey. I understand that, but Ms. Clark thank you. Welcome to the committee, and we look forward to working with you on this and many other issues. So welcome to the committee.

Ms. CLARK. Thank you.

The CHAIRMAN. Thank you.

Mr. DEFAZIO. Mr. Chairman, if I might.

The CHAIRMAN. Yes, I yield.

Mr. DEFAZIO. Thank you, Mr. Chairman.

I had the opportunity to sit down and talk at some length about the committee, its jurisdiction, and the expertise that Ms. Clark brings to this committee, particularly regarding oceans, energy issues, and it turns out she knows a fair amount about tribal gaming, too. So she is going to be a great new member of the committee, and I look forward to working with her.

The CHAIRMAN. Well, we all do, and welcome aboard.

I will recognize myself because the opening statements are confined to the Chairman and the Ranking Member. However, if any

member wants to have an opening statement, without objection, you can submit that before the end of business today.

Without objection, so ordered.

STATEMENT OF THE HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

The CHAIRMAN. We are here today to get questions answered regarding the Obama administration's decision to retroactively subject 2012 Secure Rural School payments to President Obama's 2013 sequestration cuts. The Secure Rural Schools program helped provide rural counties with funds for teachers, schools, police officers, emergency services, and infrastructures.

These payments are necessary because the Federal Government had failed to uphold its century-old promise to actively manage our national forests that provide a stable revenue stream for rural counties containing national forest land.

In July of 2012, President Obama signed into law an extension of the Secure Rural Schools program for fiscal year 2012. These fiscal year 2012 funds, totaling \$323 million, were distributed to 41 States by the Department of Agriculture in January of 2013.

Two months later, on March 19, 2013, the Obama administration announced, citing the sequestration cuts, that it was requesting repayment of \$17.9 million that had already been distributed. This action immediately sparked bipartisan opposition from Congress. State governors of both parties informed the administration that they would not repay the funds due to the questionable legal authority.

The Obama administration appeared intent on making the sequester as painful and visible as possible, and this was another example. Instead of working with Congress to make responsible cuts and reforms, the administration took the political opportunity to go after funds used to pay teacher and police salaries.

Several questions immediately arose from the administration's actions, including how and why the decision was reached to apply sequestration to the fiscal year 2012 funds, and what legal authority they had to do so.

Numerous oversight letters were sent to USDA and OMB that included requests for documents and information, which were largely ignored. This left the committee with no choice but to issue subpoenas for these documents. It was only after subpoenas were issued and we invited Secretary of Agriculture Vilsack and OMB Director Burwell to appear before the committee that documents began to slowly trickle in.

I must express my frustration and disappointment in the Obama administration for repeatedly stonewalling Congress and stalling our legitimate oversight efforts. It is unacceptable and the American people deserve better from an administration that boasts of being the most open and transparent in history.

Now, Secretary Vilsack and Director Burwell refused invitations to testify on this issue, as did U.S. Forest Service Chief Tom Tidwell, USDA General Counsel Ramona Romero, and OMB Director for Budget Brian Deese.

Instead, the USDA sent Robert Bonnie, Under Secretary for Natural Resources and Environment, and the OMB sent no one.

So, Mr. Bonnie, you are seated at the table. Since you are the one and only witness that the Obama administration has agreed to produce, we must assume that means that you are an expert on this issue with full knowledge of what happened and will have the ability and authority to fully answer our questions.

This morning the committee released a staff report on the preliminary findings of our investigation into the matter. Our investigation found that it was the White House Office of Management and Budget, or OMB, that ordered the sequestration cuts to apply for Secure Rural School funds already distributed, and that this was done over the opposition and legal advice of USDA attorneys.

The SRS program was renewed for fiscal year 2013 and distribution of those funds should be announced any day now. The OMB and USDA have said that these funds will not be subjected to the sequester, and I hope to hear further confirmation of that today, and that is an important point.

Ultimately, this matter is further justification for why the Senate must act on H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act.

The Secure Rural Schools program was intended to be a short-term solution, and counties are still lacking a stable, dependable source of revenue. This bill, which passed the House with bipartisan support, would restore active forest management and once again share timber revenue with counties.

It would also create over 200,000 jobs and provides funding for the Secure Rural Schools program for fiscal year 2014. This is one of the many House-passed bills in which the Senate has not taken any action.

I expect answers from our witness today, and that we can walk away from this hearing giving rural counties the assurance that they will not endure further politically motivated cuts to schools, law enforcement, and emergency services.

[The prepared statement of Mr. Hastings follows:]

PREPARED STATEMENT OF THE HON. DOC HASTINGS, CHAIRMAN, COMMITTEE ON
NATURAL RESOURCES

We are here today to get questions answered regarding the Obama administration's decision to retroactively subject 2012 Secure Rural School payments to President Obama's 2013 sequestration cuts.

The Secure Rural Schools program helps provide rural counties with funds for teachers, schools, police officers, emergency services, and infrastructure. These payments are necessary because the Federal Government has failed to uphold its century-old promise to actively manage our national forests and provide a stable revenue stream for rural counties containing national forest land.

In July of 2012, President Obama signed into law an extension of the Secure Rural Schools program for fiscal year 2012. These fiscal year 2012 funds, totaling \$323 million, were distributed to 41 States by the Department of Agriculture in January of 2013. Two months later, on March 19, 2013, the Obama administration announced, citing sequestration cuts, that it was requesting repayment of \$17.9 million that had already been distributed.

This action immediately sparked bipartisan opposition from Congress. State governors of both parties informed the administration that they would not repay the funds due to the questionable legal authority.

The Obama administration appeared intent on making the sequester as painful and visible as possible, and this was another example. Instead of working with Congress to make responsible cuts and reforms, the administration took the political opportunity to go after funds used to pay teacher and police salaries.

Several questions immediately arose from the administration's actions, including how and why the decision was reached to apply sequestration to the fiscal year 2012 funds, and what legal authority they had to do so.

Numerous oversight letters were sent to the USDA and OMB that included requests for documents and information, which were largely ignored. This left the committee with no choice but to issue subpoenas for these documents. It was only after subpoenas were issued and we invited Secretary of Agriculture Vilsack and OMB Director Burwell to appear before the committee that documents began to slowly trickle in.

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Secretary Vilsack and Director Burwell refused invitations to testify on this issue, as did U.S. Forest Service Chief, Thomas Tidwell; USDA General Counsel, Ramona Romero; and OMB Deputy Director for Budget, Brian Deese. Instead, the USDA sent Robert Bonnie, Under Secretary for Natural Resources and Environment. The OMB sent no one.

Mr. Bonnie, since you are the one and only witness the Obama administration has agreed to produce, we must assume that means you are an expert on this issue with full knowledge of what happened and have the ability and authority to fully answer questions.

This morning the committee released a staff report on the preliminary findings of our investigation into this matter. Our investigation found that it was the White House Office of Management and Budget that ordered the sequestration cuts to apply to Secure Rural Schools funds already distributed; and that this was done over the opposition and legal advice of USDA attorneys.

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Ultimately, this matter is further justification for why the Senate must act on H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act. The Secure Rural Schools program was intended to be a short-term solution and counties are still lacking a stable, dependable source of revenue.

This bill, which passed the House with bipartisan support, would restore active forest management and once again share timber revenue with counties. It would also create over 200,000 jobs and provides funding for the Secure Rural Schools program for fiscal year 2014.

This is one of many House-passed jobs bills on which Harry Reid's Senate must take immediate action.

I expect answers from our witness today and that we can walk away from this hearing giving rural counties the assurance that they will not endure further, politically motivated, cuts to schools, law enforcement, and emergency services.

The CHAIRMAN. With that I will recognize the distinguished Ranking Member.

STATEMENT OF THE HONORABLE PETER A. DEFAZIO, A REPRESENTATIVE IN CONGRESS FOR THE STATE OF OREGON

Mr. DEFAZIO. Thank you, Mr. Chairman.

You know, a couple of years ago Congress passed a really stupid law under the premise that it would never ever be implemented. Well, I have been around here long enough to know that really stupid things often do get implemented, and that was the Budget Control Act and the sequestration provisions.

And we are here today to find out why Congress and many here probably voted for a law that imposed sequestration on the government; that sequestration had a detrimental impact on critical programs. Well, you create a bad law. The administration applies the bad law and particularly when you restrict the ways in which the cuts can be made. They are across the board by account, and when

you delegate, when this all gets to OMB, referred to by my former colleague, our former colleague, Al Swift from Washington State, when I was early on and having problems with OMB, he said, "Oh, DeFazio, do you not know they're the trolls under the bridge that come out and chew on your leg?"

And that is where this all ended up. Forest Service did, I think, the right thing. They disbursed the funds because the law said they should be disbursed as soon as practicable, and Interior sat on the money. So OMB in the interim, between the time Forest Service disbursed and Interior disbursed, came up with a directive that said these funds have to be sequestered.

I bitterly agreed with their interpretation. They were 2012 monies. They were being disbursed in 2013. We went back and forth. I talked to people in OMB, Forest Service, Interior, as high as I could go. We had exchanges of letters. We all have seen those letters, and in the end OMB prevailed, and the Forest Service was required to ask for the money back, a really bad result for struggling counties.

And you know, we have something in common here today. It is the issue of adequate funding to these counties both for critical services they provide and for the monies that flow to school districts all across the United States, and we have made the SRS payments a bipartisan issue over the years, and I hope that we can productively go forward and look at ways that we can renew these payments, even if we move to more active forest management and more revenues are created.

It will not happen instantaneously. It will not happen in 6 months or 12 months. In the case of a bill that I have proposed with Greg Walden and Kurt Schrader in particular lands that are absolutely unique to my State, it will take several years to make those sorts of transitions. So we will need some essentially bridge payments.

So we would more productively be here today trying to figure out a way to continue the authorization of SRS, how to fund SRS, and how to practically look at more active forest management. Instead we are going to have a little show here. The committee was informed over a week ago that these other people would not be coming, that they did send the Assistant Secretary, and he is versed in the issue and, I believe, can answer any questions that are pertinent and relevant.

I think I already summarized what actually happened. There is nothing really to investigate here, but we can waste a couple of hours on it instead of doing something proactive to try and figure out how we are going to better provide for counties, schools and economic activity in rural areas.

That is the way it is. So here we are. Let's go forward.

[The prepared statement of Mr. DeFazio follows:]

PREPARED STATEMENT OF THE HON. PETER A. DEFazio, RANKING MEMBER,
COMMITTEE ON NATURAL RESOURCES

Two summers ago Congress passed a really stupid law called the Budget Control Act, also known as sequestration. I strongly opposed sequestration and said that it was a terrible idea. Unfortunately, I was right.

Sequestration has been a disaster. It has negatively impacted American families and businesses. It has disrupted the work of our Federal agencies. And, it has cut

funds for unnecessary, wasteful Federal programs right alongside *effective, efficient ones*. Despite my objections, the Budget Control Act became law.

In June 2012, Congress passed MAP-21. MAP-21 saved or created millions of good-paying jobs and continued crucial, job-creating investments in our crumbling transportation infrastructure. I fought hard, and worked with my colleagues in the House and Senate, to include a 1 year extension of the Secure Rural Schools program in MAP-21. The extension provides a much needed lifeline to failing timber-dependent counties across the country so they can offer basic services to their residents, like education.

Two of those failing counties, unfortunately, are in my district—and there are a handful of counties in Oregon and across the West that are not far behind. Every dime and dollar from the Secure Rural Schools program matters to these counties. This issue is personal to me and I take it very seriously.

So, when I heard that Secure Rural Schools payments to rural counties might be sequestered, I made numerous calls to the administration and joined bipartisan, bicameral letters to clarify that Secure Rural Schools money should not be subject to the Budget Control Act—largely because the payments were for a previous fiscal year. I thought we made a strong case.

But that's not how the administration interpreted the law. The administration laid out their legal reasoning for sequestering 5 percent of the fiscal year 2012 payments in multiple letters to members of this committee. Am I happy with that interpretation? No. Was I happy when I learned the Department of Agriculture was going to apply sequestration to SRS funds that had *already been sent* to failing counties? No. I was frustrated and disappointed. Could this have been handled in a different way by the administration? Yes.

But here we are: Congress passed a bad law. The administration is trying to implement that bad law. And, Congress doesn't like the result. So, let's fix it.

Like many issues before this committee, there is common ground between Democrats and Republicans here. I think every member of this committee wants to ensure that the struggling counties they represent receive the payments Congress intended for them to receive in order to support essential services.

If the goal of this hearing is to help rural counties by finding a legislative way to allocate the full Secure Rural Schools payment amount, we can do that. And I think we can do it in a bipartisan way. Mr. Chairman, I am happy to sit down with you—immediately following this hearing if you want—to write a bill that can pass this committee and the House to get critical support payments to rural counties as quickly as possible.

But, if this hearing is about something else—such as questioning the *motives* of the administration in *applying* sequestration—I would argue that this hearing is an unproductive use of the committee's time.

If we want to talk about sequestration, let's focus on how it is interrupting the work of our Federal agencies, or, in some cases completely preventing them from meeting their mandated goals. Let's talk about sequestration and the impact on wildfire suppression. Let's provide oversight on sequestration and its impact on timber harvests, energy production, maintenance of our national parks and monuments, and our fisheries. Why aren't we talking about these things?

Secure Rural Schools is an incredibly important program to me, my counties, and to my State—just as it is to many members of this committee. I just hope this hearing leads to a productive, bipartisan fix to the consequences of a really bad law.

I yield back. Thank you, Chairman.

The CHAIRMAN. Mr. Bonnie, thank you very much for being here, and if you have not had an opportunity to testify in front of the committee, the statement that you submitted, the full statement will be part of the record, but we ask you to keep your oral remarks within the 5 minutes.

The way that timing light works, when the green light is on, it means that you are doing well, and when the yellow light comes on, it means you have a minute to go, and the red light means the 5 minutes.

So with that, Mr. Bonnie, I recognize you for 5 minutes.

STATEMENT OF THE HONORABLE ROBERT BONNIE, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. BONNIE. Thank you, Mr. Chairman.

Chairman Hastings, Ranking Member DeFazio and members of the committee, I appreciate the opportunity to appear before you today to discuss the impacts of sequestration on the Secure Rural Schools program.

The administration recognizes the importance of Secure Rural Schools in supporting critical services, such as schools, roads, emergency response, and wildfire protection planning in rural communities with substantial acreage in national forests.

In appearing before you today, I want to emphasize three things. First, in applying sequestration to Secure Rural Schools, USDA followed the law.

Second, at Secretary Vilsack's direction we sought a course that was both equitable and least disruptive to States.

Third, the negative impacts of sequestration on Secure Rural Schools demonstrate that sequestration is bad policy.

As the documents we have provided the committee show, implementation of sequestration for Secure Rural Schools was complex. To explain the process USDA and the Forest Service went through in implementing sequestration for Secure Rural Schools, let me walk you through an overview of the Forest Service budget structure and a timeline from September 2012 through last summer. I direct your attention to the first slide.

In September 2012, OMB issued their Sequestration Transparency Act report which identified the Forest Service permanent appropriations account as subject to sequestration. That is the last account on the right-hand side. This account is 1 of 12 budget line items in the Forest Service budget. The account is comprised of 13 distinct programs, projects and activities, or PPAs, including the two PPAs that cover the Secure Rural School payments. Those are the two that are underlined.

Unfortunately, due to the complex legal and budgetary challenges associated with implementing sequestration, the impacts of the Secure Rural Schools program were not readily apparent at the time of the report.

I now refer your attention to our implementation timeline, the next slide, please. Because the Secure Rural Schools statute requires that payments to States be made expeditiously and because we know how important these payments are to counties, in mid-January the Forest Service made full, on-time payments under Titles I and III of the program.

On January 30, OMB alerted Forest Service of its opinion that Secure Rural Schools payments were subject to sequestration. During this time there was still considerable back-and-forth both within USDA and with OMB about the impacts of sequestration on payments to the States. One key question was whether because program payments were based on 2012 receipts, they should be subject to sequestration.

In early February, OMB and USDA both concurred that while payments were based on 2012 receipts, the Secure Rural Schools law required payments to be made in 2013. Thus, payments under

the law constituted 2013 spending authority and by law would be subject to sequestration if it were to occur.

As it became clear that sequestration would go into effect, the Secretary met with USDA policy and budget staff and with Chief Tidwell. In addressing Secure Rural Schools the Secretary emphasized two key principles.

First, our approach must be equitable across States; and second, we must strive as best we could to reduce disruptions from sequestration.

The most important policy challenge we faced related to equity amongst the States. At the heart of the equity issue was whether or not to cover sequestration under the program with Title II funds that had not yet been distributed. While this approach would have allowed us to avoid billing States, it was simply not fair. Because States differ widely in the percentage of funds they devote to Title II expenditures, satisfying sequestration by setting aside Title II funds would have hit some States hard while others would have felt no impact.

Because such an approach was unfair, we chose a different path. On March 19, Forest Service sent letters to States informing them of the impacts of sequestration on Secure Rural Schools and providing them with the flexibility to sequester Title II funding if available to them.

In August, for States with insufficient Title II funds to cover the sequestered amount, Forest Service sent bills for the amount required to be paid back, which totaled \$888,000 across 19 States and Puerto Rico.

The agency also sent letters to States with sufficient Title II funds, notifying them of the amounts withheld from Title II in order to satisfy their sequestration obligations. Again, there is no doubt that implementation of sequestration has had negative consequences for the counties served by the Secure Rural Schools program, and we acknowledge that implementation of sequestration for Secure Rural Schools program was very complex, as it was for several USDA programs.

While we would rather Secure Rural Schools was not subject to sequestration in fiscal year 2013, we have to follow the law. At the Secretary's direction we sought to implement sequestration in as equitable and least disruptive a manner as we could.

I look forward to any questions you may have.

[The prepared statement of Mr. Bonnie follows:]

PREPARED STATEMENT OF ROBERT BONNIE, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

Chairman Hastings, Ranking Member DeFazio, and members of the committee, thank you for the opportunity to appear before you today to discuss the implementation of the sequestration ordered on March 1, 2013, in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended, within the Department of Agriculture (USDA) specific to Secure Rural Schools payments.

The Secure Rural Schools and Community Self-Determination Act of 2000 (SRS) has provided more than a decade of transitioning payments to eligible States and counties to help fund public schools and roads and provided predictably declining payments to States to transition to the 25 percent payment. In addition, it has also created a forum for community interests to participate collaboratively in the selection of natural resource projects on the national forests, and has assisted in community wildfire protection planning. Between 2001 and 2013 the SRS program has made over \$5 billion in payments through Titles I, II, and III. The Forest Service

values the program's contribution to rural communities through providing critical local services, supporting income and employment opportunities, and resolving disputes over management of our national forests.

Payments under Titles I and III of the SRS were made in early January 2013 to fulfill our commitment to rural communities and in accordance with the act's requirement that payments be made as soon as practicable after the end of the fiscal year in which the receipts were collected. As Members are aware, the President was required by law to issue a sequestration order on March 1, 2013, canceling \$85 billion in budgetary resources across the Federal Government for the fiscal year.

The BBEDCA provides requirements on how sequester reductions were to be calculated by the Office of Management and Budget (OMB) and applied equally across the Department's programs, projects, and activities (PPA) within budget accounts that were not specifically exempt in the BBEDCA. OMB calculated the sequestration percentage that applies to each account. The statute then required the reductions to be applied equally to each PPA within a budget account. The statute defines PPAs as the items delineated in an appropriations act or accompanying report, or, for items not provided for in an appropriations act, in the President's fiscal year (FY) 2013 budget.

Given the broad scope and varied nature of USDA programs and funding accounts and the unique nature of sequestration, its application was complex and has involved significant effort working closely with agency budget officers, the Office of the General Counsel, and OMB.

In the case of the SRS payments, the relevant account is the Forest Service Permanent Appropriations account, which includes two PPAs for SRS: one comprising the fiscal year 2013 budget authority from receipts in fiscal year 2012 (the "receipts PPA"), and the other comprising additional fiscal year 2013 budget authority provided from the general fund of the U.S. Department of the Treasury to cover the shortfall in receipts necessary to make the full SRS payments (the "Treasury payments PPA"). While the fiscal year 2013 amount of SRS payments was based on the level of receipts collected in fiscal year 2012, section 102(e) of the statute directs that the funds be paid as soon as practicable after the end of the fiscal year. Therefore, these funds constituted budget authority for fiscal year 2013 and were subject to sequestration under the BBEDCA.

In calculating the sequestered amount, the BBEDCA repeatedly refers to the amounts for a "fiscal year" or "that year" (2 U.S.C. 901a). Thus, consistent with the application of sequestration across programs of the USDA, and across the government as a whole, the amount of the sequestration as calculated in March was based upon the full budgetary authority in the receipts PPA and the Treasury payments PPA for the entire fiscal year, not on the amount remaining available as of March 1, 2013, the date of the sequestration order.

Secure Rural Schools payments are made from both PPAs. The funding sources are not tied to a particular Title, so for the purposes of sequestration, it does not matter which Title's funding stream is cut in order to meet the full sequestered amount, as long as the required reductions are taken from each PPA. Since Title I and Title III payments already had been made in January in accordance with Section 102(e) of the SRS Act, the only funds remaining to satisfy the sequestration order were the Title II funds. Applying the sequester to the Title II funds alone would have resulted in a net reduction of Title II funding by 50.6 percent, resulting in impacts of millions of dollars to some States' Title II allocations. Applying the sequester in this fashion would have been inconsistent with USDA's goal in implementing sequestration—to administer reductions in the most equitable and fair manner possible. Accordingly, in this instance USDA determined that in order to ensure equity in the treatment of States, the same percentage reduction would be applied to each State.

As USDA pursued alternatives to create flexibility, the Department was faced with an unconventional situation. Unlike other USDA agencies, the administrative provisions for Forest Service in the Interior, Environment and Related Agencies Appropriations Act prohibit the Forest Service from using the Department's 7 percent interchange transfer authority to transfer funds to and from amounts available to the agency. Accordingly, the Forest Service notified States on March 19, 2013, that the SRS program was subject to sequestration, and that payments would be reduced by 5.1 percent. Since payments for Titles I and III had been made in January, this created an overpayment. In the March 19, 2013 letters, the Forest Service notified each State of the amount of overpayment and gave States, where applicable, the option of meeting obligations either by reducing Title II funds that counties had elected to use for Resource Advisory Committee (RAC)-recommended projects on the national forests in their State, or by being billed for the sequestered amount from Title I and III funds. Those States with counties that did not elect to

use a portion of their payment for Title II projects were informed that they would be billed for the overpayment. States were asked to advise the Forest Service by April 19, 2013, of how they preferred to comply. Some States advised the Forest Service by the deadline and those requests were honored.

On August 5, 2013, the Forest Service issued notification of billing to 16 States and the Commonwealth of Puerto Rico to collect \$582,000 in payments made from the Forest Service Permanent Appropriations Account for the Secure Rural Schools payments. These States either did not receive Title II funding or did not have sufficient Title II funding to meet the sequestered amounts. In addition, the Forest Service sent letters to three States to pay their special acts sequestration amount of \$306,000. The letters outlined the legal rationale for the application of sequestration and identified the State's right to petition for administrative review. Further, by letter of August 19, 2013, States that had sufficient Title II funds were notified of the amount that Title II allocations reserved by counties in the State would be reduced to cover the full amount of sequestration for that State.

USDA and the Forest Service regret that the SRS payments were reduced by sequestration. The Agency has strived to minimize negative impacts and has acted to ensure that all States were treated fairly in accord with the expectations made by their communities. Since SRS was first enacted 13 years ago, the Forest Service has strongly supported the program and has made timely payments to counties. In addition, Resource Advisory Committee projects have helped to bring different community interests together and have reduced polarization surrounding the management of Federal lands. Despite the unfortunate impacts of sequestration, the Forest Service looks forward to the continued benefits of SRS and its support for local communities.

Mr. Chairman, I hope that this overview is useful to the committee. I would be glad to answer questions you and members of the committee may have.

The CHAIRMAN. Thank you, Mr. Bonnie.
I recognize myself for 5 minutes.

Mr. Bonnie, I understand that when the sequester decision was made in early 2013, you were a senior advisor to the Secretary; is that correct?

Mr. BONNIE. That is right.

The CHAIRMAN. You have since been confirmed as Under Secretary, responsible for the Forest Service, among other areas; is that correct?

Mr. BONNIE. That is correct.

The CHAIRMAN. So given these two roles, I imagine that you were personally involved in the deliberations involving the sequester decision affecting the SRS program; is that correct?

Mr. BONNIE. I was involved in a number of the meetings.

The CHAIRMAN. OK. What was your role then in that sequester decision?

Mr. BONNIE. So my role is to advise the Secretary on natural resource issues. I mentioned the Secretary's laying out the two principles to staff. I was part of that meeting and part of other meetings related to sequestration, particularly as it relates to the path forward, this issue I raised of would we sequester Title II funds solely as a way to respond to sequestration or would we choose a more equitable path.

The CHAIRMAN. Are you familiar with our committee's document request of May 20 and then the subsequent subpoena to Secretary Vilsack about these documents?

Mr. BONNIE. Yes.

The CHAIRMAN. Were you ever asked to search for records in response to those requests?

Mr. BONNIE. Yes.

The CHAIRMAN. When were you asked?

Mr. BONNIE. Sometime this fall. I am not exactly sure when.

The CHAIRMAN. After September?

Mr. BONNIE. I believe so.

The CHAIRMAN. So we asked you in May, but you were not asked to do anything until after we sent a subpoena; is that correct?

Mr. BONNIE. I know that there was a lot of back-and-forth, both written, with the committee during the summer. I know we made—

The CHAIRMAN. But you were not asked.

Mr. BONNIE. I do not believe so. I am not exactly sure of the timing, but I do not believe so.

The CHAIRMAN. That is my whole point. You see, we asked for this in May. You were a high ranking advisor to the Secretary. You have since been confirmed as a higher ranking, but yet you were not asked to look for any records until after we subpoenaed. That is essentially what you said.

Mr. BONNIE. I do not believe so.

The CHAIRMAN. All right. Now, what is interesting about this is that the documents that you have turned over or that have been turned over to us have very few, very few documents bearing your name. Why is that?

Mr. BONNIE. Well, as I said, I participated in a number of the meetings. I don't think I was because I was not directly in the chain of command. You probably do not have a lot of emails from me, and I think that is probably why.

I did participate in meetings with the Secretary on natural resource issues, including this.

The CHAIRMAN. Well, see, this is the frustration, I think, that this committee has. We are asking. You know, we do not know the full scope, and that is why we ask for documents. And you just testified to say that you were a senior advisor to the Secretary, and yet you were not asked to provide anything until after we sent the subpoenas. I just find that very troubling.

Let me ask you one question, and this is a very important question, in my view. The Forest Service is expected to announce its distribution of fiscal year 2013 SRS funds any day now. The Office of Management and Budget and USDA have confirmed that the sequester will not apply to this 2013 money; is that correct?

Mr. BONNIE. Yes. In FY 2014, sequestration will not apply.

The CHAIRMAN. All right. Can you confirm then today that the USDA will not hold back any portion of the money to make up for the sequestered amounts that USDA had demanded last year to be repaid?

Mr. BONNIE. I cannot confirm that. So we have outstanding—

The CHAIRMAN. You cannot confirm that. So in other words, there is a possibility that these funds that are going to go out will deduct what people think that there should not have been deducted in the first place. So you are going to penalize with this year's CRS funds. You are going to deduct, which is a questionable deduction in the past. Is that correct?

Mr. BONNIE. No. So we have three options. One of the potential options, so we have \$888,000 in outstanding bills from the States.

We have three options to collect those dollars. One options is to reduce it from fiscal year 2014 Secure—

The CHAIRMAN. And that option is on the table?

Mr. BONNIE. It is on the table. And I will tell you that we would like to hear your opinion on what the best options are.

A second option is to do something administratively with the—

The CHAIRMAN. Well, I will tell you what the best option is right now. It is to explain to us how you made that decision in the first place. That is why we asked for the documents. We asked for those documents last May. You did not respond at all until after September when we subpoenaed.

We wanted to know your decisionmaking process. If you don't give us anything, and now you come back and you are going to continue to penalize those people on the local level that rely on SRS.

Mr. BONNIE. Sequestration—

The CHAIRMAN. The answer is very simple.

Mr. BONNIE. Sequestration—

The CHAIRMAN. That is why we asked you and others to be here and only you show up.

Mr. BONNIE. Sequestration is bad policy. We regret the impacts to counties and local governments. As I said in my opening statement, we follow the law.

The CHAIRMAN. My time has expired. I recognize the Ranking Member.

Mr. DEFAZIO. Where was the decision made? It was made in OMB; is that correct?

Mr. BONNIE. Well, we had lots of—we concurred a lot with our—

Mr. DEFAZIO. Yes, but you initially disbursed the money.

Mr. BONNIE. Yes.

Mr. DEFAZIO. Because you thought and you did it much more promptly than did Interior.

Mr. BONNIE. Right.

Mr. DEFAZIO. And Interior, in fact, did not disburse the money until much later, and they withheld 10 percent of the money.

Mr. BONNIE. That is right.

Mr. DEFAZIO. So you sent out all of the money.

Mr. BONNIE. That is right.

Mr. DEFAZIO. And then after so-called consultations with the dictators at OMB, you notified the counties that they were going to be subject to sequestration; is that right?

Mr. BONNIE. Yes, we concurred with their judgment. It was arrived at in conversations.

Mr. DEFAZIO. Concurred. Was this even a concur with OMB? I mean, you would not have come up with this idea on your own. I mean, since you had already sent out the money, you did not think they were subject to sequestration.

Mr. BONNIE. Yes. You know, as I said in my opening statement, the application of sequestration of Secure Rural Schools is quite complex. We had a whole bunch of programs like this where we were having to figure out the impacts of sequestration, and yes, but at the end of the day I think we are all in agreement that sequestration applies.

Mr. DEFAZIO. Right. But your initial inclination was disburse the money. Do not subject it to sequestration because it is fiscal year 2012.

I mean, I still disagree—

Mr. BONNIE. Yes. There was a lot of back-and-forth. That is right.

Mr. DEFAZIO. Well, I still disagree with that, and I made my objections clear, but the point is this was not some sort of plot or attempt. It was bureaucratic confusion. It was as I already mentioned the law which I opposed, and which had predictable results as a bad law mandating across-the-board cuts instead of allowing agencies a lot more discretion.

In fact, I believe at one point we tried to amend sequestration to give the agency sequestration just to meet the reduction targets, but to do it in ways that made more sense.

I mean, the way we did this is take a very high value program, like Secure Rural Schools, and cut that the same as some crummy program that we probably should have done away with years ago, but we do not conduct effective oversight around here to sort of go through agencies and look for programs that need more funding and programs that maybe could be dispensed with.

For instance, we also sequestered—did we not sequester fire-fighting?

Mr. BONNIE. We did.

Mr. DEFAZIO. And did that not lead to the reduction of readiness going into the fire season?

Mr. BONNIE. Yes, it did.

Mr. DEFAZIO. And I think we can probably say that it cost a hell of a lot more money in the end to fight those fires that we might have suppressed earlier had we had those crews trained and ready to go.

Mr. BONNIE. I think it is fair to say, talking to Forest Service experts, that we spent more on suppression than we would have otherwise because of the impacts of sequestration on preparedness.

Mr. DEFAZIO. So basically if you impose a stupid rule, which is across-the-board budget cuts with no flexibility, you are going to cut good programs, vital programs as much as the least useful program.

Mr. BONNIE. Yes.

Mr. DEFAZIO. That is great. Well, that is why we are here today. Maybe we can learn a lesson about sequestration and undoing that damage.

You know, we are going to have an ongoing problem with rural America, with counties that are dependent upon Federal land, in my case doubly so because of the O&C lands in Oregon which are under Interior's jurisdiction.

The bottom line, you know, I do not agree with the approach that the committee has put forward, but there is a common concern on this committee, across both sides of the aisle, that we need more economic activities in those rural areas to put people back to work. We need to try and create more revenues. We also need to look at if we cannot reach those goals how we continue payments to these counties and schools in the interim.

Are you, in your position, is the administration willing to work with us on the greater problem, the management, and second—on this issue of continued payments, bridge payments, however you want to look at them, as we move in that direction?

Mr. BONNIE. Yes, we are committed to both increasing the pace and scale of force management restoration. It is a top priority for us and we look forward to working with the committee, all of you, on that, as well as how we approach Secure Rural Schools.

Mr. DEFAZIO. OK. Well, hopefully we will hold a hearing or a work session on that soon.

Thank you.

The CHAIRMAN. I thank the gentleman.

The Chair recognizes the gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Thank you.

Mr. Bonnie, first of all, can the OMB confirm if any States have repaid this money?

Mr. BONNIE. The States that covered Secure Rural Schools through Title II, which are payments that go through the Forest Service budget and could cover it, yes, there are a number of States that have done so.

Mr. MCCLINTOCK. Which ones and how many?

Mr. BONNIE. I am happy to give you those details. There are 19 States and Puerto Rico that had insufficient funds. We are going through an administrative appeal process. I think six of those States have asked for an administrative appeals process.

Mr. MCCLINTOCK. So 19 States have not; is that correct?

Mr. BONNIE. That is right. You asked who has. New Hampshire has.

Mr. MCCLINTOCK. New Hampshire has, and has anyone else?

Mr. BONNIE. New Hampshire, the States that did not have enough Title II dollars. New Hampshire has.

Mr. MCCLINTOCK. Let me ask you this. Is the Department planning to withhold 2014 funds to all of those States that have not repaid that money?

Mr. BONNIE. The Chairman asked that question. What I would tell you is that we have, we think, three options for dealing with the outstanding debt, assuming everything goes through the administrative appeals process. One option is to withhold dollars from Secure Rural Schools in fiscal year 2014.

A second option is to withhold it through the departmental funds that may go to States.

A third option is to refer to Treasury.

We are obviously open to any of those options and interested in the committee's—

Mr. MCCLINTOCK. Two of those three options are, yes, you are going withhold future funds that are owed to these States, and one option is you are going to punt to Treasury.

Did I understand that correctly?

Mr. BONNIE. One option is directly to Secure Rural Schools. One option is to USDA payments more broadly. One option is to refer to Treasury.

Mr. MCCLINTOCK. Well, when the USDA announced on January 15, 2013 that it was making these payments, it did not state or

even suggest that the payments would later be subject to sequestration and the States would be ordered to pay back the money. And, frankly, there are a lot of us who are very concerned about what the USDA and the Forest Service knew at the time the payments were made and whether it was honest with the American people and with the Congress.

One thing that is very unclear is whether the USDA really believed at the time that the SRS payments were made in January that they would not be later subject to sequestration or, in the alternative, whether you knew sequestration would apply to SRS and were simply gambling that the sequestration would not take effect and you would not have to deal with the consequences of asking to take the money back.

I think those are the only two options. Which one is correct?

Mr. BONNIE. There were at that time, in the middle of January, there were still disagreements both within USDA about the application of sequestration because of this issue I mentioned in my testimony and the fiscal year 2012 receipts, and amongst USDA and OMB.

Mr. MCCLINTOCK. Well, let me ask you this. Was sequestration applied retroactively to all of the funds that were distributed prior to March 1?

Mr. BONNIE. Do you mean all the Secure Rural Schools?

Mr. MCCLINTOCK. No, all funds that were distributed. I mean, the sequestration was signed, I believe, in December of 2011. On January 15 you released that money with absolutely no hint that it might be called back. On March 1 the President signs the sequestration order.

So my question is this. Was that order applied retroactively to all funds that were released prior to March 1 or just to Secure Rural Schools?

Mr. BONNIE. So the statute requires, the Budget Control Act requires that all sequestration be applied to the entire year's funding. So any programs that had funding that had already gone out, yes, they had sequestration applied to those funds.

Mr. MCCLINTOCK. So all funds that were released prior to March 1 were called back in the same manner.

Mr. BONNIE. Yes. And for other programs within USDA we have transfer authority. So, for example, with the Conservation Security Program, even though payments had gone out, we sought congressional approval to transfer monies from within the Natural Resources Conservation Service to deal with that.

We do not have the same transfer authority because Congress has not given it to us for the Forest Service. So we could not take a similar approach with the Forest Service. Therefore, we had this decision where we could withhold just from Title II, which would impact some States worse than others, or we could do what we did which was to be equitable and apply it evenly across all States.

Mr. MCCLINTOCK. And just to be clear, who actually made this decision? Was it the President? Was it the Secretary of Agriculture? Who made the decision?

Mr. BONNIE. The decision about how to approach sequestration, whether to apply it just to Title II dollars or equitably, was made by the Secretary.

Mr. MCCLINTOCK. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Nevada, Mr. Horsford.

Mr. HORSFORD. Thank you, Mr. Chairman, and I appreciate you having this hearing today.

I represent Nevada's Fourth Congressional District, which includes a large swath of rural Nevada, and the Secure Rural Schools program is a very important component to how many of our local communities operate.

And, again, I want to thank the Chairman and the Ranking Member for having this hearing today.

And I agree sequestration is bad policy. It needs to be replaced, but I also agree that our constituents expect this program to be properly administered and communities across this country rely on these funds, and so any misuse or poor administration of these funds needs to be addressed, and I think that that is hopefully the intent behind today's hearing.

But I do want to raise a few local concerns that I have heard from leaders in my community. One, in particular, Nye County Commissioner Wichman, who has raised concerns, while she supports the program in general as do I, here are a couple of concerns that she has raised that I would like you to respond to.

She has noticed that in Nye County there is a problem when the Secure Rural Schools program is also used for things that the U.S. Forest Service should otherwise be doing. She sees funds going for cutting in and maintaining trails, for example, and other priorities of the Forest Service.

Nye County is not an apparition in this case. So the Secure Rural Schools Act was designed to operate in a way to support the needs of local communities and those schools in particular, but it leaves the 775 rural counties and over 4,000 schools that benefit from the program in a situation where they see these funds being used for other purposes.

So can you share with the committee how you determine where the funds actually go on the ground?

Mr. BONNIE. It is a good question. So the counties themselves are actually able to make elections with respect to how Secure Rural Schools dollars are spent. Title I is for roads, schools, those types of things. Title II is for the projects that you referenced. They may be forest management. They may be road projects. They may be recreation sites, those types of things.

And we establish Resource Advisory Committees to advise the Forest Service on the high priority projects in each county.

The third area is for wildfire planning. So the counties go through an election process. They have gone through an election process just this past couple of months and can direct Forest Service or tell their States where to direct those dollars to go.

Mr. HORSFORD. OK. I would like to follow up with you and get that.

Mr. BONNIE. I am happy to follow up. If you want to put the County Commissioner and if we want to get them with Forest Service staff or otherwise, I am happy to make that happen.

Mr. HORSFORD. Great. Thank you.

I want to pursue another concern of another County Commissioner. It is regarding the PILT funding. They have noticed that the Secure Rural Schools program by design results in deductions from the county's PILT allocation.

Since we are reviewing this program today, can you share with the committee how this reduction in PILT funding works and how it impacts individual counties and rural schools?

Mr. BONNIE. So I am not an expert on PILT. That is a program administered by Department of the Interior. What I would offer is let us follow up. If we need to have discussion both with USDA and DOI and your staff, I am happy to, again, make that happen.

Mr. HORSFORD. Thank you, Mr. Chairman.

I appreciate it and, again, you know, we need to do everything that we can to make sure that these types of programs that support rural America, most of the time rural communities are as underserved as any other communities, and these are vital services and programs, and we need to make sure that they are going to their maximum and best use, and where we can improve and streamline and make it work better, I want to work with the committee to achieve that, and I appreciate the gentleman for being here and for your testimony today.

The CHAIRMAN. The gentleman yields back his time?

Mr. HORSFORD. Yes.

The CHAIRMAN. Before I recognize the gentleman from Georgia, Dr. Broun, I want to ask unanimous consent to insert into our record a letter from the Governor of my State of Washington, Governor Jay Inslee. He used to be a member of this body, indeed, was a member of this committee. It is a letter to Chief Tidwell of the Forest Service.

He states that the State of Washington will decline to accept a reduction in allocation of Title II funds or to repay previous Title I or Title III funds. I would ask unanimous consent that that be part of the record just to demonstrate that this is an issue that crosses partisan lines because Governor Inslee is a Democrat.

[The letter from Governor Inslee to Chief Tidwell follows:]

LETTER SUBMITTED FOR THE RECORD BY CHAIRMAN HASTINGS

OFFICE OF THE GOVERNOR,
STATE OF WASHINGTON,
OLYMPIA, WASHINGTON 98504,
APRIL 19, 2013.

Hon. THOMAS L. TIDWELL, *Chief, Forest Service,*
U.S. Department of Agriculture,
1400 Independence Avenue SW,
Washington, DC 20250.

DEAR CHIEF TIDWELL:

In response to a letter I received on March 19, 2013, pertaining to Secure Rural Schools payments having been previously received by and allocated to the State, I wish to inform you that the State of Washington will decline to accept a reduction in the allocation of Title II funds, or to repay previously received Title I and Title III funding, unless and until the State can be convinced of the U.S. Forest Service's (USFS) legal authority to reclaim these funds.

As you know, the Secure Rural Schools and Community Self-Determination Act provides essential financial support for education, infrastructure, and emergency services in communities in my State and in States around the country. It is extremely unfortunate that the March 2013 Federal budget "sequestration" was forced

into effect because of the obstinacy of some in Congress who are opposed to a balanced plan for deficit reduction. Sequestration has taken and will continue to take a toll on many important Federal programs and activities and has led to layoffs and furloughs in my State.

Under the 2011 Budget Control Act that triggered sequestration, certain percentages of spending reductions have been required to the majority of discretionary and mandatory Federal programs, projects, and activities for the remaining months of Federal fiscal year 2013. However, this legislation does not contain language authorizing the retroactive application of the spending reductions or limitations. Nor does it contain language requiring reimbursement of funds that were already distributed in order to satisfy these spending limitations. As such, previously received and allocated Secure Rural Schools funds should not be subject to sequestration.

I understand that an explication of the specific authorities USFS is using to reclaim these funds has been requested in at least two different letters sent by Members of Congress to the U.S. Department of Agriculture (USDA) and the Office of Management and Budget (OMB). Further, I understand that this information has also been requested by the National Governors Association (NGA). It is my understanding that none of these parties have received a formal response to their requests, to date.

Therefore, the State of Washington will decline to accept a reduction to its Secure Rural Schools Title II fund allocation, or to repay previously received Title I and Title III funds, unless and until USFS can provide an explanation of its legal authority supporting this proposed action.

Sincerely,

JAY INSLEE,
Governor.

The CHAIRMAN. And with that I recognize the gentleman from Georgia, Dr. Broun.

Dr. BROUN. Thank you, Mr. Chairman.

Mr. Secretary, you mentioned that you thought personally that sequester was bad policy; is that correct?

Mr. BONNIE. That is correct.

Dr. BROUN. Mr. Secretary, I agree with you. In fact, I did not vote for sequester. I have introduced more targeted spending cuts than any other Member of Congress, and I believe very firmly that we absolutely must cut this outrageous spending that both parties have been engaged in for a long, long period of time.

I did not vote for sequester, but having said that, do you have any idea who proposed the sequester?

Mr. BONNIE. No, I do not. I am not an expert on the budget conversations that occurred when the sequester was first written into policy.

Dr. BROUN. Well, I will tell you who brought up the idea of sequester was the President himself. It was his policy that he brought to Congress to try to work with Republicans in the House because everything we have done in the House has been blocked by Harry Reid over on the Senate side.

The President proposed sequester, it is my guess, so that he could get his spending increases that he was proposing, as well as his tax increases that he was proposing because he thought Republicans would not allow the spending cuts to the military.

And I am in the military. In fact, I am an Afghanistan war vet. I am in the Navy Reserve today, and it was terrible policy, but going back to the decisionmaking process and kind of adding to what Mr. McClintock asked you, let me make this be clear to me anyway.

Mr. McClintock asked you who made the decision because it is my understanding that USDA thought that the funds that were of the 2012 year should have been paid out; is that correct?

Mr. BONNIE. So we definitely had questions until up through January.

Dr. BROUN. OK. But USDA made the decision that those funds should be paid out, correct?

Mr. BONNIE. Yes, in mid-January Forest Service released Title I funds and Title III under Secure Rural Schools rules.

Dr. BROUN. Thank you for doing that, sir.

And it went to Interior, and that is where the roadblock became apparent, correct?

Mr. BONNIE. Well, there were conversations beginning in late January and through February about the application of Secure Rural Schools or sequestration to Secure Rural Schools. Those conversations occurred between USDA, Forest Service and OMB.

Dr. BROUN. OK. So it was when OMB weighed in that the actual block of sending out the checks actually occurred; is that correct?

Mr. BONNIE. Well, it is when we recognized that we had a challenge because we had paid out Title I funds and we had this issue of equity that I mentioned before. We could withhold all of the sequestered amount in Title II, but that would be unfair to some States.

Dr. BROUN. Well, there had to be some individual who made the decision, and this is getting back to what Mr. McClintock asked. It is my understanding that it was the Secretary that made the ultimate decision.

Mr. BONNIE. The Secretary made the decision about how we would, now that Secure Rural Schools was subject to sequestration and the entire year's funding was, how would we go forward. Yes, the Secretary made the decision.

Dr. BROUN. OK. Now, which Secretary? I want to be clear.

Mr. BONNIE. Secretary Vilsack.

Dr. BROUN. OK. And do you have any idea whether that was in consultation with the President or anybody outside the Secretary's office?

Mr. BONNIE. No. I was in the room with the Chief, with other members of the staff when we laid out the challenge we had and the options, the challenge being that we paid out Secure Rural Schools. It was now subject to sequestration. Did we want to sequester only from Title II or did we want to treat States more equitably.

The Secretary, as you know, is a former Governor. He felt equity amongst States was very important.

Dr. BROUN. Well, I am talking about not just the equity, but just actually sending out the money. Who made that decision? The USDA decided that the money should go out.

Mr. BONNIE. Forest Service decided to move, as the law requires them to move, in January. The Secure Rural Schools law requires us to move as quickly as we can, and so we decided to move forward.

Recall in January, we did not know if sequestration was going to apply or not. We know how important the payments are. We de-

cided to move forward, and that decision was really made at the Forest Service.

Dr. BROUN. OK. Who made that decision?

Mr. BONNIE. I would say the Chief.

Dr. BROUN. The Chief of the Forest Service, and was that in consultation with anybody in the Secretary's office or do you know how that occurred?

Mr. BONNIE. So I do not recall any consultation. I do not know if there was any or not, but typically with Secure Rural Schools, the payments go out from the Forest Service without consultation.

Dr. BROUN. So the Chief just made that decision by himself without any consultation?

Mr. BONNIE. I am assuming that is correct.

Dr. BROUN. With OMB or within the Secretary's office?

Mr. BONNIE. I am assuming that is correct. I cannot guarantee because I do not know the nature of all the conversations that might have happened.

Dr. BROUN. Thank you, sir. My time has expired. I yield back.

The CHAIRMAN. I thank the gentleman.

The Chair recognizes the gentleman from California, Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chairman.

Mr. Bonnie, I would like to walk through the legal basis for USDA's decision on how to apply sequestration to the Secure Rural Schools funds.

The committee's Democratic staff asked the Congressional Research Service to prepare a memo evaluating whether the SRS payments are subject to sequestration, and I would like to enter this into the record, Mr. Chair.

The CHAIRMAN. Without objection, it will be part of the record. [The memo from the Congressional Research Service follows:]

MEMO SUBMITTED FOR THE RECORD BY CONGRESSMAN LOWENTHAL

CONGRESSIONAL RESEARCH SERVICE,
WASHINGTON, DC,
NOVEMBER 13, 2013.

*House Committee on Natural Resources,
Washington, DC.*

Re: Sequestration of Secure Rural Schools and Community Self-Determination Act Payments

This memorandum responds to your request for information on the sequestration on Federal payments made to counties by the Forest Service under the Secure Rural Schools and Community Self-Determination Act (SRS).¹ On March 1, 2013, the President ordered the sequestration of budgetary resources for FY 2013 pursuant to the Budget Control Act (BCA).² SRS is administered by both the Forest Service (FS) in the U.S. Department of Agriculture (USDA), and the Bureau of Land Management (BLM) in the U.S. Department of the Interior (DOI).³ Each agency implemented the sequester of SRS payments differently. Although you specifically requested information regarding the FS' implementation of the sequester order, information on BLM's implementation is also provided as supplemental and contrasting information.

¹ P.L. 106-393, as amended, 16 U.S.C. §§ 7101-7153.

² P.L. 112-25, as amended by P.L. 112-240.

³ For more information on SRS, see CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*.

Sequestration of Direct Spending Under the BCA

Section 302 of the BCA required the President to order a sequester, or cancellation, of budgetary resources for FY 2013, in the event that Congress did not enact deficit reduction of at least \$1.2 trillion by January 15, 2012.⁴ Congress did not enact such deficit reduction by that date, and on March 1, 2013, the Office of Management and Budget determined the dollar amount of the total sequestration for FY 2013 to be approximately \$85 billion.⁵

Under the BCA, half of the total reduction calculated pursuant to paragraph (3) for FY 2013 is allocated to defense spending, and the other half to non-defense spending.⁶ Within each half, the reductions are further allocated between discretionary appropriations and direct spending.⁷ Discretionary appropriations are defined in the BCA as budgetary resources provided in annual appropriations acts.⁸ In contrast, direct spending is defined to include budget authority provided by law other than appropriation Acts.⁹ The BCA further requires OMB to calculate a uniform percentage reduction that is to be applied to each program, project, or activity within the direct spending category.¹⁰ For the direct spending category, OMB has determined this percentage to be 5.1 percent for FY 2013.

SRS Background

Many counties are compensated for the tax-exempt status of Federal lands. Counties with national forest land and with certain BLM lands in Oregon—called the Oregon and California (O&C)¹¹ lands—have historically received a percentage of agency revenues, primarily from timber sales. However, beginning in the late 1980s, timber sales have declined substantially, resulting in reduced county payments. SRS was enacted in 2000 as a temporary, optional program of payments based on historic, rather than current, revenues. The SRS program continued to be mandatory spending, funded in part through FS and BLM revenue but also funded from the General Treasury. Authorization for SRS payments originally expired at the end of FY 2006, but through several reauthorizations the program was extended through FY 2013 at \$329 million.¹² Currently, SRS is not authorized for FY 2014 and without congressional action, county payments will return to a revenue-based system.

The payment for a fiscal year for each participating county is made to the State as soon as practicable after the end of that fiscal year.¹³ This means that the FY 2012 payment was made in FY 2013. Further, the FY 2013 payment has not yet been distributed, although FY 2014 has already started. Counties which elect to participate in SRS can allocate their payment in three different ways, corresponding to the three titles within the original legislation. Title I funds are paid to the county and may be used for county road and school projects;¹⁴ Title III funds are also paid to the county and may be used for certain specified county projects. However, Title II funds are retained by the agency to fund Federal land management projects on national forest or BLM land within that county.

Application of Sequestration to SRS

The payments made under SRS are directed in § 102, codified at 16 U.S.C. § 7112. Because the authority to make these payments is not provided in an annual appropriations act, such payments are not discretionary spending for purposes of the BCA. However, these payments would appear to be correctly classified as non-defense, direct spending for purposes of sequestration, as direct spending is defined to include all budget authority provided in law other than annual appropriations acts.¹⁵ The BCA exempts a number of programs from sequestration. However, the

⁴ 2 U.S.C. § 901A. The sequester was originally supposed to be ordered on January 2, 2013, but was delayed by the American Taxpayer Relief Act of 2012, P.L. 112–240, until March 1, 2013.

⁵ This amount was identified based on a formula set forth in § 302 of the BCA.

⁶ 2 U.S.C. § 901A(4).

⁷ 2 U.S.C. § 901A(6).

⁸ 2 U.S.C. § 900(7).

⁹ 2 U.S.C. § 900(8). Budget authority is further defined as “the authority provided by Federal law to incur financial obligations.” 2 U.S.C. § 622.

¹⁰ Although not relevant here, additional restrictions are placed on the degree by which Medicare payments in the direct spending category may be reduced. 2 U.S.C. § 901a(8).

¹¹ For more information on the O&C lands, see CRS Report R42951, *The Oregon & California Railroad Lands (O&C Lands): Issues for Congress*.

¹² P.L. 113–40 reauthorized SRS for FY 2013 at 95 percent of the FY 2012 funding level.

¹³ 16 U.S.C. § 7112(e).

¹⁴ BLM Title I payments may be used by the county for any purpose.

¹⁵ 2 U.S.C. § 900(8).

payments under SRS do not appear to be identified as exempt.¹⁶ Consequently, these payments would appear to be subject to sequestration at the rate determined for non-defense, direct spending under the BCA.¹⁷

As noted above, the payments for a given year are required to be made “after the end of that fiscal year.”¹⁸ Further, the BCA requires direct spending to be sequestered for fiscal years 2013 through 2021.¹⁹ Therefore, questions may arise regarding whether the payments under SRS for FY 2012, which were made in FY 2013, should be subject to sequestration.

For purposes of the BCA, sequestration is “the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.”²⁰ The term “budgetary resources” is further defined to include “new budget authority,”²¹ which is itself defined as “budget authority that first becomes available for obligation in [a particular fiscal] year.”²² Based on these nested definitions, budget authority that first becomes available for obligation in FY 2013 would appear to fall within the definition of budgetary resources subject to cancellation in that fiscal year. Consequently, there appears to be a sufficient legal basis upon which to conclude that payments under SRS for FY 2012 (but not able to be made until FY 2013) would be subject to sequestration in FY 2013.²³ As discussed in the next section, this sequestration of FY 2012 payments as part of the FY 2013 sequestration did in fact occur.

Forest Service Sequestration of SRS Funds

The Forest Service distributed the full FY 2012 SRS payments to the States in January and February 2013. After the sequester order, the FS announced at a March 19, 2013 Senate Committee on Energy and Natural Resources hearing that it would seek to recover from the States the 5.1 percent of the payments that are subject to sequestration.²⁴ In letters sent to each affected Governor, the Forest Service outlined two repayment options and asked for the States to respond by April 19, 2013. In addition to repaying the 5.1 percent, the FS offered the States the option of having the full sequestered amount taken out of Title II funds (for those States with enough Title II money). Three States—Alaska, Washington, and Wyoming—have publicly indicated their intention to not repay the SRS funds.²⁵ In an April 16, 2013, hearing before the Senate Committee on Energy and Natural Resources, the FS indicated that invoices for the repayment would be sent in late April 2013.

On August 5, 2013, the Forest Service sent additional letters which included invoices for the repayment to the Governors of the 18 States with insufficient Title II money to cover the sequestered amount.²⁶ The invoices outline three options for the affected States to take within 30 days: pay the debt in full; agree to a payment plan; or petition for administrative review of the debt. The invoices also included a Notice of Indebtedness to the U.S. Forest Service and Intent to Collect by Administrative Offset, which describes the basis of the indebtedness and the Forest

¹⁶ 2 U.S.C. § 905.

¹⁷ 2 U.S.C. § 901a(8).

¹⁸ 16 U.S.C. § 7112(e).

¹⁹ 2 U.S.C. § 901a(6).

²⁰ 2 U.S.C. § 900(c)(2).

²¹ 2 U.S.C. § 900(c)(6).

²² 2 U.S.C. § 622(2)(C)(i).

²³ In 1986, the Comptroller General opined that payments under a similar program should be considered new budget authority for the year in which timber receipts are collected, rather than the year in which payments derived from those receipts are actually made. Letter from Comptroller General to Chairman Hatfield, B-221498.18 (May 5, 1986), available at <http://www.gao.gov/assets/210/208491.pdf>. However, that decision may be distinguishable from SRS, as payments were made in the succeeding fiscal year only “due to the practicalities involved.” *Id.* In contrast, SRS payments for a given fiscal year are statutorily required to be made *after* the end of that fiscal year, bolstering the argument that the budget authority to make payments under SRS does not come into existence until the fiscal year following the fiscal year for which the payments are to be made.

²⁴ Testimony of Forest Service Chief Thomas Tidwell, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Keeping the Commitment to Rural Communities*, hearing, 113th Cong., 1st sess., March 19, 2013. SRS payments are made from the Forest Service to the States, which then distribute the payment to the eligible counties.

²⁵ Phil Taylor, “Hastings probes Forest Service’s withholding of timber payments,” E&E News, May 21, 2013.

²⁶ The following States did not have sufficient Title II funds to cover the sequester and received invoices: AL, AR, GA, IL, IN, ME, MN, MO, NC, ND, NE, NH, NY, OH, PA, PR, TN, VT, and VA. WA received a letter and invoice to collect money from a special act payment, but the letter also indicated the total SRS Title II reduction.

Service's intent to offset future payments—without assessing penalties—from future Forest Service and Department of Agriculture State payments.²⁷

On August 20, 2013, the Forest Service sent additional letters to the governors of the 22 States that had sufficient Title II money to cover the sequestered amount.²⁸ The letters informed the governors that the Title II allocations are being reduced by the sequestered amount.

On September 4, 2013, House Natural Resources Committee Chairman Doc Hastings issued subpoenas to the Secretary of Agriculture and the Director of OMB seeking documents related to the decision to sequester the SRS payment by September 18, 2013.²⁹ On November 5, 2013, Chairman Hastings sent another letter to both the Secretary of Agriculture and the Director of OMB indicating their failure to fully comply with the subpoenas and announced a planned oversight hearing on the issue, tentatively planned for November 20, 2013.³⁰

BLM Sequestration of SRS Funds

BLM issues SRS payments only for the O&C lands in Oregon.³¹ In February, 2013, BLM distributed \$36 million to the 18 O&C counties in Oregon for FY 2012 SRS payments. However, DOI held back 10 percent of the scheduled payments across all three titles in anticipation of the possibility of sequestration. The reduction to DOI's SRS program required by sequestration is 5.1 percent of the total payment, or \$2.0 million.³² Since the sequestered amount was less than the amount withheld, DOI-BLM owed an additional SRS payment for the difference. In May 2013, BLM distributed the remaining 4.9 percent of the payment, resulting in a total \$38 million SRS payment to the O&C Counties for FY 2012.³³

KATIE HOOVER,
Analyst in Natural Resources Policy, 7-9008.

EDWARD C. LIU,
Legislative Attorney, 7-9166

Dr. LOWENTHAL. Thank you, Mr. Chairman.

The CRS found, and I quote, “The BCA,” or the Budget Control Act, “exempts a number of programs from sequestration. However, the payments under SRS do not appear to be identified as exempt. Consequently, these payments appear to be subject to sequestration.”

Is that your understanding as well?

Mr. BONNIE. Yes.

Dr. LOWENTHAL. The Secure Rural Schools and Community Self-Determination Act requires that payments be made, and I quote from the report, “as soon as practical after the end of the fiscal year.” And that is from statute.

Thus, in January 2013, the Forest Service distributed to States the SRS payments that were based on receipts collected in fiscal year 2012. The law required you to make these SRS payments early in fiscal year 2013; is that correct?

Mr. BONNIE. That is correct.

²⁷ As of November 13, 2013, the Forest Service had not responded to CRS' inquiry regarding the status of any funds remitted or any further collection efforts.

²⁸ The following States had the sequester withheld entirely from their Title II funds: AK, AZ, CA, CO, FL, ID, KY, LA, MI, MS, MT, NM, NV, OK, OR, SC, SD, TX, UT, WI, WV, and WY.

²⁹ House Natural Resources Committee, Press Release September 4, 2013, <http://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=347606>.

³⁰ House Natural Resources Committee, Press Release November 5, 2013, <http://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=360388>.

³¹ For more information on the O&C lands, see CRS Report R42951, *The Oregon & California Railroad Lands (O&C Lands): Issues for Congress*.

³² Testimony of DOI Deputy Assistant Secretary Pamela K. Haze, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Keeping the Commitment to Rural Communities*, hearing, 113th Cong., 1st sess., March 19, 2013.

³³ Personal Communication with Lara Douglas, Legislative Affairs Analyst, BLM, June 19, 2013.

Dr. LOWENTHAL. Sequestration had not taken place at that time, and in fact, the administration and Members of Congress in both parties expressed hope that we could reach a deal to avoid sequestration. USDA did not know if it was going to have to implement sequestration.

So you got full SRS payments out the door as the law requires; is that correct?

Mr. BONNIE. That is correct.

Dr. LOWENTHAL. Thank you.

Unfortunately, our colleagues, the Majority colleagues, proved unwilling to compromise and allowed sequestration to go forward. USDA then needed to determine how to implement sequestration for SRS payments.

One issue that has been raised is whether sequestration applied to payments that were based on 2012 receipts, but were distributed in 2013. In its memo prepared at the request of the committee's Democratic staff, the Congressional Research Service concluded that sequestration did apply, finding, quote—and that is in this report—“budget authority that first becomes available for obligation in fiscal year 2013 would appear to fall within the definition of budgetary resources subject to cancellation in that fiscal year.”

OMB and USDA came to that same conclusion; is that correct?

Mr. BONNIE. That is correct.

Dr. LOWENTHAL. So the Majority has insinuated that potentially some of your decisions were politically motivated rather than legally required. Were any of these decisions motivated by politics over law?

Mr. BONNIE. No.

Dr. LOWENTHAL. Thank you, and I yield back my time.

The CHAIRMAN. I thank the gentleman.

The Chair recognizes the gentleman from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman, for holding this important hearing.

Thank you, Mr. Bonnie, for taking the time to be here.

Many rural communities in my district depend on Secure Rural Schools payments to be able to fund education, public safety, infrastructure, as well as important programs that are used to be able to prevent catastrophic wildfires. SRS payments are necessary because the Federal bureaucrats have failed to provide a dependable revenue stream for rural counties with large expanses of national forestland by not allowing for the proactive management of our forests.

Until the Senate passes a proactive Hastings-Tipton Forest Management package, H.R. 1526, the Federal Government needs to continue to provide these important payments. The administration's arbitrary decision to sequester better than 73 percent of Title II SRS payments for Colorado is already having devastating impacts on communities in my district. County officials have let me know that they will be canceling important transportation, emergency service and fire prevention projects as well as having to lay off teachers and other employees due to reduced payments.

Let me be clear. If left unchecked, the actions by this administration, will directly and adversely impact students and teachers in economically disadvantaged rural areas in my district. I am out-

raged by this administration's decision in taking this action, and they have not been more transparent in this process. They have failed to comply with subpoenas and have not fully answered important questions posed by me and other members of this committee.

Mr. Bonnie, I must admit that I am disappointed that the General Counsel has refused to testify with you today, but we have emails obtained in response to this committee's subpoena, and they raise question about the roles of the Office of the General Counsel in playing in the decision to be able to apply the sequestered SRS money already paid out to the States.

We have that up on the screen right now.

A Forest Service employee in this email is telling Office of Management and Budget that USDA's attorneys have determined that sequester will not apply to the SRS programs because the payments have already been made. In this email, as you can see, it states, "The Forest Service will not be using Title II of SRS to cover reductions for Titles I and III because funds for Titles I and III have already been disbursed. Because those funds will not be in the SRS account on March 1, they will not be subject to sequestration and need to be covered by Title II allocations or any other budgetary resources that might remain in the SRS account."

Now, this document clearly demonstrates that those answers were sent on February 14. USDA was in the mindset that sequestration would not apply to the SRS funds that had already been sent out.

Is that a correct summary of the USDA's views on how the sequestration would apply?

Mr. BONNIE. So, as my oral testimony mentioned, there was a lot of back-and-forth even after OMB in September said sequestration would apply. There was a lot of back-and-forth up until the middle of February on this topic. There was both back-and-forth within USDA and between USDA and OMB.

I do want to go back to one thing you said earlier, which is that the application of sequestration to Colorado has resulted in impacts to teachers and others. Colorado is a State that does not have an outstanding balance right now. That is because the entire sequestration was taken out of Title II, which goes through the Forest Service budget.

So there was no impact on teachers, schools or otherwise.

Mr. TIPTON. I come from the State of Colorado, and it is kind of you out of Washington to tell us that our schools are not being impacted. I can tell you they are being impacted. We have an abundance of public lands. We have just found out that PILT is not going to be funded in the omnibus that is coming through. You are slapping us again with funding for rural schools that is coming through.

It is impacting teachers. It is impacting students.

Mr. BONNIE. That may be the case. There may be other things, other concerns you have with PILT and other things. I do not want to deny any of that. My point is a narrow one, that Colorado paid for its application of sequestration Secure Rural Schools solely with Title II dollars.

Mr. TIPTON. Ultimately, what the USDA decided to do was not demonstrated by this email, and what the attorneys recommended was not done; is that correct?

Mr. BONNIE. No. We all concur now with, just as you heard here, that the law is fairly clear with respect to sequestration—

Mr. TIPTON. Concurs, but that was not the advice that was given originally, was it?

Mr. BONNIE. There was a lot of back-and-forth. There was back-and-forth amongst several folks within USDA and OMB.

Mr. TIPTON. When did you become aware that OGC had given this advice?

Mr. BONNIE. I do not know that. I was part of the discussions. I do not know that I could say when I aware of this specific advice.

Mr. TIPTON. OK. In your previous role as Senior Advisor to the Secretary, did you ever meet with the Office of the General Counsel or receive advice on these issues?

Mr. BONNIE. The General Counsel was in the meeting that I mentioned with the sequestration where some of these issues were discussed.

Mr. TIPTON. I see my time has expired, Mr. Chairman.

The CHAIRMAN. The time has expired.

The Chair recognizes the gentleman from California, Mr. Huffman.

Mr. HUFFMAN. Thank you, Mr. Chair, and Mr. Under Secretary, thank you for being here.

I appreciate your explanation about the complexities of the sequestration law, about your lack of transfer authority of this particular program and how that complicated the tough decisions that you had to make.

That does not make the decision any more popular. I am one of the Members who signed onto the bipartisan letter expressing concern, and as much as I can appreciate the bind that you were in, I still do not like the outcome, and I hope one of the things that you are taking away from this hearing is that there is strong bipartisan support for this program; that it is a lifeline for the communities we represent, Democrat and Republican; and frankly, my hope is that you will agree with us that the idea of a retroactive refund for these communities that have no cash reserves, that receive these payments and immediately made financial commitments, that do not have the flexibility or the capability to pay this money back, that you will find a better way, whether that is through the Secretary of Treasury or whether that is coming to us in Congress, telling us what you need to make this right for these communities that just cannot absorb this kind of a retroactive hit.

I appreciate the fact that you have produced, contrary to some of the insinuations, you have produced thousands of pages of documents. You have agreed to make other sensitive documents available to the committee for in camera review.

CRS has concluded, based on all of these documents, that you did have sufficient legal basis for the decision you made. Again, it does not mean I like it. It does not make it any more popular, but I think where we may differ here is that the lack of evidence of political misconduct is being interpreted by the Majority as evidence that you are hiding something, but it I think is more reasonably

interpreted as evidence that there was no political misconduct, again, for a very unpopular decision that I do not like one bit.

So I guess with all of that—

The CHAIRMAN. Will the gentleman yield?

Mr. HUFFMAN. Yes, I will, Mr. Chairman.

The CHAIRMAN. Clearly, there is bipartisan concern with this, and the answer, I think, very easily is for USDA to say that there will be no retribution as far as asking for a payback.

I mean, the Governor, as I mentioned, in the State of Washington, if they can give us assurances, for example, that they will say, "OK. We will send out the funds for the next fiscal year, and we will not deduct that," as far as I am concerned the issue is over.

Now, I can be concerned because they have not responded to us and all of those sorts of things that we have that tension between the executive branch and the Congress. I understand that, and that will go on. But from the standpoint of our constituents, we would feel much, much better if they would just simply say, "OK. There will be no retribution. Those funds will go out without any deduction."

And I thank the gentleman. I think the gentleman agrees with me with that.

Mr. HUFFMAN. Absolutely, Mr. Chairman. I do agree, and I would be delighted with that outcome as well, but I guess I would just say that if the Department needs Congress to step up and provide some authority so that that can all happen, we need to step up and do our job and partner with the administration and make this right.

The CHAIRMAN. If the gentleman will yield, the mere fact that there is a gray area would suggest that that does not have to be done. I mean, that to me would be the solution. Let us end it. After all, the sequester did not happen until March. This decision was made in January.

Most people on Main Street would say, "Gee, why would you do it in the first place?"

So I thank the gentleman for yielding to me, and I yield back to him.

Mr. HUFFMAN. Thank you, Mr. Chair.

I will allow the Under Secretary to respond, and I have no further questions or comments.

Mr. BONNIE. I strongly concur with the fact that sequestration had negative impacts on rural counties; would love to be in a situation where we did not have to worry about the \$888,000 that we do have to worry about; would love to do what you do, but we cannot because of the Antideficiency Act.

That said, as you point out, it is within Congress' power to resolve this issue both with respect to the clawback and other aspects of this program.

Mr. HUFFMAN. Thank you. I yield the balance of my time, Mr. Chair.

The CHAIRMAN. I thank the gentleman.

The Chair recognizes the gentleman from California, Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman.

I would have just one question. Given the history of Secure Rural Schools and why it has come about and its purpose, we know it is because of the inability to access timber as we had once in the past and have those receipts that flow into the local communities, and I appreciate my colleague from California, Mr. Huffman. This is a bipartisan desire we have to make our rural communities whole.

And we actually have shared Trinity County where Secretary Vilsack visited just a year ago, and so these are dear to both of us there in Northern California.

But as people look at this program and criticize it, we know it is a backfill for the loss of the timber receipts that used to flow, and if our hope is to somehow be able to sunset the program but still have our communities remain whole for their economies, for the schools, for the local governments and roads, et cetera, how long would it take to ramp back up timber production to offset the program as we have it currently?

What will it take as far as the size of timber production, as well as the ability to clear the path to allow it to happen in a way that can sustain the communities and, therefore, take away the need for the program and all of the criticism that comes with it, and the misunderstanding?

You know, again, we have many Members of Congress that are having to learn why this is in place. Many think it is just a hand-out to rural communities, and that is not the case at all. It was lost due to regulatory occurrences that happened in the past and now, you know we suffer with those.

So how long, sir, do you think it would really take to have the opportunity to ramp it up regulatorily or in actually just true production?

Mr. BONNIE. I do not know the answer to that question. What I will tell you is that we are committed to increasing the pace and scale of forest management and restoration. We have sold more timber over the last 5 years. We have increased the rate of timber sales over the last 5 years. We are looking for ways to continue to do that through a number of efforts.

I have been to Weaverville, as well, and actually speak with the folks in Weaverville periodically looking for ways that we can put together a collaborative which Weaverville has to do some large-scale forest management projects that will benefit the Trinity River mill there in Weaverville, as well as the broader community.

We completely agree with the need to increase the amount of work we are getting done in the woods. We recognize that that will have significant economic benefits for folks in communities like Weaverville, and we look forward to working with the committee on how we make that happen.

Mr. LAMALFA. Thank you.

I think we need to look also at the cost per effort made by the U.S. Forest Service per unit of timber done. The costs are still really high for the amount of timber actually being let out. I know there is a lot of frustration in northern California that the goals of timber board feet allowed versus the administration of it is falling way short, woefully short.

And so we need to get those numbers up considerably for the forest health, forest fire safety, and so again, if you wanted to quiz

some of the folks in our district about that, there is still a lot of frustration. I do not want to take away from efforts that have been made, but we need to ramp up dramatically even in that context, not just in the previous mention I had on Secure Rural Schools.

I know you realize that the U.S. Forest Service, the revenue generated for them, and that will help its operations as well.

So in closing, what you do see as just the single biggest impediment to having this ramp up as we are speaking of here? What would help streamline your cause to actually achieve greater timber sales?

Mr. BONNIE. I want to mention one thing with respect to the point you made and then answer your questions.

I agree with you about the costs, Forest Service costs, and actually moving projects forward. One of the things we have looked at is larger scale NEPA. So we are doing a 600,000 acre NEPA right now on the Four Forests Initiative.

We have done a large project in the Black Hills as a way to spread the costs, invest and collaboration up front and reduce litigation risk.

Your question about what is the single biggest thing we can do: two decades ago the Forest Service spent 10 to 15 percent of its budget fighting fire. Today we start by spending north of 40 percent of our budget, and last year we spent around 50 percent of our budget in fighting fire.

As long as we treat fire as a normal appropriated expense, that will continue to happen. The number of foresters, the number of biologists, the number of people who deal with recreation in the Forest Service have declined by a third over time. The number of people that we have fighting fire has doubled.

Fixing this problem will be critical to increasing the pace and scale of restoration on the national forests.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Montana, Mr. Daines. Mr. DAINES. Thank you, Mr. Chairman.

To build on this line of questioning, I represent the State of Montana as the at-large member, and we used to have 30 saw mills in our State. We are down to seven. Timber harvest when I was a kid back in the 1960s and 1970s is now down 90 percent from those benchmarks, and it is devastating our communities in western Montana, in particular.

My daughter just graduated from Montana State University with a degree in elementary education. She hopes to be another Montana teacher, and we are talking now about, I think, really a Band-Aid fix, this SRS.

This committee is working hard to get to the root cause in terms of reforms so we can get back to a robust timber industry, which will not solve the problem of wildfires, but it will be one more step in mitigating that risk as we seek to have better policy coming out of Washington.

So this SRS program was supposed to compensate counties for the declines in the revenues coming from the Federal Government, which is a pretty lousy neighbor out there in Montana as it relates to paying taxes because they do not, but as we are all aware, the SRS program continues to face these ever declining cuts during our

budgetary processes, and we all agree the sequestration was not the right policy in terms of effectively reducing spending and government. More targeted spending cuts are better than sequester cuts, but nonetheless, here is where we are at.

And I think we can do a better job in terms of running the railroad here in Washington, in terms of the efficiency and effectiveness in the way perhaps these sequester cuts were administered.

Montana lost \$1.3 million from its Title II funds upon the implementation of sequester. The cuts were frustrating. Our counties though were most concerned, I think, about the uncertainty. Our County Commissioners work hard trying to put certainty in what is rather an uncertain equation coming out of Washington as these sequester cuts are being implemented.

Frankly, our County Commissioners, our county leaders were flabbergasted when they heard that the sequester would be applied retroactively, and nonetheless, this put our County Commissioners in a very difficult position as it related to budgeting for the year.

Now our counties are looking ahead, and they are wondering what the February payments will bring. So on behalf of our County Commissioners across Montana and probably a lot of other States, does the plan to apply the full sequester, does this plan that happened last time, will that apply in the same fashion this year?

Mr. BONNIE. So sequester will not apply to the FY 2014 payments. We had the discussion earlier with the Chairman about how we deal with the outstanding debt. I just looked at my chart. Montana does not have any outstanding debt.

Our hope is that because Secure Rural Schools was reauthorized late last year, not until October, we had to go through an accelerated process to get county elections. We will be a little bit later with payments this year. Our hope is that payments are out in early February.

Mr. DAINES. So once the SRS authority expires though, now looking downstream a little further, our county is going to be back to square one, and they are wondering how they are going to pay for schools, infrastructure, forest projects, et cetera. Mr. Bonnie, what are your thoughts?

And do you agree we need to find a long-term solution to this very real problem?

Mr. BONNIE. Agree we need to find a long-term solution. Agree that we have got a 1-year reauthorization here. We will have the same challenge we had this past year. Congress needs to reauthorize the program.

Also agree with your earlier point about needing to increase the pace and scales I should say of management on the national forest. There have been a lot of efforts with collaboratives in Montana. Some of those have been very successful, and we are engaged in those.

Mr. DAINES. So we passed a pretty good bill and with bipartisan support here in this committee and on the House Floor, H.R. 1526. It will extend the SRS payments for another year while we transition to starting to address, I think, the root cause, which is a healthier forest management, and allow our forest counties, of which there are a lot of counties in Montana, to benefit from the revenue generated and, of course, all of the jobs, additional tax rev-

enue from a better timber economy, and better forest management principles, healthier forest, lessening the risk of wildfires.

But absence of legislation like this, our counties are back to square one facing questionable reauthorization of SRS funds without any long-term sustainability. Do you not think we must fix Federal forest management so that we do not need to combat the uncertainty year after year?

Mr. BONNIE. Agree that we need to for a lot of reasons, including rural development, but other reasons: forest health, fire challenges, bark beetles. We need to increase the amount of work we are getting done in the woods. I fully support that.

We have increased the amount of timber we have sold, and we are looking for additional ways to accelerate that.

Mr. DAINES. All right. Thank you.

Mr. BISHOP [presiding]. I am sorry. The next time I will have the microphone on.

Mr. Duncan, yes, you are recognized.

Mr. DUNCAN. Thank you.

Mr. Chairman, thinking about the history of timber sales and Federal owned land, I cannot help but think about McCormick County, South Carolina. It is a rural county, 360 square miles, about 88 percent of which is forest land, Sumter National Forest.

The government came in in the early 1900s and purchased a bunch of agricultural land and planted trees. These rural counties depend on the Federal Government for some portion of revenue because that land has been taken out of their tax base. They do not have the ability to create industrial parks or residential communities or other areas in order to have a tax base. So the Federal Government has eroded that tax base, and then with the promise that we were going to have timber sales to offset.

With the decline of timber sales in most of the western part of the country, we have not really seen timber sales decline that much in South Carolina on the Sumter National Forest and the Francis Marion National Forest, but we have seen a reduction in timber sales, but nothing dramatic like Montana, Idaho, Washington State and Colorado have seen.

The Obama administration's decision to retroactively apply the sequester to these funds, and let me just say I agree with Paul Broun who mentioned earlier I do not like across-the-board cuts. I believe targeted cuts are more responsible. When I was a State legislator I did not like across-the-board cuts. I went after targeted cuts in our budget. I think that is what we need to do as a Nation and find the cuts that are necessary.

But let me reiterate that we are \$17.5 trillion in debt. We continue to run deficit spending that requires us to borrow money, indebts future generations. It erodes their promise of a very prosperous future because somebody is going to have to repay this debt.

So when we see the sequester, which was the President's plan, I did not vote for it either because I do not like across-the-board cuts, but I did not like raising the Nation's debt ceiling either. And let me reiterate that that was August of 2011, signed in law. Let me see. The sequester went into effect on March 1, 2013. We had ample time to figure out how we were going to as agencies of the Federal Government apply the sequester. I think there was this

hope that the sequester would never happen and that somehow Congress would turn it off before December of 2013, but it went into effect.

But for the Obama administration to retroactively apply sequester to those SRS funds and demand repayment from rural counties, that is another example of this administration going out of its way to make those cuts painful, and it did not make it painful necessarily for the agencies in this instance. It was making it painful for local rural communities like McCormick, South Carolina.

Mr. Tipton had, I think, 72 percent of the SRS Title II funds were cut in South Carolina, 72 percent. That is pretty significant.

And the other thing I want to mention is the most transparent administration in U.S. history as it was touted during the campaigns and since it has been in office has failed to comply with the subpoenas that this committee in Congress has put out for documents, is yet to fully answer all of the questions that we have had regarding how and why this decision was made, and what legal authority was there to make the decision to apply the sequester this way.

I do not have any questions for you today, but I want to raise awareness that the sequester application by this administration hurt rural counties like those in South Carolina, and I will go further to say that the omnibus appropriations bill we are talking about voting on this week, which the committee may not be aware of, but a separate funding stream as payment in lieu of taxation is that timber sales revenue that actually goes to the rural communities and to the schools is going to be taken back. It is going to be cut, kept at the Federal levels.

So that money is not going to make it to the counties in South Carolina, hundreds of thousands of dollars that will not make it to McCormick County, Abbeville County, Oconee County, Laurens County, Anderson County, Abbeville County in the Third Congressional District, hundreds of thousands of dollars that is going to have to be made up somehow or it is going to be punitive to the rural counties and the school districts in my State so that we can continue to spend money at the Federal level.

Folks back home need to be aware of that, and with that, I yield back.

The CHAIRMAN [presiding]. The time of the gentleman has expired.

The Chair recognizes the gentleman from Texas, Mr. Gohmert, now.

Mr. GOHMERT. Thank you, Mr. Chairman.

Mr. BONNIE, what do you show for Texas?

Mr. BONNIE. Texas does not owe anything.

Mr. GOHMERT. Going back to this—

Mr. BONNIE. Zero balance.

Mr. GOHMERT. Well, thank you.

Going back to the sequester in 2013 funds of the funds that were determined in 2012, you know, unfortunately this seems to be consistent with what we saw during the shutdown. Obviously Harry Reid did not want to compromise. He would not even appoint conferees, negotiators. When we did that, we were making all kinds

of compromises he would not accept. Obviously they thought they would win politically on a shutdown.

But we saw something during the shutdown that was unprecedented, I never dreamed I would see. I never thought any party's administration would take the political risk of having a hissy-fit in trying to make as many people suffer as possible so that they could blame another party, but having been out to the World War II memorial all hours of the day and night, I have been to the memorials. I do not sleep much when I am here. I was shocked. You hardly ever see one or two Park Service people, but at one time we counted 16 Park Service people there, a number of them on horseback, to try to keep veterans out of the World War II memorial.

So some of us that just did not think any administration would ever hurt people that were so undeserving of being harmed or hurt had quite an awakening that this administration is willing to harm veterans from World War II. They are willing to do other things in the sake of politics.

So when we see money determined by 2012 figures having retroactive application in 2013, it appears to me that although there is lots of rhetoric about veterans and children and wanting to help them, that this administration and, in particular, the Interior Department, played right along as we saw their National Park Service out there trying to prevent people from going out and just walking down the sidewalk.

Now we see that they do not mind hurting little children in schools by cutting their funding. It is outrageous what this administration is being allowed to get away with.

And then when we request people to come here so that we can have proper accountability, to be told by the Chief of the U.S. Forest Service, directly implicated, directly affected, who has direct obligations to come report to this Congress that appropriates money, you know, just thumbing the nose; that is the response.

The General Counsel, for heaven's sake, Ramona Romero, just does not even show up, I guess he took the lead from Thomas Tidwell, and then Brian Deese, the Deputy Director for Budget from the OMB, just saying, "We are not accountable to you. We do not care what you think." It is unbelievable.

I mean, as one of the other colleagues was alluding to, I mean, this is the most non-transparent, non-accountable, nonresponsive, condescending, crony-coddling, inequitable, dictatorial Interior Department I have seen since I have been here. It is unbelievable.

And it seems to me the way that we can take care of the kids, and I hope it will be a bipartisan effort, is just say it is time to take Arthur Laffer's recommendations seriously. Let's start giving back land to the States and the local government so we do not have to spend more Federal money on it and get it back to a level where there are people who are held accountable.

They surely will be in the county government. They surely will be in the State government because it is not that far to the State capital, but it seems to me that will now be the responsible thing.

This deal was done taking all of this national forest land away from locals and States, was done with the assurance that the Federal money would always take care of the lost tax money, and now that that is not happening and the Federal Government executive

branch is unaccountable, it is time to take that money and get it where people are accountable.

So it should not be a surprise, but I am now moving in that direction, working on a bill to get that done.

Thank you. I yield back.

The CHAIRMAN. I thank the gentleman.

The Chair recognizes the gentleman from Florida, Mr. Southerland.

Mr. SOUTHERLAND. Thank you, Mr. Chairman.

Mr. Bonnie, first of all, thank you for coming today. Obviously, others did not choose to come and explain this issue to the American people, and all I can surmise from their absence is that they just do not care. So thank you for at least coming and being here.

I want to ask you or familiarize you a little bit with my area because this issue is about real people. It is really not about anything other than that. I live in northwest Florida. It is a great area. It is an area my family has lived in for 200 years, and inside of my district we have the Apalachicola National Forest. There are people there, families there that are hard-working people. They love the woods. They love to manage it properly both inside and outside of the Apalachicola National Forest.

So logging and timber is their way of life. For generations this is all they have done. Now, these are people that rise at 3:30 in the morning, sir. Now, I dare say you nor I—I do not know about your morning—but on a typical morning, I do not rise at 3:30 unless I am going hunting or fishing, but these people do this each and every day.

They put their life at risk because there are widow-makers falling out of those trees every day, and this little community right in the middle is called Liberty County. Liberty County is a wonderful area of my district. Kind people, and they will feed you a good meal if you give them a chance.

Their total taxes, including local option, are \$915,000. This is a third of their total unrestricted taxes. Over two-thirds, Mr. Bonnie, of the land in Liberty County is publicly owned and not on the tax rolls. The total acreage of the national forest in Liberty County is over 260,000 acres.

Last year Liberty County received \$341,000 in Secure Rural Schools funding, darn near half of their total taxes. This is crippling this county because the tax base is so small.

You know, my heart breaks because as I roll through Liberty County on State Road 20, I stop in the cafes and Apalachicola restaurants and just meet the kindest people you would ever meet. You meet people that are honest, God-fearing, hardworking, and they want to work, but yet they have the misfortune of having a national forest that is inside their community that has a higher mortality rate; there is more wood dying and rotting in that forest than we are harvesting.

I know I just gave you a little bit of a summary of these great people that want to work. Does that seem fair, compassionate?

Mr. BONNIE. I would say the application of sequestration of Secure Rural Schools is neither.

Mr. SOUTHERLAND. Well, then you would be happy to know that I did not vote for that, sir. OK? So I think I do not like that answer because I think that this is done by choice, choice. OK?

The pain that I am talking about, I mean, that was a canned answer. I am speaking to you kindly. I am trying to give you the information, and you give me a canned answer, OK, that you were sent here to give me. So let us get away from the canned answer.

These problems started before sequestration. So now let us take sequestration, that canned answer, and take that away. Now answer my question. Does it seem fair that in that community that there is more wood rotting?

Please do not ramp me up.

Mr. BONNIE. So I am familiar with the Apalachicola National Forest. You know, as I said earlier in response to some other questions, I agree we need to get more work done in the woods, and this administration has increased the amount of timber we have sold over the last 5 years.

The CHAIRMAN. Would the gentleman yield?

Mr. SOUTHERLAND. Yes.

The CHAIRMAN. If that is the case, then why did the administration say they would veto the Healthy Forest bill which passed the House with bipartisan support, which addresses specifically the issue that Mr. Southerland is alluding to?

Why did the administration issue a veto on that bill?

Mr. BONNIE. So our approach to forest management on the national forest has been about collaboration, large-scale efforts as in 4FRI, as in the Black Hills and other areas.

The CHAIRMAN. The time of the gentleman is running out here real quickly. That bill simply said that the Forest Service should set goals on how they should harvest. What is wrong with that?

Mr. BONNIE. We have set a goal and, you know, our goal is to hit three billion board-feet, and we are working toward that goal.

The CHAIRMAN. I yield back to the gentleman real quickly.

Mr. SOUTHERLAND. Thank you, Mr. Chair.

I just want to say this bill that came out of this House, this committee, bipartisan, I mean, you are getting hammered today from both Republicans and Democrats. You know, this bill would help restore our active management and proper management. This bill would create over 68,000 direct American jobs and nearly 140,000 indirect, and on the heels of a December jobs report that was 74,000 jobs, when we have to do 150 to even keep up. I would think that this common sense legislation would be embraced by the Senate and signed by the President and help the God-fearing, good, hardworking people of Liberty County and counties like them across the United States.

And with that I yield back.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Arizona, Mr. Gosar.

Dr. GOSAR. Well, thank you.

Mr. Bonnie, were you a businessman before you came to the Hill?

Mr. BONNIE. No.

Dr. GOSAR. Do you understand business?

Mr. BONNIE. I was not a businessman before I came to the Department of Agriculture.

Dr. GOSAR. Making business decisions means access to information, does it not?

Mr. BONNIE. Sure.

Dr. GOSAR. Facts, right? What I am really concerned about is I am not a legislator. I was a dentist. I was a businessman before, and you make educated decisions based on information provided on a timely basis. Would you kind of agree with that?

Mr. BONNIE. Sure.

Dr. GOSAR. Well, I am very concerned about a practice I am seeing in the bureaucracy of Washington, DC, not just this administration, but I am under this administration in my term, but all previous information, and it is this problem called slow walking information. I would actually label it molasses walking, about information and supplying information on a timely basis to subpoenas.

Now, I am not like a lot of people running away from my vote. I voted for sequestration because I saw that the normal thing of trying to find out that we were running into \$17 trillion of debt and doing nothing was ridiculous, and I think we are actually at this conversation point because we had that conversation about sequestration that we were going to cut. So we needed big boys and girls to come to the table and start talking about the problems that are building up debt. It needs to go a lot further.

But the problem comes to being as empowering equal branches of government to come to a decision process, and I am very concerned about this molasses walking of information and supplying information to the rule of law and subpoenas.

Are you concerned about that?

Mr. BONNIE. I think we have tried to be responsive to the committee. I know our General Counsel and Chief of Staff met with committee staff last week. I think we have supplied all the—

Dr. GOSAR. Now, wait.

Mr. BONNIE [continuing]. Documents.

Dr. GOSAR. Wait, wait a minute. Whoa, whoa, whoa. So you met last week.

Mr. Chairman, when were those subpoenas sent out?

The CHAIRMAN. Would the gentleman yield?

Dr. GOSAR. Yes, I will yield.

The CHAIRMAN. The subpoenas were sent out in September, but the first request for documents was in May of last year, and we got nothing until we sent out subpoenas.

Dr. GOSAR. So, I mean, your answer is inappropriate, right? I want to hear it from you.

Mr. BONNIE. I think we have tried to be as responsive as we can.

Dr. GOSAR. That is not the—

Mr. BONNIE. We have—

Dr. GOSAR. I mean, as responsive? I mean, if—

Mr. BONNIE. We have looked through 100 and—

Dr. GOSAR. If you saw the problem occurring here, would it not be something that you would want to engage with Congress to say, "Listen. You know, we see where we are here," because the sequestration was the President's idea. OK? And I bought into it, and we see some of these unintended consequences, but having a civil conversation with regards to how do we solve this problem.

Do you not think that supplying that information and having a direct conversation with this committee on this issue makes a big difference?

Mr. BONNIE. Yes.

Dr. GOSAR. Well, I do not know if it is just common sense that is lacking here or it is something that you drink in the Potomac. I do not get it. I really do not get it.

Now, along those lines, I hope that we would stop this slow molasses walking of information and start complying and start putting also some ideas on the table and dialoguing. I think equal branches of government, that is a facilitating type atmosphere.

But I am also from Arizona. So I know what is riding on forefront, and so in regards to this aspect, I have got a lot of counties that, you know, have problems, and I know we were able to fulfill our obligation out of Class 2, but you know, everything is riding on that 4FRI collaboration. Right now I know that we have 30,000 acres sitting there. That is inappropriate. We have got to hit that 100,000 before this summertime so that we can start thinning appropriately.

I want to remind you that in my first term we had the Wallow fire. We spent hundreds of millions of dollars fighting a fire that we lost \$2.5 billion of assets. We also lost 20 percent of the world known population of the Spotted Owl. Who won? We all lost, and we are continuing to lose because the incipient aspect of those fires was so hot it incinerated the ground. So we have sterilized soil that we are going to have to deal with for decades.

And last year I represented the Yavapai area where 19 firefighters lost their lives. This is inappropriate.

As a business person, I want to come back to the business aspect. You always put employees or people in situations where they can succeed, and when you are putting overwhelming odds against firefighters, against counties and governments without restricting information, with restricting access to the resources, we doom people for failure.

I do not know about you, but I am really sick of being a cripple and so is my district. The State of Arizona is tired of being a cripple. Turn us loose; empower us.

Thank you.

The CHAIRMAN. I thank the gentleman. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan, Dr. Benishek.

Dr. BENISHEK. Thank you, Mr. Chairman.

Well, from the testimony today and some of the answers to the questions, Mr. Bonnie, it is apparent to me that—I do not know. I may be incorrect—but it seems there is some controversy over whether or not the sequestration really applied to this Rural Schools or not, but as I understand it, the Obama administration had decided that cutting payments to, you know, our rural communities was part of the sequestration process; is that correct?

Mr. BONNIE. Yes, sequestration applied to Secure Rural Schools.

Dr. BENISHEK. So it is just tough for me to figure out. There was nothing else in the budget that could have been cut that was less important than that payment to our rural schools. It is hard for me

to figure out how that happened, and I know you say it is all really complicated, but in the big picture that is exactly what happened.

And to me, as many of the other members have pointed out, is the fact that the Forest Service has failed in their trust of the American people. I mean, actually these forests are owned by the American people, and the Forest Service is charged with being the custodian of a wonderful asset that the American people own and they have not managed it properly.

Now, you could complain about one administration or the other, but you know, I have a lot of Federal forests in my district, in Michigan District 1, and as you heard from many other members, you know, our local communities depend on revenue from that Federal land, and in the past maybe decades gone by, they received a portion of the timber sales, but maybe over the last decade or two decades, the ability of the Forest Service to—I do not know—responsibly harvest that asset and manage that asset has seemed to have been lost, and I do not know exactly the answer.

I have had my opportunity to question not only guys like you, but Mr. Tidwell and the Department of the Interior, and it comes down to the fact that it does not seem to me that they know how to do it right or something. Everybody else who manages a forest, when they sell timber, they make money. I mean, private land owners when they sell their timber, they make money, but the Forest Service cannot seem to be able to make money when they sell timber.

The standard answer I get from the Forest Service when I ask, “Why do you not sell more timber?”, is that we do not have the budget.

And I am going, “Well, everybody else when they sell timber makes money. So why can you not do it?” and I never get a good answer to that.

What can we do differently to make the Forest Service manage our timber in a way that they make money for our local school districts and for the Forest Service themselves?

What should we change to make it actually work, Mr. Bonnie?

Mr. BONNIE. So I think obviously the Forest Service operates under a multiple use mandate, and that means timber, recreation, mining and a host of other things, and so that constrains some of what we can do, and so our lands are managed differently than private lands, and I think we would all acknowledge that.

I go back to the point that I think we agree on and there is a lot of bipartisan agreement that we need to increase the amount of work we are getting done in the woods, and we are taking a number of steps in order to do that. I talked about some of the efficiency we are trying to create through large landscape scale efforts.

I also mentioned earlier the challenges associated with fire budgeting. That is a significant impediment, and I think that is an area that I would suggest the committee really think about addressing.

Dr. BENISHEK. I do not remember the part of your answer that said how we are going to fix this. I mean I do not remember that answer coming back. How are we going to fix this?

I mean, we are going to do better is what you said.

Mr. BONNIE. So I think we are doing better. We have increased—

Dr. BENISHEK. Give me one specific thing that you are going to change that will increase the ability of the Forest Service to harvest more timber.

Mr. BONNIE. The most important thing we could change, I think, is the way we budget for fire, and that will have significant implications for how we can manage our forests.

Dr. BENISHEK. But that does not address the issue. Again, I mean, I understand that you are fighting—to me the fighting forest fire problem is because you have not been managing the timber.

Mr. BONNIE. In part it is. You are right, and it has been multiple decades building up, and so we have some real challenges there. Our challenge is that our capacity to address force management is reduced because we're committing so many resources to fire.

Dr. BENISHEK. All right. I guess you are just not going to answer that question. Thanks.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentelady from Wyoming, Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman.

You know, Mr. Bonnie, I would suggest that you visit with the Department of Natural Resources Director in the State of Colorado about how to mitigate fire damage. They are managing some wonderful forests, State forests right next to Federal forests in Colorado, which has a Democrat Governor and a Democrat Director of Department of Natural Resources.

Mr. BONNIE. I know them well.

Mrs. LUMMIS. And doing a really good job with their State forests, and I think they can give you some really good advice about how better to manage for fire and bark beetle mitigation because they are doing a much better job than their Federal neighbors.

My questions will focus on the legal advice that the sequester did not apply to the SRS program because the money has already been distributed to States and would not be in the accounts at the time that sequestration occurred.

So emails provided to this committee indicate that shortly after the legal advice was given and communicated back to OMB, someone in the Secretary's office intervened and tried putting a halt to this line of thinking. For example, in one email, a USDA staffer wrote to OMB, "Hold," and that additional developments had occurred.

Now, you were in the Secretary's office as a senior advisor during this time, right?

Mr. BONNIE. That is correct.

Mrs. LUMMIS. By the way, what did you do before you joined the executive branch of the Federal Government?

Mr. BONNIE. So I joined in 2009. Prior to that I ran the conservation programs at Environmental Defense Fund.

Mrs. LUMMIS. Oh, OK. You were an environmental lobbyist. OK.

Mr. BONNIE. No, I was not a lobbyist.

Mrs. LUMMIS. You ran the conservation programs for the Environmental Defense Fund.

Mr. BONNIE. That is right.

Mrs. LUMMIS. OK. Thanks.

Were you aware that OGC staff believed the sequester did not apply to the SRS money already paid to States?

Mr. BONNIE. Yes. There were disagreements both within USDA and outside of that, but the statute is fairly clear that it applies to the—

Mrs. LUMMIS. OK. OK.

Mr. BONNIE [continuing]. Four-year funding.

Mrs. LUMMIS. According to an email dated February 27, a USDA staffer wrote to OMB that a number of OSEC meetings on this subject took place, and that an update would be coming the next day. We still do not know what happened at those meetings and why the Secretary's office decided to overrule the advice from USDA's own attorneys.

What was the reaction within the Secretary's office to the legal advice?

Mr. BONNIE. I do not recall.

Mrs. LUMMIS. Well, let me ask this then. Is it the general policy of the Secretary's office to overrule OGC's advice?

Mr. BONNIE. I think we were balancing not only the implications of sequestration for this program but for a lot of programs, and—

Mrs. LUMMIS. OK. So you were balancing. Legal advice usually does not elicit a response by the people who requested the advice, that, gee, the legal advice is one way, now let us balance that.

Legal advice is legal advice. It did not apply. The Office of General Counsel said it did not apply to money that had already been distributed to States and that would not be in the accounts at the time that sequestration occurred.

So after the decision was made to apply the sequester to the Title I and III money and to demand States pay back a portion, USDA released a statement of its legal authority. Now, curiously the opinion states the decision was to ensure consistency across USDA and the Federal Government, and you see it up here.

So I am assuming that that is what you are referring to when you say "a balance."

Mr. BONNIE. What I was referring to is that I think the Secretary's office was dealing with the implications of sequestration across many programs.

Mrs. LUMMIS. Now, can you see why to somebody like me this would look like after the fact justification? Because the legal analysis was made that it did not apply to monies already distributed, and so this looks pretty heavy on the politics to somebody like me, and especially, you know, when Secretary Gates' book is just out, and there are admissions by people in the White House that decisions were made with regarding war that were politically made.

So it is pretty easy for somebody like me to think that a decision like this was made for political reasons after the fact, and the evidence that we have that indicates your own legal advice within USDA was disregarded in favor of a balancing act that had nothing to do with legal advice, raises my antennas.

Mr. Chairman, thank you. I yield back.

The CHAIRMAN. The time of the gentlelady has expired.

The Chair recognizes the gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Chairman.

Mr. Under Secretary, you know, it seems to be going back and forth with sequestration. I have heard words like “mandatory,” and then you and others have used the word “discretion,” “discretionary” from time to time, and so as my read of this whole situation, you know, when I look at your budget, I see a lot of discretion was exercised.

I see under sequestration no cuts to training. Under sequestration there was travel that was not cut. There was education, continuing education, that was not cut. There were grants that were not cut, and my understanding is that contractual obligations were not cut.

Now, I chair the Forestry Committee, as you probably know, on the agriculture side, and I represent a congressional district that has four counties and a national forest, and by the way, a pretty profitable national forest. So we do bring revenue in.

Secure Rural Schools, here is my definition. I want to know if you concur. I see Secure Rural Schools, what was to be a temporary financing strategy to offset the Forest Service failed contractual obligation through timber harvesting to assure the solvency of rural communities

Do you agree with that?

Mr. BONNIE. Secure Rural Schools was meant exactly to help communities that had suffered from reduced timber harvest relative to the 1980s, absolutely.

Mr. THOMPSON. So you agree with my definition. So the question is then: has the Department of Agriculture made other funding concessions to what are contractual obligations?

Mr. BONNIE. So we applied sequestration evenly across all the PPAs.

Mr. THOMPSON. With contractual obligations?

Mr. BONNIE. So, I will give you an example. The Conservation Security Program by NRCS, the funding went out in October of 2012. We had to basically restore. We had a sequestration obligation there.

We were able to use transfer authority to deal with that, but we did not have the same authority within the Forest Service, and because sequestration was in—

Mr. THOMPSON. I hear a lot about discretion that is exercised, and I have to wonder who within the Obama administration does not like rural America. Now, in my heart I know it is not Chief Tidwell. I worked with the Chief. He is a good man, and he tries to do the right things with the discretion he is given.

But, quite frankly, I think there is a lot of discretion that has been exercised in this, and with all of the things I have talked about. There were no sequestration cuts were not impacted, and quite frankly, contractual obligations.

Now, in my role with the Agriculture Committee and Natural Resource Committee, I have tried to be a student of where our national forest came from, and that was a contractual obligation that was where folks from the local community and my predecessors in the Allegheny National Forest. It was—I do not know where we were—it was about 90-some years ago, I guess. They sat down and they made a conscious decision to take private lands out of the hands of private lands and put into the public sector, and it was

to make sure that this country has the natural resources it needs to be strong.

And I know all of the things that the Forest Service faces, and a lot of it is external, quite frankly, with groups like yours that you used to work for that would target the Forest Service with lawsuits and get it tied up in all kinds of bureaucracy so that forest plans could not go forward.

But to me this just smacks of politics. And then being a student of forest policy is something because of my passion for Forest Service I look at a lot.

Now, the committee has provided documents that show that the Office of Management and Budget told the Forest Service in January 2013, after the full payments were made, that the SRS program was subject to sequestration. According to this email, the OMB advised as previously discussed SRS is sequesterable.

“Based on a lot of discussions and research over here the payments being made in 2013 for 2012 are sequesterable. If sequestration occurs, how will the Forest Service cover the approximately 5 percent reduction within this line item? Is there enough in the other titles of SRS?”

The Forest staff person responded, “The finding to cover the reduction could come from Title II funds. However, that would take the decision by the Chief. The BLM also disperses SRS funds. However, OMB ordered BLM to withhold 10 percent of their payments in anticipation of the sequester.”

Was any such order ever issued from OMB before the funds were dispersed?

Mr. BONNIE. No. And your question about discretion, this is the area where discretion was used.

Mr. THOMPSON. Was OMB the final authority leading up to the disbursement of the USDA funds? In other words, were there funds sent out in January because OMB approved their disbursement?

Mr. BONNIE. No, they were sent by the Forest Service.

Mr. THOMPSON. And then finally because I know I am out of time, documents provided to the committee demonstrate that USDA was still unsure of sequestration’s application to SRS funds in early February. Indeed, in an attachment to the February 6 email, USDA explained that “the balance of the SRS payments comes from the prior year collections. It is not clear whether these will be subject to an obligation limitation in the current year or the following year.”

Did OMB cause USDA to change course?

Mr. BONNIE. There were still questions within USDA ultimately about the question that you raise. Ultimately we arrived at the same place that we all have, that sequestration applies to Secure Rural Schools.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Utah, Mr. Bishop.

Mr. BISHOP. Mr. Bonnie, Under Secretary, we appreciate you being here as the designated scapegoat from Agriculture. You suffered the slings and arrows of everyone who was here. Obviously most of our colleagues, you outlasted most of them, but then they and you are drinking water. Mr. Gohmert and I are drinking Dr. Pepper. So we have much more stamina.

This has been a tough time for you. I think you realize that nobody in our communities like the decisions you all made. No one on this committee on either side like the decisions you made. In fact, the best defense you have had so far is that you legally did not screw up. You screwed up, but you did it legally. That is not much praise coming from the other side of this dais.

So let me give you just one softball before I go into my rant, which is simply in hindsight now, would USDA have changed anything that it did or would you have done the exact same thing if you had to do it over?

Mr. BONNIE. So I think the question about should we have gone out with full Secure Rural Schools funding in mid-January is a question that I think you could ask that about, but I think my answer to your question is I don't think we would change anything.

Mr. BISHOP. That is not a reassuring answer for any of us who are on this particular committee.

As we have looked at some of the documents that have been given to us and follow the email exchanges, we have realized with the Forest Service and Agriculture and OMB, it was literally you did not know from day to day what would happen next. There were lines that were being changed all the time as to whether it would or would not apply from the Secretary of OMB.

The USDA did ignore at one time their own legal advice. Sequestration did not apply and had to come up with another one. There was another aide to the Secretary that suggested using authority that they did not have.

Both Mr. Thompson and Mrs. Lummis talked to you about decisions you made and the choices you made. Obviously you are going into a new area you had not delved in before and you had choices to be made whether to help local governments or not.

I have found in the world of politics, and you have been here long enough to realize that, when you get an answer you want, you quit asking questions. What apparently obviously has happened in Agriculture is that you kept asking the questions because you really did not get, even though you had an answer that would have solved a lot of problems and would have been very effective, you kept on asking those questions, which means I bet today you wished actually Gifford Pinchot had lost the debate about a century ago and the Forest Service was part of Interior where it probably ought to be.

But needless to say, you are here. Why do you not show the one thing that scares me the most?

You have seen a lot of the other documents that we have seen from the Agriculture Department talking about some of the legal technicalities. This is not a legal document. This is one that shows a mindset.

When in the document you said, "We are talking about around four million total with two million released next week," so those dollars are tiny, and then asking if anyone could give you a line or two you could use as to what would be the real impact or the real world impacts of these kinds of decisions.

So what is scaring me here is that, first of all, \$2 million going out to local governments is considered a drop in the bucket by those who are making decisions within the Agriculture Depart-

ment. That does not indicate the reality of what faces local school districts who actually have to depend upon these monies that they have already received and they have contracted out and they have committed to do.

It clearly also states that within Agriculture there seems to be a disassociation with what the rest of the country is going through; that you seem to be out of touch with the reality of what happened, if indeed you were in touch to begin with. This is part of the scary process.

So it looks like as you went through this association process of trying to come up with a response of what you would be doing, you kept asking the questions even though you had a better answer. You kept asking the questions until you came up with what you decided to do, almost as if it was the Secretary in Agriculture and OMB were more concerned to make sure that the States who received SRS money felt some pain than it was whether they were going to be treated to their contractual obligations that they had to do and what impact it would have on kids.

We look at this as a very political decision that was made when you did not have to choose that political decision. You had other options. Whether you think this is the right thing to do is frightening. It is frightening when you say you would have done it again, and obviously we are going to have opportunities to do this again because we are talking about our 14th year of temporary funding for SRS. It seems that temporary program will soon continue on, but it will continue on whether we decide to make it so that we are actually helping people on the ground or whether we are doing it for some kind of political manifestation.

And I am sorry. Looking at the questions that are asked, the decisions that were made, the kinds of information you had ahead of time, I am very skeptical about why this decision was made and the direction that this administration is going.

Mr. Chairman, I apologize for going on over time.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Idaho, Mr. Labrador.

Mr. LABRADOR. Mr. Chairman, thank you very much.

I wonder if the gentleman from Utah has any other questions.

Mr. BISHOP. No.

Mr. LABRADOR. OK. Thank you.

Mr. Under Secretary, thank you for being here today. Thank you for your work.

I do have a question and a follow-up a little bit on what the gentleman from Utah was saying.

As a lawyer, there was always this saying or this dictum that just because it is legal does not mean that it is right, and I have lived my life that way. Just because something is legal it does not always mean that it is right.

And your excuse or justification for your actions today has just been that it is legal. Can you name one other program in your budget where you guys decided to take money back that you had authorized or given to anybody?

Mr. BONNIE. So there were a number of programs on the USDA side that had a similar challenge, where the money had gone out prior to the sequestration order hitting. The difference is in other

parts of USDA we have transfer authority, and in the Forest Service we do not.

Mr. LABRADOR. OK. So you had transfer authority. Were there any programs under USDA that you actually did not subject to sequestration, did not subject them to sequestration?

Mr. BONNIE. I am not knowledgeable of USDA's entire budget, but sequestration applied across all PPAs.

Mr. LABRADOR. So, for example, I just heard the gentleman from Pennsylvania say that you guys did not diminish the funding in training or other areas.

Mr. BONNIE. Every budget line was subjected to PPAs. That may mean that specific items within a PPA were not affected. I do not know the answer to that question, but every PPA was subjected to sequestration.

Mr. LABRADOR. OK. So if there was a difference of opinion as to whether SRS was subjected to sequestration or not, who was the main advocate for changing it, for gaining, you know, the final decision that you made? Who was the main advocate for that position?

Mr. BONNIE. I mean, ultimately we decided a lot of these things in conversation with OMB and USDA. In this case when it applied to the discretion that was applied to this program, whether we were going to pull back dollars or do it all through Title II, the Secretary was directly involved in those conversations.

Mr. LABRADOR. And was he the main advocate for that?

Mr. BONNIE. He was the main advocate for this two principled approach: be equitable across States and be as least disruptive as we could be within the law.

Mr. LABRADOR. And it seems like you failed at both, to be equitable across States and to be fair, but—

Mr. BONNIE. We were equitable across States, and we did the best job we could in reducing the disruption.

Mr. LABRADOR. So if I as a Member of Congress appropriate a certain amount of money for Department of Agriculture and we realize after the fact that that money has been inappropriately transferred to the Department of Agriculture, has there ever been in the history of the Department of Agriculture that we have taken that money back the following year from your budget?

Mr. BONNIE. I do not know.

Mr. LABRADOR. I think the answer is no. We may reduce the budget for the following year, but I do not think we have ever said, "And now we are going to make you pay for the amount of money that we gave you the previous year."

And I can tell you that that is true of probably every budget that we have ever done. Why would you think that it is equitable to do that to the rural counties of the United States?

Mr. BONNIE. So the one piece I would add to this discussion about how much discretion in respectful response to your questions would be we have got the ADA, the Antideficiency Act, that sits on one side, and if we are deficient, there are real consequences for us, and so we have to keep asking the question about what is legal because if we don't ask the questions, we have a statute that is a pretty strong statute that penalizes if we go outside of our budget.

Mr. LABRADOR. I understand that you asked all of those questions, but I just do not understand the reasoning for going after

counties once you had made the decision to give them the money. I understand for future reference you should have. You should have said, "OK. We are going to apply sequestration for future years."

You had a bunch of money in the budget that you could have turned to different things. You could have funded your budget accordingly. But it seems like this decision was mostly made to make the rural counties actually suffer and pay a price.

And it is ironic, even though there is bipartisan cooperation here, it is ironic that most of these counties happen to be counties that did not vote for this administration.

Mr. BONNIE. So the decision we had about discretion was do we absorb the entire sequestration hit within Title II or do we spread it across the program.

Let me give you an example of what would have happened if we would have just done it in Title II. Oregon's Title II dollars would have gone from \$7.3 million to \$3.6 million, and they would have absorbed a larger portion of the sequestration hit than other States.

We decided that that was not fair. It was not equitable, and therefore that is what led us down the path that we chose.

Mr. LABRADOR. It seems to me that if you had divergent opinions in your Department and people of good faith and obviously good skill differed on this opinion, it is a decision that could have just waited for the following year to apply instead of doing it on that year.

Thank you very much.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Oklahoma, Mr. Mullin.

Mr. MULLIN. Thank you, Mr. Chairman.

You know, it definitely seems that you have fallen on the sword for this administration. A while ago you mentioned about, you know, you are legally obligated to take a look at your budget, but as you can tell, there were several people that got subpoenaed, and they did not care about the obligation or legal obligation they had at that time.

And I commend you for being here and sitting in front of us because I represent Oklahoma, the northeast side of Oklahoma and southeast side of Oklahoma, and every district I have or every county I have is rural.

Our budget of SRS got cut by 38 percent, 38 percent. Now, my kids go to public schools, and it is almost ridiculous that you would sit up there and you would say that you would not change it. Where is the priority of our kids?

How many people do you have with you today in this meeting?

Mr. BONNIE. Several.

Mr. MULLIN. Several.

Mr. BONNIE. Everybody in the front row here.

Mr. MULLIN. One, two, three, four, five, six. You have more people sitting behind you today at this hearing than I have in my entire staff up here.

See, our budgets got cut, too, and what we did is we had to make hard decisions, and you are telling me you cannot find any room to cut, when you can come to this meeting and have six people be-

hind you to help testify, to help you write little notes that people keep passing to you?

Mr. BONNIE. These people's salaries are not in the two PPAs that cover Secure Rural—

Mr. MULLIN. I understand that.

Mr. BONNIE [continuing]. Schools.

Mr. MULLIN. But you are telling me you cannot find any place to cut.

I drive down Independence Avenue. Now, I am a farmer, too, and we have blocks of buildings used by the Department of Agriculture, blocks. I would like to know how many people have ever stepped out of that building and actually got dirty, and you are telling us how to do things?

And now, now you are going to take money from my kids. I have got five of them, five of them in school, and you are going to sit up there and have the gall to tell me that you would not do anything different.

Mr. BONNIE. So let me—

Mr. MULLIN. No, no. I am not done talking. I am upset.

I am a business person, 100 percent; have over 120 employees that work for me, and the best thing we can do in our business is when we make a mistake we admit it and we learn from it and we make darn sure we do not ever do it again. It is called wisdom.

And what I am hearing from you is that you did not make a mistake. Once again, I will let you ask the question or answer the question.

Where does the priority lie with making sure our kids have the best education?

Mr. BONNIE. So with respect to Secure Rural Schools and sequestration and Oklahoma—

Mr. MULLIN. No, no. Where is the priority?

Mr. BONNIE [continuing]. None of the dollars apply to Title I or Title II.

Mr. MULLIN. Where does the priority lie?

Mr. BONNIE. Title II, which meant—

Mr. MULLIN. I did not ask you that question.

Mr. BONNIE. So now let me answer—

Mr. MULLIN. I said where does the priority lie?

Mr. BONNIE. Now let me answer that question.

Mr. MULLIN. Thank you.

Mr. BONNIE. So obviously it is an incredibly high priority. There is no—

Mr. MULLIN. Really?

Mr. BONNIE [continuing]. No stronger advocate in the government than Secretary Vilsack for the importance of rural communities and economic—

Mr. MULLIN. I disagree—

Mr. BONNIE [continuing]. Development—

Mr. MULLIN [continuing]. Completely with that.

Mr. BONNIE [continuing]. In rural communities.

Mr. MULLIN. The priority to me seems pretty low. Instead this administration looked at the way, hey, how can I impact—how can I impact people the most. So I am going to go after their schools.

My district is also one of the poorest districts in the country. It is not because we do not want to work. I will guarantee you will not find more hard working people in any place than right here in the eastern part of Oklahoma. We know how to work.

It is just that we keep getting dictated from this Government, from people that make decisions about the way we live, and yet they have never even been to us, never even took the time to walk out on our property. Yet they want to tell us how to do it.

And now you are telling us what kind of funding we can spend on our kids when the whole purpose, the whole purpose was to offset the tax dollars we were losing to begin with, and then you pay them and then say, "By the way, give us the money back. I do not care how you go pick up the kids. I do not care that you have to cut any sports programs. I do not care that you have to cut your Agriculture Department," yet you are the Department of Agriculture. Is that not ironic?

Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentleman for his line of questioning.

Mr. Bonnie, as you know, we have been seeking to try to get straight answers from USDA and OMB for months. Unfortunately, it took subpoenas to get any response at all, and the bottom line is all we are trying to get is just some transparency in how that decision was made.

Now, some documents have been provided. Staff has been able to review some documents. What we do not know is what has not been provided to us, and the reason that we have an interest in this, of course, is because these policies affect local communities.

And this is not a partisan concern, as you have heard, I think, very loudly and clearly. And yet with all of that background, you come before us and say that this administration is going to pursue withholding funds in the next round of SRS payments.

So I just want to be very clear, and I have stated this a couple of times. Not one dime in my mind should be withheld from the future payments, not one dime. So I think USDA and OMB should be on notice. Until there is a guarantee that not one dime will be withheld from future payments, I will use every power that I can within this committee to pursue this matter.

I said at last week's hearing in another matter that my patience is running very, very thin on oversight and lack of response from this administration. You are sitting here at 20 percent of those that were invited. That is not acceptable.

So if departments and agencies do not voluntarily comply with our requests for information, there is only one choice, and that is to compel them to comply. I intend to take whatever action promptly that I deem necessary to see that that happens. That includes you and that obviously includes other agencies.

Thank you very much, Mr. Bonnie, for being here.

If there is no further business to come before the committee, the committee stands adjourned.

[Whereupon, at 12:08 p.m., the committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF THE HON. ALAN S. LOWENTHAL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Mr. Chairman,

I want to agree with what my colleagues have said here today: I believe this exercise is a waste of time and money—not only the committee's, and the agencies', but in the end, *the taxpayer's money*.

I am all for agency oversight, however, I have attended hearings on most of these issues and found the majority's allegations unsubstantiated.

This committee has spent endless hours on these topics, and we have found no evidence of political misconduct. And now here we are again, demanding more paperwork and time from these agencies based on these allegations, which have proved to be baseless in all of the material I have read and testimony I have listened to.

We have to ask: How much *more money* will these subpoenas cost these agencies? What core mission work will they be taken away from? And what other more important legislative and oversight work could this committee have spent its precious time and taxpayer dollars on . . . I find it ironic that the majority decries agency waste and inefficiency, but here we are, asking these agencies to spend millions of dollars rounding up documents.

Well, this seems to be a hunt with one common theme: "the Obama Administration must have been doing something politically untoward, and we will hunt until we find it, *regardless* of whether there is evidence supporting our theories, there must be something there."

So this is what I understand the majority's theories to be:

Majority's Theory #1: the administration wants to punish rural schools for political reasons.

This seems specious on the face of it. The reality is that we heard testimony just Tuesday that USDA was following the 2011 Budget Control Act *to the letter*.

- Instead let's spend our committee's valuable time *fixing* sequestration, and securing *funding* for Secure Rural Schools payments.

Majority's Theory #2: the administration fired contractor PKS for political reasons, since PKS arrived at unfavorable jobs numbers.

Reality: The Interior Department's Office of Inspector General completed a full investigation and found *no evidence* of political misconduct. Furthermore, State officials from West Virginia to Wyoming independently called PKS's work "junk."

- Instead let's spend our committee's valuable time finding reasonable ways to *protect* coal communities, which *we know* are exposed to increased safety and health hazards.

Majority's Theory #3: the administration is unfairly enforcing the Migratory Bird Treaty Act and the Golden Eagle Protection Act by favoring wind energy.

Reality: We have *not held one hearing* on this issue, I have been provided *zero* evidence of this allegation by the majority, and now we are asked to vote on a subpoena.

- Instead, if the majority would like more information and is asking its members to vote on an expensive subpoena, *hold a hearing first*.

The list of subpoenas goes on, but the theme remains the same: The Obama administration must be acting with political malice; whether it is regarding rural schools or the wind industry, regardless of the evidence, the administration must have been acting with political malice.

There is much worthy legislation to spend our committee's precious time debating, as Ranking Member DeFazio and other members of this committee have ably pointed out, let's move on to real pressing issues.

Thank you and I yield back.

